CITY OF WINTER PARK
PLANNING & ZONING COMMISSION

Regular Meeting
Commission Chambers

September 11, 2007
7:00 pm

MINUTES

Present: Rick Swisher, Drew Krecicki, and Michael Dick. Absent: Chairman John Stevens, Vice-Chairman Patrick Doyle and Sara Whiting.
Staff: Planning Director Jeffrey Briggs, Sr. Planner Stacey Scowden, Planning Technician and Recording Secretary Lisa M. Clark.

Planning Commission member Rick Swisher called the meeting to order at 7:00 p.m. in the Commission Chambers of City Hall, 401 Park Avenue South, Winter Park, Florida. Mr. Swisher noted that in order for the requests on tonight’s agenda to move forward, for either approval or denial, there must be a unanimous vote from the three Planning Commission members present.

PUBLIC HEARINGS

MISC 4:07 Request of Ira Kitograd for Subdivision Approval to allow the split of the property at 1671 Sunset Drive, zoned R-1A, into two buildable single family lots to be used for the construction of two new single family homes. Both new lots will meet the minimum 75 feet of lot width at the building line required in the R-1A district and have 9,801 and 10,002 square feet of lot area.

Senior Planner Stacey Scowden gave the staff report. She explained that the applicant is requesting subdivision approval to divide the property at the above-referenced property into two single-family lots. She reviewed the issues of the zoning test and comprehensive plan test, and the dynamics of the surrounding neighborhood. She reviewed the site plans submitted by the applicant, and noted that the proposed design will save the existing trees shown on the survey. She added that in meetings with the applicant, he was encouraged to meet with the neighbors and to date, there have been no objections received from the surrounding neighbors. Ms. Scowden added that the applicant has submitted revisions indicating compliance with front, rear and side setbacks. Staff recommends approval as no variances are needed.

Ira Kitograd, IBK Construction, 1412 Holts Grove Circle, was present to address the concerns of the Board. He stated that the proposed lot split will exceed minimum standards and in addition no variances are being requested. He said that the width of the proposed lots is greater than the neighborhood average. He said that the lot is under contract from an estate and is contingent upon approval of this request. Mr. Kitograd responded to Board member questions and concerns.
Rob Vega, 4040 Gilda Rose Place, spoke in favor of the request because the subdivision request is compatible with the surrounding neighborhood.

Tom Lairson, 1360 Chestnut Avenue, objected to the application. He stated that the applicant has not spoken with any of the neighbors. He expressed interest in seeing where the home will go and what it will look like and further that approval is premature. He added that he feels that the proposed construction will block his view of the park across the street.

Larry Glover, 1340 Chestnut, expressed concern that the rear of the home for the plans on the second lot and how it aligns with Sunset Drive.

Bill Roll, 1194 North Park Avenue, spoke in favor of the request. He stated that he feels that is unfortunate that neighbors were not able to review plans prior to tonight’s meeting, but plans were available in City’s Planning Dept.

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

Drew Krecicki, requested clarification on the front setbacks. Staff responded that it is 32-feet.

Michael Dick requested clarification on garages (front entry versus side entry). He disclosed that he met briefly with the applicant. He requested that applicant clarify what type of garage he proposes for the two homes. It was noted by staff that the issue of front versus side entry garages is actually a Planning Commission decision. He stated that overall he is not opposed to the lot split as it meets the code. However, in deference to the neighbors, it would be a good idea to bring the house plans back to the Planning Commission for approval.

Motion made by Michael Dick, seconded by Drew Krecicki to approve the lot split. Motion carried with a 3-0 vote. Mr. Dick amended (with Mr. Krecicki seconding) the motion to provide that the applicant must come back to the Planning Commission for the review and approval of the proposed homes. The amendment was approved unanimously.

ZMA 1:07 An Ordinance of the City of Winter Park amending Chapter 58, Land Development Code, Article III, “Zoning” to amend the Official Zoning Map so as to change the existing zoning of Medium Density Multiple Family Residential (R-3) District to Central Business (C-2) District on the property at 354 Hannibal Square, East.

MISC 4:07 Request of St. Michael Ltd for approval in the CRA area of the Central Business District for building construction over 250 square feet, specifically the construction of a two-story retail/residential building at 345 Hannibal Square, East.

Mr. Briggs gave the staff report. He said that the applicant is requesting specific approval as follows: 1) Approval to rezone the property from multi-family residential (R-3) to central business (C-2); and 2) approval of a new two-story 3,100 square foot retail/residential building. Mr. Briggs gave history and technical aspects of the request. Mr. Briggs added that the subject property formerly held the Sportz Inn Bar. He said that the applicant came before the Board in May 2006 with a similar request, however, the request was denied. He noted that the applicant petitioned during the comprehensive plan transmittal public hearing before both the Planning Commission and the City Commission to establish a central business district future land use designation on the comprehensive plan future land use map. He noted that the request was granted by a 3-2 vote of the City Commission and has subsequently been included in the adopted comprehensive plan. He added that it is the legal determinant of how properties should be zoned. He said that the applicant is entitled to the C-2 zoning in conformance with the comprehensive plan. Mr. Briggs also provided the Board members with extensive insight with regard to the building project review, and the significance of the building in the CRA area of the city. Mr. Briggs also discussed the issue of parking extensively. He noted that by way of this request, the applicant is

Planning & Zoning Commission Page 2

September 11, 2007
requesting a variance for seven parking spaces. Staff recommended approval of the request. He responded to Board member questions and concerns.

Dan Bellows, 411 West New England Avenue, addressed the Board. He gave a brief history of the subject property and parking. He noted that by way of this request, he is requesting a variance for seven parking spaces. He said that he will provide four (4) new parking spaces that did not exist in the past for the pedestrian urban business and the two apartments. He reviewed the cross-access easement agreement. Mr. Bellows stated that he feels that this will be a win/win situation. He responded to board member questions and concerns.

Joe Terranova, 700 Melrose Avenue, spoke in favor if the request.

Lurline Fletcher, 790 Lyman Avenue, spoke in opposition.

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

The Board members briefly discussed the request. Mr. Krecicki stated that he supported the project, and outlined proposed conditions of approval.

Motion made by Drew Krecicki, seconded by Michael Dick to approve the request subject to the following:
1. Effective date of the approval when the comprehensive plan has been approved by the State.
2. Approve the requested variance for the seven parking spaces.
3. First floor is to remain a convenience store.
4. Elevations are to be revised to reflect the 35-foot height restriction.
5. Overhangs are to stay within the right-of-way.
6. Agreements (Storm water, retention, etc.) are to be reviewed by the City Attorney.

Motion carried unanimously with a 3-0 vote.

NEW BUSINESS

Mr. Briggs reminded the Board members of the upcoming work session on September 27th at noon. He explained that the Building Official will give a presentation concerning form based codes.

Discussion of Planning Commissioner's requests:

Two of the planning commission members present had issues to bring to the Board. Michael Dick and Drew Krecicki read into the record (copies are attached as a part of these minutes) a position statement and a memorandum proposing a moratorium in the CBD area. They requested that the Board move forward with these documents.

Mr. Swisher indicated his hesitation to proceed with such until there were more Board members present to address the issue.

Motion made by Michael Dick, seconded by Drew Krecicki to move forward with the position statement. Motion failed with a 2-1 vote. Mr. Swisher voted no.

Motion made by Drew Krecicki, seconded by Michael Dick to move forward with the memorandum proposing a moratorium in the CBD area. Motion failed with a 2-1 vote. Mr. Swisher voted no.
Consensus of the Board members was to call a special meeting (scheduled for Friday, September 21, 2007, at 12:00 noon) to discuss these matters.

There was no further business. The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Lisa M. Clark,
Recording Secretary
City of Winter Park Planning and Zoning Commission

Position Statement prepared by Michael Dick for P&Z Approval

September 11, 2007 Planning and Zoning Commission Meeting

Position Statement

The Planning and Zoning Commission objects to the City of Winter Park City Commission’s disregard for Florida State Statute 163.3174 (copy attached) which mandates the statutory role of P&Z in the preparation and approval of the Comprehensive Land Use Plan. The procedure embraced by the City Commission during its review and subsequent approval of the Plan was contrary to the provisions of this Statute in most fundamental ways. At the very minimum, P&Z laments the transparent lack of cooperation between P&Z and the City Commission during this phase review and approval of the Plan.

P&Z further objects to the content of most changes made by the City Commission to P&Z’s recommended Plan. In bulk, these ill-advised modifications to P&Z’s recommended Plan enable re-development opportunities that could jeopardize the “village” ambiance and character of the City and negatively impact the lifestyles and property values of its citizens.

FSS 163.3174
Summarized with highlighted departures from the Statute by the City Commission.

This statute requires that the local planning agency (P&Z) shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body (City Commission) regarding the adoption of amendment of the plan.

While P&Z didn’t actually prepare the Plan (the Plan was prepared by Staff), this statutory language is interpreted to mean that the Plan is the work product of P&Z. P&Z reviewed the Plan as its own and submitted its recommendations which were refused by the City Commission in a public meeting. Eventually, the City Commission adopted a Plan that was meaningfully different than the Plan recommended by P&Z. Accordingly, this Plan can no longer be considered the work product of the local planning agency as mandated by Statute.

P&Z also stresses that public input was compromised by the failure to provide accurate and timely revisions to the Plan during the public hearings and at no time was a final draft of the Plan made available for public comment prior to its adoption.

The City Commission shall appropriate salaries, fees and expenses
necessary in the conduct of the work of P&Z and shall also establish a schedule of fees to be charged by the agency.

P&Z appreciates the engagement of Miller Sellen during its review of an appropriate FAR recommendation but access to a professional land use professional and perhaps the continued involvement of Miller Sellen should have been available to P&Z prior to its recommendation of the entire Plan to the City Commission, not just one component. Instead, the City Commission afforded itself the opportunity to engage Canin & Associates on an extended basis and invite input from interested property owners and their legal counsel which directly impacted the changes made to the Plan. None of Canin’s work product was made available to P&Z prior to its recommendation of the Plan that was transmitted to the City Commission.

The P&Z shall have the general responsibility for the conduct of the comprehensive planning program including final recommendation of the adoption of the Plan to the City Commission, monitoring and oversight of the effectiveness and status of the Plan and reviewing proposed land development regulations and codes and making recommendations to the City Commission of the consistency of proposals with the adopted Plan.

P&Z believes its general responsibility for the conduct of the Comp Plan program was strategically usurped by the City Commission which supplanted the recommendations of P&Z with input and commentary from an outside consultant and other interested parties. P&Z also believes that it did not have the opportunity to render a final recommendation on the Plan following the significant changes made to the Plan by the City Commission at its August 27, 2007 approval meeting.

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**Major Objections to City Commission changes to the Plan recommended by P&Z**

During several workshops and meetings, the City Commission made many substantive changes to the Plan recommended by P&Z, culminating in the Commission’s second reading/approval meeting on August 27, 2007. P&Z wishes to express its disapproval of the following major changes:

- Parking garages have been excluded from FAR calculations in all land use categories.
- The FAR may be increased by an extra 27% in Office, Commercial, CBD and Mixed Use (Urban) districts by special exception.
- Except within the Park Avenue Corridor, the City Commission
may approve a four story building under special exception criteria. P&Z offered a compromise position to the City Commission to exempt the CBD from this 4th story allowance but this compromise gesture was ignored.

- Policy 1-3.5.4 was deleted which required a super-majority vote of the City Commission to approve rezoning from medium to high-density residential. This policy also discouraged such rezoning.
- P&Z's recommendation to require a super-majority vote of the City Commission to allow an increase from 2 to 3 stories on Park Avenue was rejected.
- The policy requiring a public referendum in the event of development plans for municipal property within the CBD was deleted.
- The "Mixed Use" land use designation should not be re-named "Urban Use" as Florida State Statute 163.32465 facilitates less State oversight in urban areas (vs. a "village" concept), possibly inviting abuses in the visioning process at the local responsibility and accountability levels.

**Recommendations by P&Z**

In view of the objectionable manner in which the City Commission conducted itself during this Plan review and approval process, the many objectionable provisions contained in the adopted Plan and the statutory responsibilities required of P&Z moving forward, the following is recommended:

- The Comprehensive Land Use Plan should be withheld from transmittal to DCA until P&Z can render its final recommendations to the Commission per Statute.
- P&Z recognizes the advisory nature of its input yet too many examples of the City Commissions disregard and, in some cases disdain, for P&Z's role in city governance cause great concern. In support of enhancing cooperation between P&Z and the City Commission, a meeting between the City Commission and P&Z should be held to formally affirm the statutory responsibilities of P&Z and how we mutually feel business should be conducted moving forward.
- Ensure the availability of funds in the contingency line item of the City budget to facilitate the use of outside professionals as necessary by P&Z in its immediate and future deliberations pertaining to the Comprehensive Land Use Plan. On the immediate horizon, many tasks- identifying Mixed Use (Urban) districts, formulating form based codes, recommending criteria for City Commission approval for special exceptions for
additional building floors and 27% FAR, interaction with the Architectural Review Task Force, etc. might require input beyond the Staff level.

- A temporary moratorium on acceptance, review and approval of land use applications for development orders within the CBD must be imposed pending the resolution of the aforementioned recommendations. Some commissioners in recent Commission workshops and meetings have acknowledged that wrong re-development decisions were made (e.g. Park Place, proposed Carlisle). We know all too well that, once it’s “in the ground”, it’s too late. To preserve the general well being of Winter Park’s citizens and their investments and the “village” character of the City, we need the time to clarify our policies and direction.
MEMORANDUM

To: Jeff Briggs, Planning Director  
From: Drew Krecicki, P&Z Commissioner  
Subject: Proposed Moratorium in the CBD Area  
Date: September 11, 2007

PURPOSE

This memo is for the proposal of an Ordinance that would enact a temporary moratorium on the Winter Park CBD. The ordinance would apply to all new applications for all projects within the CBD. A moratorium period of six months is recommended to allow sufficient time to address the City Commission revisions to the Comprehensive Plan.

REASON

Among these proposed last minute revisions, are items that could drastically and adversely affect the Winter Park CBD. These revisions are in direct contradiction to P&Z commission and the preference by the majority of the citizens of Winter Park.

The previous Moratorium Ordinance (2678-06) was adopted for the explicit purpose of allowing time for a Comprehensive Plan to be adopted and for the Land Development Code to be updated. Neither are done. Therefore, it seems reasonable to continue the Moratorium until the city has these major planning tools under control. Without these adequate tools the City will lose control over what will be built.

SUMMARY

The City Commissioners approved the transmittal of the Comprehensive Plan at their meeting on August 27, 2007 that included many new and significant revisions to the Comprehensive Plan that have not been reviewed by the P&Z Board, nor the citizens of Winter Park.

The Comprehensive Plan as reviewed on August 27, 2007 will have a negative impact on the character of development activity within the Central Business District. It is necessary to impose a temporary moratorium on acceptance, processing and the approval of land use applications that could potentially have a negative impact on the community; special exceptions for 4 stories, 2 conflicting height maximums within the CBD, a Land Development Code that does not support the Comprehensive Plan, and no criteria to support “special exceptions”. 

Further, the Comprehensive Plan excluded public participation. A final draft has not been available for public consideration prior to any public hearings.
KEY ISSUES

According to FS 163.3181 - Public participation in the comprehensive process:

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible.

A 3 - 2 vote from the Commission (not a super majority) overrode P & Z Recommendations, two years of the Comp Plan Task Force work and recommendations, citizen advisory boards, and a Winter Park Resident Survey resulted in a drastic change from the approved Plan. This vote does not include the citizenry and will have an adverse impact on the future of downtown Winter Park regarding village scale, pedestrian orientation, etc.

Among these revisions/additions include the following:

1. Policy 1-3.2.2: Maintain the Character and Vitality of the CBD Environs:
Third floors approved by conditional use along the Park Avenue Corridor must be setback on street frontages equal to their height on a one foot setback for each one foot height of the third floor. Except within the Park Avenue Corridor, the City Commission may approve as a special exception a four story building.
Change: Increased allowable Conditional Use from 3 to 4 stories in the Central Business District. Removed PD overlay approval prohibition.

2. Policy 1-3.13.3: Criteria for Pursuing Annexation and Required Cost/Benefit Study:
The City may consider adjusting the park level-of-service standard as necessary to accommodate such annexations as these residents are already using existing City parklands.
Change: Waives the requirement of 10 acres of parkland for every 10,000 residents.

Change: Deleted the requirement for a public referendum for the development plans of municipal property in the Central Business District. (This change was introduced and approved in the Aug 27 meeting; it was not part of the ordinance first reading.)

4. Policy 1-2.1.4 Revised FAR Definition - Floor Area Ratio Defined (Policy 1-3.8.2 also applies):
Change: Deleted all non-residential parking garages from FAR. (Major redefinition of FAR. Doubling the allowable mass of structures throughout the City.)
5. **Policy 1-2.1.5: Maximum Building Height Defined**

*Change:* Added flexibility and expanded the ability to approve “discretionary increases” by the Commission to approve one additional story and 27% more floor area ratio for developments in any Land Use Designation based on a yet to be defined criteria. (Transmittal CP allowed one extra floor only if FAR was not exceeded and restricted to mixed use.)

6. **Policy 1-3.2.2 Maintain the Character and Vitality of the CBD Environ**

*Change:* Removed definition of height on Park Ave requiring Conditional Use Approval. (Transmittal CP limited height on Park Ave and New York Ave to 30 with 40 feet requiring Conditional Use Approval.)

7. **Policy 1-4.1.G.4: Park Avenue Height Restrictions to Preserve Pedestrian Scale and Prohibition on New Drive-in Businesses in the Central Business District.**

*Change:* Removed New York Avenue from 2 story height limit protection policy requiring Conditional Use Approval for 3rd story on New York corridor. (Transmittal CP required Conditional Use Approval for heights in excess of 2 stories, 30 ft on Park and New York Ave.)

8. **Policy 1-3.5.3 (also 1-3.8.8): Protect Low density residential property from parking garages**

*Change:* Removed prohibition of parking garages next to single family homes. (Transmittal CP prohibited use of property next to single family homes as parking garages. Changed to allow parking garages to abut single family homes with buffer.)

9. **Policy 1-3.2.3 (also1-3.5.4) – Revision of CBD boundaries**

*Change:* Area allowing CBD C-2 Land Use Designation/Zoning was redefined. The boundaries of CBD C-2 zoning from “Symonds” to “Garfield” in Hannibal Square and from “New York Avenue Corridor” to “Virginia” in the CBD were altered after the initial transmittal

10. **Policy 1-3.1.8 Affordable/Workforce housing program**

*Change:* Allowed increased FAR and Units per Acre for provision of Affordable Housing for poor. Included Workforce Housing for moderate incomes.

11. **Policy 1-3.5.4 Discourage Re-zoning from medium to high density residential:**

*Change:* Deleted requirement for super majority vote of Commission to approve rezoning from medium to high density residential. (Super majority vote required in Transmittal CP.)

12. **Policy 1-2.3.4: Urban Use Land Use Designation**

*Change:* enabled without definition of mix of use required by Florida Administrative Code. Also is missing criteria for application, definition of allowable location or maximum acreage for land use.
NEXT STEPS

The schedule of actions below should be followed for the enacting an ordinance for this moratorium:

<table>
<thead>
<tr>
<th>Plan of Action</th>
<th>Date</th>
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<tbody>
<tr>
<td>P&amp;Z Board to vote on moratorium ordinance.</td>
<td>9/11/07</td>
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<tr>
<td>If passes, draft Ordinance for City Commission approval</td>
<td>9/11/07 – 9/24/07</td>
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<tr>
<td>City Commission to vote on P&amp;Z recommendation at next commissioners’ meeting</td>
<td>9/24/07</td>
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<tr>
<td>Enact ordinance</td>
<td>TBD</td>
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<tr>
<td>Length of ordinance in order to review City commissioner revisions</td>
<td>6 months</td>
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RECOMMENDATION

If the Commission decides to proceed with the proposal, an ordinance should enact the moratorium for the Winter Park CBD.

If the Commission determines not to proceed with the proposed moratorium, no action is required, except as listed below.

Either decision, results are recommended to be reported to DCA.

As an alternate proposal, the current Moratorium Ordinance (2678-06) could be extended. The previous Moratorium Ordinance was adopted for the explicit purpose of allowing time for a Comprehensive Plan to be adopted and for the Land Development Code to be updated. Neither are done. Therefore, it seems reasonable to continue the Moratorium until the city has these major planning tools under control. To lift the curtain, with inadequate tools, will result in the city’s loss of control over what will be built.

ATTACHMENTS

(1) 2006 Resident Survey
(2) FS 163.3181
(3) Ordinance (2678-06)
65% of Winter Park residents support growth that is cautiously and heavily controlled.*

This proposed amendment to the Comprehensive Plan:
- Removes all reference to height by feet and only limits height by stories.
- Removes the requirement for a Commission Super Majority Vote to allow 3 stories in the Central Business District including Park Avenue.
- Adds a new Urban Zoning District allowing more lot coverage and 90% more leasable space than our previous zoning codes.

54% of Winter Park residents consider two to three story buildings in the Central Business District just right. 33% of you think that is too high.*

This proposed amendment to the Comprehensive Plan allows the City Commission to approve 4 stories in the Central Business District in any location except Park Avenue.

On Park Ave it allows 3 stories without requiring a super majority vote of the City Commission.

78% of Winter Park residents feel that it is important to improve traffic flow through the city.*

This proposed amendment to the Comprehensive Plan:
- Allows significant increases in density/intensity which will result in significant increases in traffic.
- Promotes narrowing roads and adding more traffic calming devices.
- Reduces our guaranteed level of service for local roads.

72% of Winter Park residents believe that it is important to maintain the existing park standard of 10 acres of parkland per 1,000 residents.*

This proposed amendment to the Comprehensive Plan allows the City Commission to reduce the Parks Level of Service Standard to enable annexations.