Approval of Minutes – December 4, 2007

Motion made by Mr. Doyle, seconded by Mr. Dick to approve the minutes as amended. Motion carried unanimously with a 5-0 vote.

PUBLIC HEARINGS:

MISC 1:08 Appeal of the Harper Place Condominium Association appealing the interpretation and enforcement of the City of Winter Park regarding whether the Keller Outdoor business is an appropriate permitted business use of the General Commercial (C-3) zoned property at 1221 Indiana Avenue.

Mr. Briggs gave the Board a brief overview of the appeal process as outlined in the Land Development Code. He pointed out that the appellant is actually Mr. Alexander Zouzoulas and not the Harper Place Condominium Association. He said that Mr. Zouzoulas resides at 1270 Harper Place (Harper Place Condominiums). He explained that the Board can either approve or deny the appeal or offer some other remedy. At that point, the meeting was turned over to George Wiggins, Director of Building. Mr. Wiggins detailed the grounds of the appeal. He stated that the appellant is seeking to appeal a zoning determination made by the Building Official that allowed Keller Outdoor, Inc., to set-up business operations at 1221 Indiana Avenue.

He explained that Keller Outdoor is a landscaping company that provides commercial and residential landscaping maintenance to properties throughout Central Florida. He stated that the company made a request to temporarily occupy the subject property while a new facility is constructed in Sanford. He said that use of the property has been approved until May 20, 2008. After which time, the property must be vacated.

He reviewed the provisions of the C-3 zoning code. He noted that given the past uses of the property, he feels that the business falls under the grandfather clause. He indicated that he has met with Mr. Rick Keller of Keller Outdoor. Mr. Wiggins continued by stating that the rationale for allowing this temporary use of the property is that this site has been used for warehousing and contractor related operations in the past as the former location of Harper Plumbing and Harper Mechanical. He added that these activities have mostly occurred on the C-3 zoned portion of the property. None of the temporary operation by Keller Outdoor is located on the O-2 portion which affords a 60-foot buffer to the residentially zoned property to the west. He added that Keller has placed screening on the exterior fence surrounding the property and has placed five, 25-foot tall oak trees as an additional buffer along the west side of the property near the residential zoning.

Mr. Wiggins recommended the following in order to remedy the situation:
1. Make a determination as a finding of fact that the current temporary use of the property as a commercial landscaping enterprise is not compliant with the General Commercial (C-3) zoning on the subject property.
2. Place a limitation on the continued use of the property by Keller Outdoor until May 20, 2008.
3. Give official notice to the owner of the subject property that uses conducted at this location after the date cited in item #2 must strictly comply with the uses permitted in Section 58-75 of the Land Development Code.

Mr. Wiggins distributed several photographs of the subject property and the surrounding area to Board members. Mr. Wiggins responded to Board member questions and concerns.

Mr. Zouzoulas, 1270 Miller Avenue, stated that he feels that Keller Outdoor misrepresented the nature of its business on the occupational license application. He said that he feels that the grandfathering clause does not apply in this instance because the prior use was terminated in 2004. He said that he has observed consistent storage since moving into his property in July 2007. He presented a video depicting the parking of commercial vehicles, noise disturbances and debris. He stated that he is also concerned that fuel is stored on the property. He expressed concerns of fire, explosion and pollution. Mr. Zouzoulas responded to Board member questions.

Mr. Russell Allen, President of the Harper Place HOA, and Brandon Hossmer, were both witnesses for Mr. Zouzoulas. They provided statements to the Board supporting the information provided by Mr. Zouzoulas.

Mr. Bill Roll, 1194 North Park Avenue, explained that he is one of the owners of the property, and that he is sorry that there has not been an amicable solution to this situation. He stated that they (him and Mr. Keller) have met with the appellant and have responded to his letters. He said that he feels that Keller has done what is necessary to reduce their operations, by voluntarily moving a portion of their operation off-site. He added that they met with Mr. Wiggins prior to Keller moving in, and that Code Enforcement Officials have been on site several times, and Mr. Keller has never been cited for anything. He requested that they be allowed to remain until May, as their current construction project is on schedule. In addition, he stated that if the property were redeveloped, the issue of dirt blowing on his property will remain. He said that he agrees with Mr. Wiggins’ assessment. Mr. Roll responded to Board member questions and concerns.

Mr. Rick Keller, 2231 Park Maitland Court, agreed with the comments made by Mr. Roll. He responded to Board member questions and concerns.

No one else wished to speak concerning the request.

The Board members extensively discussed the request. Mr. Doyle stated that he feels that the Board must either grant or deny the appeal. He said that he feels that the continued use of this property in this capacity is intolerable as has been shown by the appellant. He said that he favors granting the appeal. Mr. Krecicki said that he agrees with Mr. Doyle and feels that the use is too intense for the property. In addition, he said that he does not feel that the grandfather clause applies.

City Attorney Cheek explained that the Board is sitting in an appellant capacity meaning the Board is to review the action of the lower decision making authority did and either affirm it or reject it. The code does not make it clear as to what the Board’s role is in this particular situation. He said that Board is here to determine whether the Building and Zoning Official’s decision to allow the temporary use of the property in this capacity is justified.

Mr. Swisher expressed disappointment that the two parties had not been able to reach an agreement without the intervention of the Board. Mr. Dick stated that with he feels that with certain mitigation, i.e., lower screen, additional trees (approximately 12-15) to be moved along the parameter of the residential property, along with daily supervision to ensure that compliance is maintained, Keller could be allowed to remain. Mr. Stevens stated he is “on the fence” given the zero-lot line nature of the townhouse develop, there will always be a problem with whatever use that goes on the C-3 portion of the property. He said that he is not completely convinced that moving Keller will totally resolve the problem.

The Board members also discussed if it was appropriate to allow Keller to continue to park the large commercial trucks on the property.
Motion made by Mr. Doyle, seconded by Mr. Dick to grant the appeal to the extent that the decision of the zoning official was in error to the extent that it permitted the use of the property for heavy duty equipment and trucks. Mr. Cheek pointed out that the Board is technically reversing the building official determination. The motion was withdrawn.

The Chairman declared a recess at 8:55 p.m., and reconvened the meeting at 9:02 p.m.

Motion made by Mr. Doyle, seconded by Mr. Krecicki to grant the appeal in that the Building Official allowed use of the subject property in violation of Section 58-75(5) of the Land Development Code, but otherwise deny. Motion carried unanimously with a 5-0 vote.

COMP 1:08 An Ordinance of the City of Winter Park, Florida, amending Chapter 58 “Land Development Code, Article II, “Concurrency Management Regulations” by adopting a new “Proportionate fair-share option to mitigate deficit transportation facilities” into Chapter 58, Concurrency Management Regulations, complying with current Florida Statutes by establishing purpose and intent, findings, applicability, general requirements, application process, determining proportionate fair-share obligation, impact fee for proportionate fair-share mitigation, proportionate fair-share agreements, and appropriation of fair-share revenues; and providing an effective date.

Mr. Briggs presented the staff report. He explained that the purpose of the proposed ordinance is to add state mandated rules for proportional fair share dealing with roadway capacity to the city’s concurrency management regulations. He gave the Board an overview of the state regulations in this regard. Staff recommended approval.

Mr. Briggs responded to Board questions and concerns.

No one wished to speak concerning this item. Public Hearing closed.

Motion made by Mr. Dick, seconded by Mr. Swisher to approve the proposed ordinance as amended. Motion carried unanimously with a 5-0 vote.

ZTA 1:08 An Ordinance of the City of Winter Park, Florida, amending Chapter 58 “Land Development Code” Article III, "Zoning" repealing section 58-76 Limited Commercial (C-3A) District and adopting and substituting therefore a new section 58-76 Urban Use Zoning District, providing for purpose and intent, establishing permitted and conditional uses, providing for development standards, building setbacks, building heights and residential dwelling sizes, providing for density and lot coverage bonuses and criteria, providing an effective date.

Mr. Briggs gave the staff report. He stated that the public hearing advertised above is intended to implement policies of the City’s new Comprehensive Plan and involves the creation of zoning rules for the new Urban Use zoning district. He detailed the highlights of the proposed ordinance. Mr. Briggs responded to Board member questions and concerns.

Rebecca Furman, 1355 Pelham Road, Winter Park, FL, spoke concerning the proposed ordinance. She restated the concerns detailed in her letter to Jeff Briggs dated January 7, 2008.

Scott Webber, 955 North Pennsylvania Avenue, Winter Park FL, spoke concerning the design issues that the architect is facing with the Progress Point project.

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

After a considerable amount of discussion, the consensus of the Board was to POSTPONE the public hearing concerning this issue in order to advertise for March so they would have time to hold more work sessions. (Motion made by Mr. Doyle, seconded by Mr. Krecicki and carried unanimously with a 5-0 vote.)

The Board also directed staff to petition the city commission for approval to obtain the services of an outside professional to assist staff in this regard. (Motion made by Mr. Dick, seconded by Mr. Krecicki. Motion carried unanimously with a 5-0 vote.)
THE NEXT THREE PUBLIC HEARINGS WILL ONLY BE HELD IF THE PLANNING COMMISSION VOTES TO PROCEED WITH A RECOMMENDATION ON THE URBAN USE DISTRICT ORDINANCE ABOVE

COMP 2:08 Request of the Progress Point LLC to amend within Chapter 58 “Land Development Code, Article I, Comprehensive Plan” and its Future Land Use Plan Map so as to change the future land use designation of Office to Urban Use for the 5.73 acres of properties at 1100 and 1150 N. Orange Avenue and at 1201/1241/1210 Palmetto Avenue in order to permit the subsequent rezoning to an Urban Use zoning district to permit the development of the Progress Point project to be effective upon determination by Florida DCA that the Winter Park Comprehensive Plan is in compliance.

ZMA 1:08 Request of the Progress Point LLC to amend within Chapter 58 “Land Development Code, Article III, “Zoning Regulations” and the Official Zoning Map so as to change the existing zoning designation of Office (O-1) District to Urban Use (UU) District on the 5.73 acres of properties at 1100 and 1150 N. Orange Avenue and at 1201/1241/1210 Palmetto Avenue in order to permit the development of the Progress Point project to be effective upon determination by Florida DCA that the Winter Park Comprehensive Plan is in compliance.

CU 1:08 Request of the Progress Point LLC for Conditional Use Approval under the provisions of the Urban Use zoning district to permit the development of the Progress Point project composed of three story buildings holding 110,200 sq. ft. of retail/office space, 48,400 sq. ft. of office only space, 74,800 sq. ft. (53units) of residential space and two parking garages of four levels in height holding 783 parking spaces on the 5.73 acres of properties at 1100 and 1150 N. Orange Avenue and at 1201/1241/1210 Palmetto Avenue to be effective upon determination by Florida DCA that the Winter Park Comprehensive Plan is in compliance.

These items were not heard since the P&Z postponed the above item (ZTA 1:08)

CU 2:08 Request of Bank Atlantic for Conditional Use Approval to redevelop the existing Wendy’s property at 459 S. Orlando Avenue into a branch bank with drive-thru tellers, on property zoned C-3 and O-1.

This item was withdrawn by the applicant.

SITE PLAN REVIEWS

SPR 1:08 Request of approval of a new single-family home at 736 Kiwi Circle on Lake Osceola, zoned R-1AAA.

Assistant Planner Stacey Scowden presented the staff report. She reviewed the issues of floor area ratio, impervious coverage, views of the neighbors and the lake, storm water retention and tree preservation. Staff recommended approval. She responded to Board member questions and concerns.

Mr. Phil Keene was present, but did not address the Board. He indicated that he was in agreement with staff recommendations. No one wished to speak in favor of or in opposition to the request. Public Hearing closed.

Motion made by Mr. Dick, seconded by Mr. Krecicki to approve the request. Motion carried unanimously with a 5-0 vote.

There was no further business. Meeting adjourned at 11:00 p.m.

Respectfully submitted,

Lisa M. Clark,  
Sr. Staff Assistant

Planning & Zoning Commission  January 8, 2008