



**CITY OF WINTER PARK
Planning & Zoning Board**

**Regular Meeting
City Hall, Commission Chambers**

**February 7, 2017
6:00 p.m.**

MINUTES

Chairman James Johnston called the meeting to order a 6:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Tom Sacha, Randall Slocum, Shelia De Ciccio, Peter Gottfried, Ross Johnston, Robert Hahn and Raymond Waugh. Also Present: City Attorney Kurt Ardaman. Staff: Planning Manager Jeff Briggs, Building Official George Wiggins, Planner Allison McGillis, City Architect Brooks Weiss, and Recording Secretary Debbie Wilkerson.

Chairman Johnston reiterated the purpose of the Planning and Zoning Board and the format of the meeting.

APPROVAL OF MINUTES

Motion made by Tom Sacha, seconded by Peter Gottfried to approve the January 3, 2017. Motion carried unanimously.

PUBLIC HEARINGS:

REQUEST OF Z DEVELOPMENT SERVICES FOR: CONDITIONAL USE APPROVAL TO BUILD A 1,435 SQUARE FOOT DUNKIN DONUTS STORE WITH A DRIVE-THRU ON THE PROPERTY, ZONED C-3, AT 370 BLUE HERON DRIVE.

Planning Manager Jeffrey Briggs gave the staff report and explained that this item is a conditional use request to construct a new Dunkin Donuts store with a drive-thru on the property located at 370 Blue Heron Drive on the northeast corner of Blue Heron and Fairbanks Avenue.

Mr. Briggs reviewed the current site and context, and the design changes presented at the December meeting including an eight foot wall that will be built on the northern property line of the project to protect the adjacent home and other homes from sound and activity, the 20 foot alley is to be used for the planting of oak trees that will buffer and hide the view of the building and a six foot wall and gate system along the Blue Heron Drive frontage from the rear property line down to the front line of the drive-thru pickup window and a space within the parkway area of the right-of-way between the wall and the sidewalk for street oak trees that will buffer and hide the building from view of the nearby homes.

Mr. Briggs explained that while this plan kept traffic from using Blue Heron Drive, the order board and pick up window were on the neighborhood side with no guarantee the open fencing would protect the neighborhood from the noise of that activity. At the December meeting the Board recommended that the applicant look at a redesign of the site plan to face the drive-thru toward the east, away from the neighborhood.

Mr. Briggs presented the new site plan which moves the order board and pick up window to the east side and parking to the west side. However, while this addresses the noise issue, Mr. Briggs explained, because of the proximity of the driveway to Blue Heron, FDOT will not permit a driveway that close to the Blue Heron intersection. He stated that there has been concern raised about increased traffic going into the neighborhoods.

Mr. Briggs summarized by stating that the revised site plan is a much better option for the development of the property to address the noise concerns of the adjacent property owners. Staff is strongly recommending approval of this site plan in lieu of the site plan previously submitted in December.

Mr. Briggs expressed concern regarding the architecture of the building, stating that it is not very different from the standard franchise model and staff, with the improvements the City has made on Fairbanks to improve its esthetics, would like this project enhance those efforts. Staff is requesting that the architectural facades be modified to a Mediterranean design. Mr. Briggs showed samples of Dunkin Donuts that were not the standard.

Mr. Briggs addressed the other item not incorporated in this plan, stating that the neighbors on Blue Heron need more of a screen than the original plan which had a low wall with a fence. Staff would like to see some additional trees which would help with the screening.

STAFF RECOMMENDATION IS FOR APPROVAL of the alternate plan including the low wall along Blue Heron Drive subject to the following conditions:

1. That the landscape plan be modified to add new oak trees on the north side of wall adjacent to the alley and add one extra oak tree along the Blue Heron frontage and that a right-of-way use agreement be executed for the use of the alley for trees and irrigation.
2. That the project be limited to a monument sign (in lieu of a pole sign) as presented.
3. That the architectural facades be modified to a Mediterranean design consistent with the images provided to the applicant and be approved by the City Architect.

Bob Ziegenfuss, Z Development, 708 East Colonial Drive, represented the applicant. He explained that he has been in discussion with staff concerning this project for over a year. He addressed the traffic changes the revised site plan created. He discussed the reasons for changing the wall to a fence since the noise issue has been eliminated due to the revised site plan. He discussed the architectural differences versus the standard "Dunkin box" architecture. He presented a new design for the franchise. Mr. Ziegenfuss responded to questions raised by Board members.

The Board received comments from the following citizens regarding traffic and noise: Deborah Kirkland, 371 Blue Heron; Ruby Hornborg, 366 Blue Heron Drive; David Francetic 840 Mayfield Dr.; Mike Mackubin, 1785 Killarney Dr.; Elizabeth Johnson, 353 Blue Heron Dr.; Donna Bond, 358 Blue Heron Dr.; Julie Smith, 1879 Karolina Avenue; Karen Murphy, 358 Starling Rd.

No one else wished to speak concerning the request. Public Hearing closed.

Bob Ziegenfuss addressed citizens' concerns regarding the increased size of the wall to reduce noise, closing Blue Heron to prevent traffic going into the neighborhood, location site selection for the Dunkin Donut, and left turning traffic out of the property.

The Board members further discussed the improved site plan, ways to address traffic, updated landscaping plans, and architectural requirements.

Motion made by Tom Sacha, seconded by Peter Gottfried for APPROVAL of the Conditional Use based on the revised site plan subject to the conditions as follows:

- 1. That the landscape plan along Blue Heron Drive be modified and enhanced to include a double row of hedges and lagustrum trees; to add understory trees on the north side of wall adjacent to the alley; to add one extra oak tree along the Blue Heron Drive frontage and that a right-of-way use agreement be executed for the use of the alley for trees and irrigation.**
- 2. That the applicant and City work to achieve with the driveway design and signage on both the private property and right-of-way, methods to discourage right turns and cut-thru traffic into the neighborhood.**

3. That the architectural facades be modified and agreed upon prior to submission to the City Commission in a manner acceptable to the applicant and the City Architect.

Motion carried unanimously with a 7-0 vote.

REQUEST OF DESHPANDE, INC FOR: APPROVAL OF A PRELIMINARY SUBDIVISION PLAT TO CREATE 31 NEW RESIDENTIAL SINGLE FAMILY LOTS, ZONED R-2 ON COUNTRY CLUB DRIVE.

Randall Slocum recused himself from this item.

Planning Manger Briggs presented the staff report. He explained that the applicant, Deshpande Inc., is requesting Preliminary Plat subdivision approval to replat and subdivide 613/621/629 Ellen Drive and 503/511/519/524/532/600/601/604/618/619/624 Country Club Drive, into 31 single family residential lots. All of these properties are zoned R-2 except 524 Country Club Drive, which is zoned r-1A. All of the existing buildings would be demolished for this new subdivision of 31 single family homes.

Mr. Briggs reviewed the history of the development informing the Board that it was a private development with private streets and was never formally platted in Orange County and developed without meeting any of the subdivision requirements of the time. After annexation by the City in the 1990's the City acquired title to these streets via a right-of-way deed. However, rather than a typical 50 foot right of way that provides room for the road, sidewalks and parkway area on both sides, the right-of-way deeds to the City are approximately 30-34 feet in width. This development will create the opportunity to update the area from septic tank to sewer, water services upgrade, underground electric lines, and implement traffic calming since Gay Rd and Country Club can be used as a cut through route to Lee Rd. Mr. Briggs reviewed the assets the new development will offer including tree preservation, improved stormwater retention, and increased parks space.

STAFF RECOMMENDATION IS FOR APPROVAL of the Preliminary Plat, with the following conditions:

1. That this approval does not represent an entitlement or approval of variance for the 30 foot right-of-way in lieu of the required 50 feet. The final road design, lot yield and building setbacks will be determined at the Final Plat state pending resolution of the tree preservation evaluation and roadway design.
2. That the final architectural elevations of the homes consist of diverse architectural styles, front facades and roof materials with the City Architect to provide advice on style and materials variations to accomplish this objective
3. That the development pay to the City's parks acquisition trust fund a one-time payment of \$62,000 for park acquisition in-lieu of park impact fees.
4. That the approval is preliminary and recognizes that requirements for stormwater retention, infrastructure or for the preservation of specimen trees may alter the final lot design and building yield at the Final Plat stage.
5. That as part of the Final Plat, the City may require traffic calming measures to implemented on the new roadways in the form of rollovers in order to calm or slow the speed of traffic on this cut through route.

Mr. Briggs responded to questions from the Board regarding availability of a boat dock, traffic counts, possibility of creating a park, how the park impact fee was determined and density of the subdivision.

Tara Tedrow, Lowndes, Drosdick, Doster, Kantor and Reed, 215 N. Eola Dr., represented the applicant. She presented a brief background of the property, and agreed with staff that the development would be a visual and functional enhancement to the area. She used a PowerPoint presentation to provide details of the request and proposed project. She shared the developer's view of what and what is not City owned right of way mentioned in condition #1 and how it will impact the development. She addressed condition #3 stating that the developer would be happy to pay impact park fees per the code requirements.

Attorney Tedrow responded to questions from the Planning and Zoning Board regarding park impact fee payment, deeding right of way to the city, preserving trees and public access to the lake.

The Board received comments from the following citizens: Blane Greer, 607 Country Club Dr.; Gillian Higgins, 613 Country Club Dr.; Patricia Greer, 607 Country Club Dr.; David Robold, 612 Country Club Dr.; David Gabbai, 401 Country Club Dr.

No one else wished to speak concerning this issue. Public Hearing closed.

Attorney Tedrow was allowed an opportunity to rebut. She responded to the concerns raised about the boat dock stating that the developer is not trying to take away access but upgrade an underutilized area. Anil Deshpande, 5401 S. Kirkman Road, Suite 640, Orlando, FL 32819 provided details of the plans for the boat ramp. He also addressed the residents' concerns regarding density, commenting that larger homes usually have smaller families. Attorney Tedrow stated that the developer is open to traffic calming measures and that the redevelopment will included streetscaping.

Mr. Sacha asked that the applicant look at providing acreage for parks space in lieu of paying a fee. The applicant was open to the idea but requested time to look at that option. He also stated that he was willing to pay the impact fee of \$62,000 if payment could be delayed until building permits are issued. The applicant stated that he would be willing to meet with adjacent property owners one on one to discuss the development.

The P&Z Board members expressed that the development is an upgrade to what exists today, was well thought out and was willing to work with staff and residents to address concerns regarding parks space, traffic, density, connectivity and boat dock access.

Motion made by James Johnston, seconded by Peter Gottfried to approve the Preliminary Plat for a 31 lot subdivision with the following conditions:

- 1. That the final road design of Ellen Drive within the proposed 30 foot right-of-way be determined at the Final Plat stage pending resolution of the tree preservation evaluation and roadway design.**
- 2. That the final architectural elevations of the homes consist of diverse architectural styles, front façades and roof materials with the City Architect to provide advice on style and materials variations to accomplish this objective.**
- 3. That the project be assessed a one-time payment of \$62,000 to the City's parks acquisition trust fund for park acquisition based on \$2,000 per unit to be paid at the time of issuance of the building permit for each unit.**
- 4. That the approval is preliminary and recognizes that requirements for storm water retention, infrastructure or for the preservation of specimen trees may alter the final lot design and building yield at the Final Plat stage.**
- 5. That as part of the Final Plat, the City will require traffic calming measures be implemented on the new roadways in the form of rollovers in order to calm or slow the speed of traffic on this cut-through route.**

Motion carried unanimously with a 7-0 vote

A three minutes break was taken.

DERMINATION OF THE BUILDING AND ZONING OFFICIAL: REGARDING THE INTERPRETATING AND DETERMINATION THAT PARKING AT VILLAGE PARK APARTMENTS, 550 N. DENNING DRIVE, WINTER PARK, FLORIDA ZONED R-4 IS NOT IN COMPLIANCE PER THE DEVELOPMNET AGREEMENT AND CITY CODE.

Building Official George Wiggins presented the staff report. He requested the following documents be entered into the record:

- Amended and Restated Developer's Agreement, dated January 28, 2013¹³
- City of Winter Park, Planning and Zoning Board Minutes, dated December 4, 2012
- City of Winter Park, City Commission Minutes dated, December 10, 2012
- Letter Addressed to Atlantic Housing Partners dated, July 20, 2016
- Letter Addressed to Atlantic Housing Partners dated, September 15, 2016
- Letter Addressed to Atlantic Housing Partners dated, November 15, 2016
- Aerial Photographs of Parking Garage
- 2 Photographs of the Parking Garage Interior
- Official Appeal from Atlantic Housing dated, December 14, 2016
- Final Staff Report dated 2/7/17

Mr. Wiggins summarized background to the request and the details of Village Park Apartment residents petition. In summary, the City's position is that Atlantic Housing cannot say they are in compliance with the Development Agreement and are providing the required 175 parking spaces if a large percentage of them remain inaccessible and blocked off behind a fence barricade. Mr. Wiggins responded to questions from the Board.

STAFF RECOMMENDATION IS TO REQUIRE that the Village Park Apartments comply with the Development Agreement and provide 175 accessible parking spaces without the fence barricade.

Attorney Becky Wilson, Lowndes, Drosdick, Doster, Kantor and Reed, 215 N. Eola Dr., represented the applicant. She stated that Village Park Apartment is in compliance with the Development Agreement and City Code. Neither the Agreement nor Code address how an owner manages their parking and a drive around the City will show multiple options. Ms. Wilson provided details about the Village Park Apartments including location, number of apartments, apartment options including affordable restricted rental rates, and apartments with parking space included. She provided a breakdown of the garage usage and reasons why the fencing was installed. Ms. Wilson restated that only item before the Board is the Building Official's determination that Village Park Apartments is not in compliance per Development Agreement and Code.

Attorney Wilson requested the following documents be entered into the record:

- Photographs of various locations where barricades/gates are used as a parking management tool.

The Board received comments from the following citizen on behalf of other residents in attendance: Pamela Read, 550 N. Denning Dr, Apt #413, expressed the residents' concerns with the lack of parking (6 minutes); Lurline Fletcher, 811 English Ct. spoke in support of the Village Park Apartments residents; Debbie Varner, 550 N. Denning Dr., spoke about the parking garage.

No one else wished to speak concerning this issue. Public Hearing closed.

Mr. Wiggins addressed two points, the first is that all the parking spaces in the photographs are designated parking spaces which does not allow for others to use them, and two, the code does contain language that states that the needs of the building must be addressed. Mr. Wiggins responded to questions from the Board

Attorney Wilson was allowed an opportunity to rebut. She commented that there may have been some, communications issues with residents which have been addressed, but nothing has been provided proving that Atlantic Housing is not in compliance with the Development Agreement and City Code. Scott Culp, Atlantic Housing, responded to Board's question regarding the 97 spaces stating that the 97 spaces are under

agreements reserved for specific residents. Mr. Culp explained the owner is only allowed to charge for the unit under tax credit guidelines, and give the resident the choice to pay for parking. Ms. Wilson responded to questions from the Board.

City Attorney Ardaman commented on the matter before the Board. He stated that the Board is being asked to determine if the Building Official's interpretation of the code is reasonable and only that. If the Board finds that the Building Official's interpretation is reasonable they should vote to confirm it, if they believe it is not reasonable they should vote to overturn it

Motion made by James Johnston, seconded by Peter Gottfried to overturn the determination of the Building and Zoning Official; that the parking at Village Park Apartments 550 N. Denning Dr. Winter Park, Florida zoned R-4 is not in compliance per the Development Agreement and City Code.

Motion carried with a 6-1 vote.

NEW BUSINESS:

There was no further business. Meeting adjourned at 9:11 p.m.

Respectfully submitted,

Debbie Wilkerson
Recording Secretary