CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION

Staff Report
June 8, 2010


Introduction:

The Winter Park Towers at 1111 S. Lakemont Avenue is requesting approval to modify the Preliminary Conditional Use approval granted on January 25, 2010. In summary, the development plans have been modified to reduce the height of the lakefront residential building to four stories (vs. five stories approved); to increase the lakefront setback for that lakefront building; to relocate those six units from the fifth floor to the future garden apartment building and to include that future 20 unit garden apartment building as part of the preliminary conditional use approval. The revised site plan, tree protection/compensation/landscape plans and 3-D perspective elevations have been provided for these proposed modifications. Also a Development Agreement has been prepared by the City Attorney to incorporate these potential approvals and the conditions and restrictions that were previously approved.

Project History:

Back in October, 2006, the Winter Park Towers requested approval to build a two story (3 level) parking deck over their existing surface parking lot with 425 parking spaces and to construct a new five story, 30 unit residential apartment building in the vicinity of Lakemont Court.

The Planning Commission in 2006 agreed the WP Towers has a parking problem which needs to be resolved with some version of a parking garage and that allowing additional retirement units at the Towers meets a social need given our aging baby boom population. Despite the concurrence on these goals, the best location, size, scale and height were all in need of further study. The Planning Commission tabled the matter and cited the need for a design charrette for this entire property. To that end, the WP Towers held resident and neighborhood meetings in 2007. That process and the examination of several alternatives lead to revised development plans that were the focus of the public hearings that were held by P&Z on January 12, 2010 and by the City Commission on January 25, 2010.
Winter Park Towers Preliminary Approvals

The minutes are attached that detail the public hearings and motions by the Planning and City Commissions in January, 2010. Those approvals include:

Adoption on first reading of the ordinance to amend the Future Land Use Map of the Comprehensive Plan on 2.74 acres from low density residential to high density residential.

Adoption on first reading of the ordinance to amend the Official Zoning Map on the same 2.74 acres from Planned Unit Residential (PURD) district to Multi-Family (high density R-4) district.

Adoption on first reading of the ordinance to amend in the Future Land Use Element of the Comprehensive Plan, to revise Policy 1-3.8.4 to permit the land use changes as requested above, and

Preliminary Conditional use approval of the specific project involving the 383 space, four level parking garage and the 60 unit, five story retirement apartment buildings adjacent to the parking garage with the lakefront building having a minimum 98 foot lakefront setback and a maximum of 50 feet in height. In addition, direction was given to prepare a Development Agreement to incorporate these approvals and to include the conditions and restrictions agreed to. (City Attorney has drafted that Dev. Agreement, which is attached)

Since Comprehensive Plan amendments were involved, those changes were transmitted to the Florida Dept. of Community Affairs (DCA). Their letter of April 9, 2010 states that "the Department raises no objection to the proposed amendments and this letter serves as the Department’s Objections, Recommendations and Comments Report". The City Commission at their upcoming public hearing on June 28th can proceed with the second reading and adoption of the ordinances cited above and no further recommendation is needed from the Planning Commission. The Planning Commission’s recommendation is needed on the request to modify the preliminary conditional use approval for the specific project.

Compliance with the Comprehensive Plan and Zoning Code:

As was detailed in the previous staff reports, the project complies with the density and intensity limitations of the Comprehensive Plan and Zoning Code. While changes to the comprehensive plan future land use map and the zoning were part of the original requests, those were only needed because the project location is in an area zoned PURD and north of the existing R-4 line and because the R-4 zoning is needed for the 55 feet of building height desired versus the 35 foot maximum permitted by the PURD zoning.
While the change in land use and zoning permits more density (units per acre), those changes are not needed to achieve the WP Towers development plans. The WP Towers property (not counting Summerfield Village) has 10.418 acres zoned R-4 and 7.54 acres zoned PURD (equal to R-2).

Allowable Density: 10.418 acres x 25 units per acre = 260 units
7.54 acres x 10 units per acre = 75 units
Total units allowed = 335 units

The WP Towers has 178 existing units in the Towers, 35 units remaining in the Village; wants to build 54 more units now in the residential buildings adjacent to the parking garage and 20 additional units later in the future garden apartment building for a total of 322 units. The total proposed units are 322 units and versus the 335 units allowed.

While the change in land use and zoning permits more intensity (floor area ratio or FAR) those changes are not needed to achieve the WP Towers development plans. The WP Towers property (not counting Summerfield Village) has 10.418 acres zoned R-4 which has a 200% FAR and 7.54 acres zoned PURD which has a 55% FAR.

Allowable FAR: 10.418 acres (453,808 sq. ft.) x 200% FAR = 907,616 sq. ft.
7.54 acres (328,442 sq. ft.) x 55% FAR = 180,643 sq. ft.
Total FAR allowed = 1,088,259 sq. ft.

The WP Towers has 311,305 sq. ft. in the existing Towers building, 67,000 sq. ft in the remaining Village units, has proposed 81,000 sq. ft. for the new 54 units, has proposed 103,950 sq. ft for the new parking garage and has proposed 24,000 sq. ft. for the future 20 units for a total of 587,255 sq. ft. which is well within the maximum amount of building area that is potentially permitted on their campus.

Concurrency Analysis:

Every Comprehensive Plan amendment and every conditional use for projects over 20 residential units must undergo a concurrency review. That analysis has been prepared by staff and this project meets the concurrency requirements of the Comprehensive Plan and Land Development Code.

Storm Water Retention:

Preliminary conditional use approvals need to demonstrate “conceptual design approach and method of code compliance” to meet in this case the requirements of the City’s and the St. Johns River Water Management District. To that end, a letter has been submitted by the project’s civil engineer detailing those plans. The City’s storm water engineer has reviewed the letter and concurs with the conceptual design of an underground vault and exfiltration under the parking garage and in the courtyard between the parking garage and the adjacent residential buildings.
Building Height and Proximity to Lake Berry:

From the staff’s perspective and as was heard from public comments at the previous public hearings, the major issue with this project is the location of the lakefront residential building approved at five stories, 50 feet tall, at a 98 foot setback from Lake Berry. This building height and proximity to Lake Berry issue was also stressed in 2006 with the original request.

The City has always been very protective with respect to lakefront development. The 1976 Comprehensive Plan as well as the Comprehensive Plans of 1991 and 2009 speak to requiring “the lowest density of development” on lakefront parcels. This was a very big part of the discussion when the Windsong community was developed. To maintain the natural appearance of Lake Berry, the City and Windsong agreed to create the “north shore” park which kept Windsong’s entire north shore of Lake Berry undeveloped as natural open space. The homes are located across the street and largely out of view. For the homes on Chase Landing Way, the average setback is 75 feet and for the homes on Preserve Point Drive, the average lakefront setback is 150 feet. These lakefront setbacks are for single family homes that are 35-40 feet tall. While Waterbridge homes average closer to a 65 foot lakefront setback, it isn’t surprising that the planning staff and the residents around Lake Berry were concerned about a 50-55 foot tall building proposed to be 98 feet from the lake.

Now with this current request to modify the preliminary conditional use approval, the WP Towers has reduced the lakefront building to four stories (47 feet in height vs. the 50 feet approved) and moved the building 10 feet further from Lake Berry (108 feet vs. 98 feet approved). The question is whether these are meaningful changes to gain only 10 added feet of lakefront setback and only 3 feet of reduced height.

One design feature that remains is the average 54 foot separation between the lakefront residential building and parking garage. The reason is to provide windows on the interior side and added natural light within those units. You will note that the separation for the northern residential building is 20 feet which is likely not desirable but forced by the constraint of the existing storm water stream.

The major reason the City did not alter the average 50-54 foot separation for the preliminary approval granted in January 2010 was the desire and hope (by all parties) that some of the nice big live oak trees in that area could be saved. The City knew that if none of those live oaks could be saved, that when the plans were brought in for final conditional use approval there was a subsequent opportunity to re-look at this separation issue.

As it turns out, after a more detailed examination, the combination of the revised building locations and the major grading/re-grading that must occur in the construction process will not permit those live oak trees to be preserved. The disruptions to the root systems, the span of the limbs that conflict, the alterations to the topography and construction impacts are just too great to expect their survival. As a result, the live oaks are shown for removal and new oak trees are shown to be planted as compensation in this separation area.
Staff's goal is to make a more meaningful increase to the lakefront setback than the 10 feet proposed. First, it seems counter-intuitive to plant new trees between the parking garage and the residential building that will block the natural sunlight you are trying to get inside the units. This is somewhat moot anyway since you can't plant trees on top of the storm water features planned for that area. While the demise of the live oak tree is an unfortunate outcome, it presents an opportunity and option to reduce that separation between the buildings by 20 feet to an average of 34 feet of separation (vs. 54 feet proposed). This then achieves a more meaningful increase to the lakefront setback of 30 feet total to a minimum of 128 feet.

Another issue needing clarification is how the lakefront building can be one story less in height but only three feet of difference (47 feet proposed) from the 50 feet approved. Part of that answer likely rests with the plan reverting back to the original roof design as the project originally was submitted at 55 feet in height. So that would make it an 8 foot height difference from the original submittal which is closer to what one would expect from the removal of one story. It would be very helpful to know the height to the roof eave and then the height of the roof pitch as well as to get an accurate lakefront perspective elevation drawing that shows more than half of the first floor level of that building. That information has been requested from the applicant.

**Tree Preservation and Compensation:**

The submittal contains a detailed landscape plan including the tree preservation and compensation details. In summary, there are 20 trees that will be removed for these buildings that total 317 inches. Since some of the trees by virtue of size are deemed "specimen" or "historic" per our tree ordinance and the compensation required is 2 for 1 and 3 for 1 respectively. Thus, the tree compensation required is 797 inches. The plan commits to the replanting of 86 new trees that total 484 inches. A fee-in-lieu will be required for the remaining 313 inches at $110 per inch which is $34,430.

**Future Garden Apartment Building:**

The other modification to the preliminary conditional use approval granted on January 25, 2010 is the inclusion of the detailed preliminary plans for the 'future' garden apartment building. The location is still the same as was originally presented in the western portion of the existing parking lot. The new submittals show the exact site plan, the resultant layout of the surface parking and the 3-D perspective images of the garden apartment building.

Fortunately, the redesign (incorporating the six units from the lakefront building) has maintained this garden apartment building at two stories and 35 feet in height to the top of the sloped roof. The 61 foot setback to the Waterbridge townhouses, the similar permitted heights of 30-35 feet for those townhouses result in a garden apartment building compatible with the WP Towers campus and the adjacent townhomes.
This project is to be built in the future at an undetermined time. However, conditional use approvals expire after two years from the final CU approval and the preliminary CU approval expires in one year if not followed up with the final submittal. As a result, the Development Agreement indicates this as a phased project allowing more time for this project to be constructed without having to go back through this same process again.

Other Issues included in the Development Agreement:

Other conditions of approval from the January 25, 2010 action by the City Commission that have been incorporated into the Development Agreement:

1. Traffic Light at Lakemont Avenue: The City has heard frustrations for years from WP Towers residents and visitors about the difficulty and safety of left turns out of and into the WP Towers property while many say there is no problem at all. A traffic light has been studied. It is not warranted by the traffic volume from the WP Towers or accident data. There also is a complication in the offset between the WP Towers entrance/exit and Strathaven Road on the opposite side of Lakemont Avenue. The original approvals purposely did not decide whether or not a new traffic light would be installed. What the motion did was to fix a funding formula of 2/3's of the cost from the WP Towers and 1/3 from the City, if the WP Towers requests a traffic light and the City elects to install one. At those public hearings the WP Towers offered to pay their “proportionate share” of the cost of the traffic light. The “proportionate share” of the WP Towers traffic contrasted with the 20,324 cars a day on Lakemont Avenue works out to about a 5% proportionate share. Since the only reason for doing the traffic light in the first place is as a safety and turning movement convenience for the WP towers residents, visitors and employees, one could argue that 100% is more accurate. Thus, the 2/3's – 1/3 split is great deal for the WP Towers.

2. Further expansion into Waterbridge: The WP Towers owns 23 attached villa units in the adjacent part of Waterbridge on Melissa Ct., Serena Dr. and Sara Ct. The proposed WP Towers Master Plan needs to have geographical limits to further expansions into Waterbridge which for the next 20 years is to be limited to those three streets now utilized.

3. Further wall screening for Waterbridge: Waterbridge residents have requested additional wall screening both in height and length down toward the lake to better shield their homes from noise (AC compressors/vehicles) and lights. The WP Towers is agreeable to providing additional wall screening and landscaping.

Staff Recommendation is for approval of the modifications to the Preliminary Conditional Use Subject to the Development Agreement and an increase in the Lakefront setback to 128 feet.
Original 3-D Perspective Elevation - January 2010
NOTICE is hereby given that a public hearing will be held by the Planning and Zoning Commission of the City of Winter Park, Florida on Tuesday, June 8, 2010 at 7:00 p.m., and by the City Commission on Monday, June 28, 2010 at 5:01 p.m., in the Commission Chambers of City Hall, 401 Park Avenue South, Winter Park, Florida, to consider the following PUBLIC HEARINGS:


All interested parties are invited to attend and be heard. Additional information is available in the Planning Department so that citizens may acquaint themselves with each issue and receive answers to any questions they may have prior to the meeting.

NOTE: If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105).

Persons with disabilities needing assistance to participate in any of these proceedings should contact the Planning Department at 407-599-3453 at least 48 hours in advance of the meeting.

Is:\ Cindy S. Bonham, CMC
City Clerk

PUBLISH: Thursday, May 20, 2010, Orlando Sentinel
May 27, 2010

Mr. Jeff Briggs, Director  
Planning & Community Development Department  
City of Winter Park  
461 Park Avenue South  
Winter Park, Florida 32789-4386

Subject: Conceptual Storm Water Management System Design Approach  
WESTMINSTER - WINTER PARK TOWERS  
Winter Park, Florida  
FEG Project No. 10-012

Dear Jeff,

Pursuant to your request, I have prepared this letter to describe the conceptual design for the storm water management system, which would serve the Westminster – Winter Park Towers proposed expansion. This letter is intended to provide an overview of the conceptual storm water management system design approach and the method by which we would comply with the City of Winter Park Code and the St. Johns River Water Management District Rules.

As you know, the proposed project consists of a re-development within the existing 42 acre retirement community owned by Presbyterian Retirement Communities, Inc. The affected project area currently contains various improvements, which include five (5) single family units, access driveways, parking areas, drainage conveyances, underground utilities, walkways, and other related site infrastructure.

The proposed improvements will consist of a new four level parking garage structure, 60 new apartments to be located in two five (5) story buildings, a 20 garden apartment building, new re-configured parking areas, re-configured driveway improvements, walkways, a storm water management system, utilities, and other site infrastructure. The new proposed improvements will result in the removal of existing structures, demolition and re-configuration of existing parking, re-alignment of an existing access driveways, demolition and coordination of existing walkways, and other site retrofit.

As part of our preliminary planning and engineering assessment efforts, we have evaluated the storm water management system needs for the project. Our evaluation consisted of reviewing existing and proposed site improvements including existing and proposed grades, proposed building locations, existing and proposed driveway re-configuration, existing and proposed drainage conveyances, etc. We also reviewed two geotechnical investigation reports for the site prepared by Nodarse Associates, Inc. dated June 20, 2006 and April 9, 2010. The April 9, 2010 geotechnical report was specifically commissioned to provide information related to soil and groundwater conditions needed to help quantify the storm water management system size for the project.
in addition to reviewing the existing and proposed site conditions and the subsurface soils and groundwater information, we also reviewed the City of Winter Park Code and the St. Johns River Water Management District requirements as they apply to this project, and we have preliminarily quantified the storm water volumes, which are required to comply with the City of Winter Park Code and with the St. Johns River Water Management District Rules for both water quality and water quantity.

Based on the above described preliminary review, we intend to provide two independent storm water management areas. The first area will consist of an underground storm water exfiltration system, which would be located in the courtyard area between the new proposed garage building and the western apartment building and, if needed, within a portion of the garage structure. The storm water runoff from the new garage structure, the two new apartment buildings, and the adjacent re-configured driveway will be conveyed to this underground storm water exfiltration system using drainage conveyance pipes, downspouts, and other collection and conveyances as needed. The underground storm water system will provide water quality treatment and water quantity attenuation consistent with all of the City of Winter Park Code requirements and more specifically those outlined in Sections 58-161, 58-162, 58-163, 58-166, 58-168, and 58-169; and all of the St. Johns River Water Management District Rules and more specifically those outlined in Chapter 40C-42.025, and 40C42.026.

The second storm water management area is anticipated to consist of swales and a surface retention pond, which would be located to the north of the proposed 20 garden apartment building. Storm water from the 20 garden apartment building and the adjacent re-configured parking areas and driveways will be conveyed to the surface retention pond and the swales using drainage conveyance pipes, downspouts, and other collection and conveyances as needed. The swales and surface retention pond will provide water quality treatment and water quantity attenuation consistent with all of the City of Winter Park Code requirements and more specifically those outlined in Sections 58-161, 58-162, 58-163, 58-166, 58-167, and 58-169; and all of the St. Johns River Water Management District Rules and more specifically those outlined in Chapter 40C-42.025, and 40C42.026.

As outlined above, it is our intent with this project to provide a storm water management system, which would meet the current storm water quality and water quantity design standards of the City of Winter Park and the St. Johns River Water Management District. Thus, it is my opinion that the proposed project will result in improved storm water quality discharge from the re-developed area to Lake Berry.

As we move forward with the design of the project, we will closely coordinate with you and with the City Engineer as relates to the design and permitting of the storm water management system to ensure that it meets all of the required criteria as we typically do on all of our projects.

Please let me know if I can provide any additional clarification or if you have further questions. You can reach me at 407-895-0324 or by e-mail to SSebaali@feg-inc.us.

Sincerely,

Sam J. Sebaali, P.E., LEED AP
President

[Signature]
CONCURRENCY ANALYSIS

DATE: JUNE 8, 2010

SUBJECT: WINTER PARK TOWERS PARKING GARAGE AND RESIDENTIAL UNITS

PURPOSE: The City’s Comprehensive Plan and Land Development Code require a concurrency analysis for any residential project over 20 units and for any amendments to the comprehensive plan.

BACKGROUND: The Winter Park Towers specific request is to add a total of 74 new residential retirement units, of which 54 units are adjacent to the parking garage and 20 future units are to be in a garden apartment building. While the 383 parking garage is a significant structure, the parking garage in and of itself does not generate capacity needs. Those are generated by the residential living units and the other health service functions of this retirement community.

CONCURRENCY ANALYSIS:

Potable water and sanitary sewer capacity. The potential 68 additional residential units of retirement housing create a demand (320 gpd per unit) for 23,680 gpd. There is ample water production capacity and sanitary sewer treatment capacity for this project.

Transportation/roadway capacity. The applicant’s original submittals contained a traffic impact report which analyses the specific request for 60 added units but the conclusions are the same extrapolated for 74 units. That analysis shows the peak hour level of service requirements to the nearby roadway system are satisfied.

Drainage/Storm water management. This project will meet the permitting requirements of the St. Johns River Water Management District as well as the City’s code which in turn meet the level of service standards for drainage.

Solid Waste collection and disposal capacity. Winter Park’s commercial franchise with Waste-Pro and the capacity at the Orange County landfill are sufficient for this project.

Public School capacity. This project being restricted to retirement housing is exempt from the requirement of school concurrency.
Park and recreation facility capacity. While these additional units of retirement housing would, practically speaking, have little or no effect on park land capacity or recreational facility needs, the city’s level of service standard is based upon population factors alone. Thus, the new anticipated population of 148 persons requires the commitment of 65,340 sq. ft (1.5 acres) of park land based on the city’s level of service standard of 10 acres per 1,000 population. Sufficient surplus park land capacity exists to accommodate this population growth at this time. That surplus capacity is expected to be completely utilized by population growth within the next five years. Dependent upon the timing of the construction of the future 20 units of retirement housing in the garden apartment building, there may or may not be sufficient park land available at that time.

To purchase the 1.2 acres of new park land needed for this project would cost the city $500,000 - $750,000. Park impact fees for this project will be $148,000. The City staff has advised the planning commission and city commission that this park level of service standard is not able to achieved or maintained in the long term and the situation looms of a residential building moratorium when the current park land capacity is exhausted.
WINTER PARK TOWERS DEVELOPMENT AGREEMENT

THIS WINTER PARK TOWERS DEVELOPMENT AGREEMENT ("Agreement") is entered into this ___ day of ____________, 2010, by Presbyterian Retirement Communities, Inc., a Florida non-profit corporation, d/b/a Winter Park Towers (hereinafter referred to as "OWNER"), having an address of 80 West Lucerne Circle, Orlando, Florida 32801 and the City of Winter Park, a Florida municipal corporation (hereinafter referred to as "CITY"), having an address at 401 Park Avenue South, Winter Park, Florida 32789.

WHEREAS, OWNER is the owner of certain real property located at 1111 South Lakemont Drive, Winter Park, Florida 32792 and further described on Exhibit “A” which is incorporated herein and made a part thereof (the “Property”);

WHEREAS, in accordance with the Winter Park Land Development Code, OWNER has received approval of a Conditional Use Permit ("CUP") which permits the development of a four (4) level 383 space parking garage, 54 residential liner units and 20 garden apartments ("Proposed Units") (together, the “Project”); and

WHEREAS, the parties desire to enter into this Agreement to more specifically set forth the conditions and restrictions with respect to the Project and the CUP.

NOW THEREFORE, in consideration of Ten Dollars and no/100 ($10.00), each in hand paid to the other and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are hereby incorporated herein.

2. Conditional Use Permit. The City grants CUP approval of the development plan attached hereto as Exhibit “B” ("Master Plan"). The CUP includes the approval of a four (4) level 383 space parking garage, 54 residential liner units and 20 garden apartments.

3. Project Phasing. The Project will be phased as indicated below. Each phase must be able to exist on its own with respect to necessary services and infrastructure. No phase may proceed without demonstrating its ability to function on its own.
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<tr>
<th>Phase Description</th>
<th>Maximum No. of Units</th>
<th>Estimated Phasing Dates</th>
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<tbody>
<tr>
<td>Parking Garage, residential liner units</td>
<td>383 space parking garage</td>
<td>5 years</td>
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<tr>
<td></td>
<td>54 apartments</td>
<td></td>
</tr>
<tr>
<td>Garden Apartments</td>
<td>20 apartments</td>
<td>10 years</td>
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4. **Expansion.** OWNER agrees, for 20 years from the Effective Date of this Agreement, to limit its purchase of homes in the Waterbridge subdivision to those homes located on Serena Drive, Sarah Court and Melissa Court all in Winter Park, Florida. Further, OWNER will not seek approval for any additional buildings, nor will OWNER seek to increase the density on the Property beyond what is reflected on the Master Plan.

5. **Stormwater.** Any development occurring onsite will meet or exceed all city, state and Water Management District requirements for stormwater retention. The stormwater system shall be owned and maintained by OWNER.

6. **Senior Housing.** OWNER agrees to limit the Proposed Units and any subsequent units developed pursuant to the Master Plan for use as a Community for Older Persons deed restricted to residents fifty-five (55) years and older, pursuant to applicable state and federal laws, for a period of thirty (30) years from the Effective Date of this Agreement.

7. **Traffic Light.** Requested by OWNER. Should OWNER request a traffic light at Winter Park Towers entrance at Lakemont Avenue, this section shall be applicable. The CITY, at its discretion, may then choose to install the traffic light, and shall send notice to OWNER as set forth below. If the light is installed OWNER agrees to voluntarily pay two-thirds of the cost for the traffic light and other costs associated with the design and construction of the traffic light.

8. **Waterbridge Wall.** All requirements in this Section shall be completed within one (1) year from the date of this Agreement. OWNER will increase the height of the existing wall on its western boundary from its existing height to ten (10) feet, and extend the existing six (6) foot wall to fifty (50) feet from Lake Berry. OWNER will also build a permanent, ten (10) foot high opaque wall on its southern border adjacent to the Waterbridge tennis courts. In addition, OWNER shall install landscape screening proximate to the wall to further screen lighting and noise. Any Land Development Code variances or waivers for height shall be deemed granted by the CITY upon the approval of this Agreement.

9. **Tree Removal.** Prior to Final Conditional Use Permit approval, OWNER shall submit a tree survey which shall identify all protected trees. Such survey shall identify those trees to be removed, replaced and/or relocated. Such survey shall also provide a summary of compensation in compliance with the Land Development Code and as approved by the Tree Preservation Board. Tree replacement is limited to those designated on the tree survey as presented. Compensation is to be determined by the Tree Preservation Board or the City Arborist. OWNER shall have continuous responsibility to maintain all landscaping in the approved landscape plan, per Code.
10. **Subsequently Enacted State or Federal Law.** If state or federal laws are enacted after the execution of this Agreement which are applicable to and preclude the parties compliance with the terms of this Agreement, this Agreement shall be modified or revoked as necessary to comply with the relevant state or federal laws.

11. **Successors and Assigns.** This Agreement and the terms and conditions thereof shall be binding upon and inure to the benefit of the CITY and OWNER and their respective successors in interest. The terms and conditions of this Agreement similarly shall be binding upon the Property and shall run with the title to the same.

12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

13. **Modification Must Be in Writing.** No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representative of CITY and OWNER.

14. **No Waiver.** No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

15. **Captions and Section Heading.** Captions and Section Headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement nor the intent of any provision thereof.

16. **Attorney’s Fees.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, the prevailing party thereunder shall be entitled to its reasonable attorneys’ fees and costs including at trial or at all appellate levels.

17. **Waiver of Strict Construction Against Drafting Party.** Should any provision of this Agreement be subject to judicial interpretation, it is agreed that the court interpreting or considering such provision not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other legal agent prepared the same, as all parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel and the negotiation of changes in language in any provision deemed unsuitable or inadequate as initially written, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

18. **Interpretation.** In case any one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions shall be in no way affected, prejudiced or disturbed thereby. The use of any gender shall include all other genders. The singular shall include the plural and vice versa. Use of the words “herein”, “hereof”, “hereunder” and any other words of similar import refer to this Agreement as a whole.
and not to any particular article, section or sub section of this Agreement unless specifically noted otherwise in this Agreement.

19. **Governing Law.** This Agreement shall be deemed to be governed by, construed and enforced in accordance with the internal laws of the State of Florida. Venue shall be Orange County, Florida.

20. **Third Parties.** This Agreement shall not be deemed to confer in favor of any third parties any rights whatsoever as third party beneficiaries, the parties hereto intending by the provisions hereof to confer no such benefits or status.

21. **Notice.** Any written notice, demand or request that is required to be made under this Agreement shall be served in person, or by registered or certified mail, return receipt requested, or by express mail or similar reputable overnight courier service, addressed to the party to be served at the address set forth in the first paragraph hereof. The addresses stated herein may be changed as to the applicable party by providing the other party with notice of such address change in the manner provided in this paragraph. In the event that written notice, demand or request is made as provided in this paragraph, then in the event that such notice is returned to the sender by the United States Postal Service or other similar reputable overnight courier service because of insufficient address or because the party has moved or otherwise, other than for insufficient postage, such writing shall be deemed to have been received by the party to whom it was addressed on the date that such writing was initially placed in the United States Postal Service or reputable overnight courier service by the sender.

Copies of notices shall be sent to:

as to CITY:

Attention: City Manager
401 Park Avenue South
Winter Park, FL 32789

as to OWNER:

Winter Park Towers
c/o Westminster Services, Inc.
Attention: Executive Director
80 West Lucerne Circle
Orlando, FL 32801

With a copy to:

Rebecca Furman, Esq.
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 North Eola Drive
Orlando, FL 32801

22. **Representations of the Parties.** The CITY and OWNER hereby each represent and warrant to the other that it has the power and authority to execute, deliver and perform the terms and provisions of this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement. This Agreement will, when duly executed and delivered by the CITY and OWNER and recorded in the Public Records of Orange County,
Florida, constitute a legal, valid and binding obligation enforceable against the parties hereto and the Property in accordance with the terms and conditions of this Agreement. OWNER represents that it has voluntarily and willfully executed this Agreement for purposes of binding the Property to the terms and conditions set forth in this Agreement.

23. **Specific Performance.** Strict compliance shall be required with each and every provision of this Agreement. The parties agree that failure to perform the obligations provided by this Agreement shall result in irreparable damage and that specific performance of these obligations may be obtained by a suit in equity.

24. **Development Permits.** Nothing herein shall limit the CITY’s authority to grant or deny any development permit applications or requests subsequent to the effective date of this Agreement. The failure of this Agreement to address any particular City, County, State and/or Federal permit, condition, term or restriction shall not relieve OWNER or the CITY of the necessity of complying with the law governing said permitting requirement, condition, term or restriction. Without imposing any limitation on the CITY’s police powers, the CITY reserves the right to withhold, suspend, or terminate any and all certificates of occupancy or permits for the Property if OWNER is in breach of any term and condition of this Agreement.

25. **Termination.** The CITY shall have the unconditional right, but not obligation, to terminate this Agreement, without notice or penalty, if OWNER fails to receive building permits and substantially commence construction of the Project (except the 20 garden apartments) within five (5) years of the effective date of this Agreement. The OWNER shall have ten (10) years to obtain the building permit and commence construction on the 20 garden apartments. If the CITY terminates this Agreement, the CITY shall record a notice of termination in the public records of Orange County, Florida.

26. **Compliance with Other Laws, Ordinances and Regulations.** This Agreement shall not operate as a limitation upon the CITY to require the OWNER to comply with all applicable laws, ordinances, resolutions and regulations of either the United States, the State of Florida, Orange County or City of Winter Park, regulating the development of the OWNER’s Property in accordance with this Agreement to the extent that same are not specifically addressed or referenced herein, nor shall the failure of this Agreement to address any particular requirement to act to relieve the OWNER from complying with any development requirement, condition, term or restriction.

27. **Subordination/Joinder.** Unless otherwise agreed to by the CITY, all liens, mortgages and other encumbrances not satisfied or released of record, must be subordinated to the terms of this Agreement or the lienholder joins in this Agreement. It shall be the responsibility of the OWNER to promptly obtain the said subordination or joinder, in form and substance acceptable to the City Attorney, prior to the CITY execution of the Agreement.

28. **Effective Date.** This Agreement shall be effective as of the date of its execution by the last of the parties as evidenced by the date following the execution portion of this Agreement.
29. **Not A Statutory Development Agreement.** Pursuant to Section 58-90, of the City’s Land Development Code, and based on the City’s home rule power, this Agreement is not a statutory development agreement, and is therefore not subject to Section 58-7 or Fla. Stat. §163.3220, et seq.

30. **Period of Effectiveness.** This Agreement shall remain in effect for 20 years. The effectiveness of this Agreement may be extended upon City Commission approval consistent with this Agreement.

[SIGNATURES TO FOLLOW]
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as follows:

WITNESSES:

PRESBYTERIAN RETIREMENT COMMUNITIES, INC., a Florida non-profit corporation d/b/a WINTER PARK TOWERS

By: ____________________________

Print name: ____________________________

Title: ____________________________

(print)

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of __________, 2010, by ______________________ the ____________ of PRESBYTERIAN RETIREMENT COMMUNITIES, INC., a Florida non-profit corporation, d/b/a WINTER PARK TOWERS (check one) ☐ who is personally known to me or ☐ who produced ____________________________ as identification.

________________________________________
Notary Public – State of Florida
Print Name: ____________________________
My Commission expires:
WITNESSES:  

_________________________  

(print)  

_________________________  

(print)  

CITY OF WINTER PARK, a Florida municipal corporation  

By: __________________________  

Print name: ____________________  

Title: __________________________  

ATTEST:  

By: ___________________________  

Cynthia Bonham, City Clerk  

Date: __________________________  

STATE OF FLORIDA  
COUNTY OF ORANGE  

The foregoing instrument was acknowledged before me this _____ day of ______, 2010, by __________________________ the _____ of the CITY OF WINTER PARK, a Florida municipal corporation, (check one) □ who is personally known to me or □ who produced __________________________ as identification.  

_________________________  

Notary Public – State of Florida  
Print Name: ____________________  
My Commission expires: __________________________  

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8
EXHIBIT “A”

[LEGAL DESCRIPTION OF THE PROPERTY]
EXHIBIT “B”

[CONDITIONAL USE PLAN]
clarification why the borrowing amount was lowered. Mayor Bradley and Commissioner Anderson responded. Commissioner Diebel believed these projects could wait and the City should not incur more debt at this time. CRA and Economic Development Director DeBord explained how the Community Center will be funded and how the loan will be paid off. No public comments were made.

Motion made by Commissioner Anderson to accept the ordinance on first reading; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha and Bridges voted yes. Commissioner Diebel voted no. The motion carried with a 4-1 vote.

d. RESOLUTION NO. 2042-10: A RESOLUTION BY THE CITY OF WINTER PARK, FLORIDA TO ENTER INTO A GRANT MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES DIVISION OF FORESTRY

Attorney Brown read the resolution by title. No public comments were made.

Motion made by Commissioner Anderson to adopt the resolution; seconded by Commissioner Bridges.

Upon questioning by Commissioner Bridges, Parks Director John Holland explained what the grant would be used for if the City receives it. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried with a 5-0 vote.

e. Request of the Winter Park Towers (1111 S. Lakemont Avenue):

Planning Director Jeff Briggs explained the process for the hearing, the four items the Commission needs to take action on this evening, and what the Winter Park Towers was requesting. Mr. Briggs alerted the audience about the sign in sheet they are required to sign if they want to be kept in touch with the correspondence from the DCA. He explained that after this is adopted on first reading this evening it will be reviewed by the Florida DCA who will comment and provide the ORC report and then the second reading will take place in about three months when this comes back for adoption. He stated they will also be looking at a change to the comprehensive plan future land use map because a portion of the property has to be changed from a low density residential category to a high density residential category in order to permit the size of the parking garage and the units where they have evolved to be located. He elaborated on the rezoning ordinance and the conditional use approval required.

He summarized what has taken place with this request since 2006 whereby the parking deficit was addressed and a 425 space parking deck was proposed where the existing parking lot is but there were P&Z concerns at that time regarding the size of the structure and the proximity of the parking garage to the units within Waterbridge. He stated that P&Z tabled it to have time for more planning. He stated the Towers came up with a better plan which moves the parking deck to a more centralized location on the campus so it minimizes the impact to the neighbors and takes advantage of taking the residential units as a liner facing the lake facing the north so a good portion of the parking garage is not seen as a parking garage but as new residential units. He stated the request tonight is basically the same parking garage and same location with more separation between the residential building and the garage. He stated the plan calls for it to be
closer to the lake (98' versus 150' from the 2007 plan). The garage will be three levels and 5 stories for the residential units.

Mr. Briggs summarized the positive recommendations of the Planning and Zoning Commission of all four elements. He explained that this is a preliminary approval and after tonight the applicant will continue to work on refining the plans with respect to architecture, lighting of the parking garage, issues with the trees, the landscape plan, etc. He addressed the debate at P&Z regarding the issue of the proximity of the building to the lake which is about 50' closer to the lake than the 2007 master plan showed. He concluded that the P&Z approved this project as is at the 98' setback and recommended that the pitch of the roof be reduced so there is a 50' overall height versus 55' and recognizing that the details will come back at the final approval.

He spoke about the development agreement that will come back as well as the master plan. He commented about the measures taken by the Towers to accommodate the Waterbridge residents. He mentioned there are a lot of issues with putting a traffic light on Lakemont which will be a future discussion. Commissioner Dillaha asked what staff’s recommendations were to the P&Z. Mr. Briggs summarized the different scenarios that he proposed. He stated that no one has a problem with the density that is requested and that even though the rezonings give them more density, they do not need it but it is because of the location of the building that forces them to move the zoning line.

Rebecca Furman, Lowndes Drosdick Doster Kantor and Reed law firm on behalf of the Winter Park Towers introduced the team present: Paul Velander, landscape architect; Steve Cook, Vice President of construction for Westminster, Linda Kirk, Director of Winter Park Towers; Roger Stevens, Chief Operating Officer at Westminster; Nancy Schwab who helps with public relations; Joe Robinson, McCree General Contractor’s and architects; John Percy, formerly with Glatting Jackson (now AECOM); Carl Beers of HKS Architects and several board members.

Linda Kirk, Executive Director of Winter Park Towers, explained the history of Winter Park Towers, their mission statement, what they do and what they look like as far as residents and staff members.

Ms. Furman addressed the original submittal of 2006 and the meetings with public input since then, the current layout of the property, and the Waterbridge residents not wanting the large parking garage adjacent to their residences (a compromise was made to accommodate them which was to move it from closer to Waterbridge to the interior of their site which caused the comprehensive plan amendment). She explained what was contained in the site plan and the Lake Berry site compatibility.

Landscape Architect Paul Velander addressed the landscaping and tree canopy of the project. Ms. Furman then addressed the proposed height of the garage and buildings, code and parking analysis, the setbacks, their request for a large scale comprehensive plan amendment, rezoning, and the conditional use permit request. She summarized the P&Z recommendation and the conditions placed on the project. Questions were asked of Ms. Furman by the Commission.

A recess was taken from 7:25 p.m. – 7:50 p.m.

David Johnston, 636 Darcy Drive, spoke in favor of the project because of the quality services they provide to the elderly.
Chase Lasbury, 1268 Melissa Court, addressed the necessity of the wall for a sound barrier because of vehicles frequenting the facility. He asked for a stop light with unlimited access at the end of Serena and agreed with 3 stories.

Gregg Kern, 2019 Natalen Road, opposed the expansion because of the impact to the lake.

Steve Breitbeil, 1946 Gunn Road, opposed the expansion because of the 5 story building, the setback and the impact to the lake shoreline.

Steve Webb, 708 Balmoral Road, opposed the project because of the impact to the community.

Lisa Armour, 708 Balmoral Road, opposed the project because of the need to preserve their neighborhood.

James Thomas, 716 Balmoral Road, opposed the project because of the scope and traffic it will bring.

James Tinkey, 361 Merrie Oaks Road, spoke in favor of the expansion and the garage because of the need for more parking.

Joe Terranova, 700 Melrose Avenue, spoke in favor of the project with the conditions imposed by P&Z because of the need for more residential units for seniors.

Bonnie Breitbeil, 1946 Gunn Road, opposed the project because of the setback and the impact to the lake and the trees that will be destroyed.

Bill Manuel, 526 Genius Drive, did not oppose the expansion but did oppose how it is going to be done. He addressed it being too close to the lake and the building height is too high.

David Pendergraft, 2314 Woodcrest Drive, opposed the request because of the impact to the traffic and lake.

Farlen Halikman, 1201 S. Orlando Avenue, spoke in favor of the project because of the need for additional senior housing and the need to take good care of the elderly.

Carlos Gimenez, 1889 Jessica Court, Waterbridge HOA President, representing about 100 homeowners in Waterbridge addressed the impact to developing too close to the lake, the traffic light issue and concerns with setback and height. He asked to increase the setback from the lake.

Steve Murphy, 1051-1053 Schultz Avenue, spoke in favor of the expansion because of the need to provide additional jobs and because the Towers is good for Winter Park.

Tommy Cullens, 1274 Serena Drive, spoke in favor of the expansion because he did not believe it will impact the community or the lake in a negative way.

Henry Spang, 1065 Lakemont Drive, and resident of Winter Park Towers, spoke in favor of the expansion.
Jim Bogner, 1009 Tuscany Place, space in favor of the expansion because of the good they provide to the community.

Allen Trovillion, unknown address, spoke in favor of the project because it is a good project and will not negatively impact the community.

John Webb, 697 Balmoral Road, Lake Berry Property Owners Association, opposed the plan because of the setback, taking out the trees and impact to the lake. He supported staff recommendation #2.

Dennis Devona, 701 Balmoral Road, opposed the 5 story building and the setback. He asked for the 150’ setback and a 3 story building because of concerns with the impact to the lake.

Don Rudolph, 1774 Lake Berry Drive, agreed the expansion needs to be done but opposed the plan. He asked that staff’s recommendation (#2) be followed.

Richard Sturm, 1840 Winchester Drive, spoke in favor of the project and believed it to be a good plan.

There was a show of hands of people for and against that did not speak.

Commissioner Dillaha stated she met with Rebecca Furman and Steve Cook to go through the plans and get questions answered. She addressed the need to better understand the magnitude of the project. She stated she is favor of the project in terms of the parking garage and 60 units and share the concern with the majority who spoke about the setback issue on the lake and the height of the building on the lakefront. She stated she is not comfortable with approving something that does not conform to the policies that are in the comprehensive plan but believed they can make it work. She spoke about needing to address the traffic light issue and had concerns with the plans for water retention.

Mayor Bradley commented that the P&Z has addressed the issues such as height and that they have made a recommendation and that the role of the Commission is to vote on this and not design it because it has been properly vetted already. Commissioner Dillaha stated she did not believe there was 100% agreement with the vote of the P&Z regarding the height.

Attorney Brown addressed the legal aspects of the quasi-judicial proceedings they need to approve or disapprove as well as the legislative changes before them. He suggested dealing with the legislative questions first. Attorney Brown read the title of the first ordinance.

1. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" SO AS TO REPEAL AND RE-ADOPT POLICY 1-3.8.4 IN THE FUTURE LAND USE ELEMENT REGARDING THE CONDITIONS UNDER WHICH FUTURE LAND USE MAP CHANGES ARE PERMITTED FROM SINGLE FAMILY OR LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY OR HIGH DENSITY RESIDENTIAL, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Motion made by Mayor Bradley to accept the ordinance on first reading, seconded by Commissioner Anderson.
Commissioner Anderson voiced a potential conflict. Attorney Brown clarified there was no conflict of interest. Mayor Bradley and Commissioner Bridges disclosed their conversations with Ms. Furman, Mr. Cook and that they have received emails from citizens.

Motion amended by Commissioner Dillaha to read for Policy 1-3.8.4: “The City shall encourage single family detached homes as opposed to apartments and condominiums by prohibiting future land use map amendments from single family residential or low density residential to medium or high density residential. (This portion was changed): The only exception to this policy that may be considered as when an amendment involves an increase to medium or high density residential pertaining to existing residential elderly housing communities consistent with housing element policy 3-1.4.3.” The motion was seconded by Commissioner Bridges.

Ms. Furman stated they have no objection to this and allows the project to go forward. After review and discussion, Attorney Brown suggested using other language to clarify the intent. The amendment was withdrawn by Commissioner Dillaha and Bridges.

Attorney Brown reworded the language under Policy 1-3.8.4 as follows: “The intent of this policy is to provide a smooth transition of density/intensity of land use. However, the sole exception to this policy shall be with respect to an existing residential elderly housing development that is larger than 10 acres, etc.”

The original motion with the change in language as stated above was agreed to by Mayor Bradley as the maker of the original motion. Commissioner Anderson as the second to the motion agreed. The motion carried with a 5-0 vote. Following the public hearing, Commissioner Dillaha rescinded her vote and voted no. Thus the motion carried by a 4-1 vote. (See the attached information at the end of the minutes from the City Attorney regarding this matter)

2. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE COMPREHENSIVE PLAN FUTURE LAND USE MAP FROM LOW DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL ON 2.74 ACRES WITHIN THE WINTER PARK TOWERS PROPERTY AT 1111 S. LAKEMONT AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Motion made by Mayor Bradley to accept the ordinance on first reading, seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.

3. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF PLANNED UNIT RESIDENTIAL (PURD) DISTRICT TO MULTI-FAMILY (HIGH DENSITY R-4) DISTRICT ON 2.74 ACRES WITHIN THE WINTER PARK TOWERS PROPERTY AT 1111 S. LAKEMONT AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read the ordinance by title. He suggested that each disclose any conversations if they have not already done so and to be sure all emails are in the City’s possession.
Motion made by Mayor Bradley to accept the ordinance on first reading, seconded by Commissioner Anderson. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Dillaha, Diebel and Bridges voted yes. The motion carried unanimously with a 5-0 vote.

4. Conditional use approval to allow the construction of a new four level, 383 space parking garage and a new five story, 60 unit residential building.

Motion made by Mayor Bradley to approve the Planning and Zoning Commission preliminary approval of the conditional use as follows: That a development agreement needs to be completed at a future date prior to final approval to include the following: 1. A cap on the WP Towers expansion into Waterbridge. The number and area can be determined later; 2. To review and approve the final master plan which would also place a cap on any future buildings and density; 3. The consideration of the traffic light with staff recommendation of a 2/3 to 1/3 funding split; 4. On the western perimeter wall where it abuts other Waterbridge neighbors to increase the height or integrity of the wall so that it abates noise from mechanical units, trash, lighting or other service traffic in that location; 5. That the storm water review be done thoroughly; and 6. That if any of the existing mature trees along the lakefront are damaged or destroyed either during construction or a period of six months after construction, they will be replaced at their current size (The motion was amended as follows: Tree replacement is limited to those designated on the tree survey as presented. Compensation is to be determined by the Tree Preservation Board of the City Arborist and future use of the facility is restricted to elderly housing, nursing or assisted living facility. (Height of the project P&Z motion): For the lakefront building with a 98’ setback and 5 stories but limited to a 50‘ height with roof slope design to be approved with the final conditional use approval at a later date. The motion was seconded by Commissioner Diebel for discussion.

Commissioner Bridges expressed her concerns with not providing enough protection for the adjacent neighbors, the environmental concerns with the lake and the height setbacks. She stated she is looking for conceptual approval of the expansion of the garage and the need for that but for better planning of what is actually built on the site. She asked if someone can provide ideas or modifications to the plan to see if it is something that better fits the site and the concerns of the adjacent property owners.

Mayor Bradley inquired about the setback from the lake. Mr. Briggs stated the minimum lakefront setback in all zoning districts is 50‘ but the Commission can decide on the setback as part of the conditional use. He explained the options the Commission has to include this portion of the hearing. Ms. Furman expressed concerns with the time and money already spent on this project and they will not agree to table the conditional use permit because there is no guarantee that in the end what is approved conditionally will be feasible for them. She explained how to correctly measure the setback and that they designed this project with almost double the R-4 required setback. She stated they analyzed where else the units could be placed and that the 60 units are needed. Commissioner Bridges reiterated her concerns. Ms. Furman spoke about an option they considered to take off one story on Lake Berry and put that in the master plan on top of where the existing 14 units are but expressed concerns about delaying the project and not having a guarantee that the property owners would agree. Other possible options were addressed.
Commissioner Dillaha expressed concerns with the setback from the lake and the height and questioned why they are looking at a 5 story building 98' from the shoreline. The applicant stated they have more than met the requirements of the City for this project. Ms. Furman stated that taking this to four stories is a significant compromise and are still twice as far back as you would need to be and she asked for a preliminary approval of the four story compromise plan. Commissioner Anderson expressed his concerns with the setback but agreed to move forward with what P&Z approved. Additional questions were asked regarding the four stories versus five stories.

Motion amended by Commissioner Dillaha by adding the following condition to pay $120,000 in park fees within 60 days of signing any developer's agreement. Attorney Brown disagreed with this condition because it does not relate to the protection of the surrounding neighbors. Motion was withdrawn.

Motion amended by Commissioner Dillaha that the traffic light staff recommendation of the 2/3 to 1/3 funding split be funded 100% by the developer. Motion failed for lack of a second.

Motion amended by Commissioner Bridges to include that the lakefront units only be four stories high and allow the developer to relocate those 12 units somewhere on the property. Motion failed for lack of a second.

Upon a roll call vote, Mayor Bradley and Commissioners Anderson and Diebel voted yes. Commissioners Dillaha and Bridges voted no. The motion to approve the conditional use with the P&Z recommendations was approved with a 3-2 vote.

Commissioner Dillaha rescinded her vote at this time regarding the text change to Policy 1-3.8.4 that they previously voted on as reflected above as part of the vote, as indicated in the motion above.


Motion made by Mayor Bradley to table the ordinance until February 8; seconded by Commissioner Diebel. Upon a roll call vote, Mayor Bradley and Commissioners Anderson, Diebel and Bridges voted yes. Commissioner Dillaha voted no. The motion carried with a 4-1 vote.

Attorney Wade Vose, Vose Law Firm, 324 W. Morse Boulevard, representing 14 property owners with 58 parcels of property that he stated would suffer substantial violations of private property rights and be hugely damaged by this code. He addressed the letter sent to the Commission expressing their concerns and summarized why they were opposing the proposed
The meeting was called to order by Mr. Krecicki at 7:00 p.m. in the Commission Chambers of the Winter Park City Hall.

Present: Chairman Drew Krecicki, Michael Dick, Sarah Whiting and Carolyn Cooper. Vice-Chairman Rick Swisher was absent. Staff: Planning Director Jeffrey Briggs, Director of Building and Code Enforcement George Wiggins, Sr. Planner Stacey Scowden, Planning Technician Caleena Shirley, and Recording Secretary Lisa M. Smith.

PUBLIC HEARINGS:

- REQUEST OF THE WINTER PARK TOWERS AT 1111 S. LAKEMONT AVENUE TO AMEND WITHIN CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE I COMPREHENSIVE PLAN, THE COMPREHENSIVE PLAN FUTURE LAND USE MAP ON 2.74 ACRES INTERNAL TO THE WINTER PARK TOWERS CAMPUS FROM LOW DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL AND TO AMEND TEXT AND POLICIES WITHIN THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN TO ALLOW THE CONSTRUCTION OF A NEW FOUR LEVEL, 383 SPACE PARKING GARAGE AND A NEW FIVE STORY, SIXTY UNIT RESIDENTIAL BUILDING.

- REQUEST OF THE WINTER PARK TOWERS AT 1111 S. LAKEMONT AVENUE TO AMEND WITHIN CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING SO AS TO AMEND THE OFFICIAL ZONING MAP ON 2.74 ACRES INTERNAL TO THE WINTER PARK TOWERS CAMPUS FROM PLANNED UNIT RESIDENTIAL (PURD) DISTRICT TO MULTI-FAMILY (HIGH DENSITY R-4) DISTRICT TO ALLOW THE CONSTRUCTION OF A NEW FOUR LEVEL, 383 SPACE PARKING GARAGE AND A NEW FIVE STORY, SIXTY UNIT RESIDENTIAL BUILDING.

- REQUEST OF THE WINTER PARK TOWERS AT 1111 S. LAKEMONT AVENUE FOR CONDITIONAL USE APPROVAL TO ALLOW THE CONSTRUCTION OF A NEW FOUR LEVEL, 383 SPACE PARKING GARAGE AND A NEW FIVE STORY, SIXTY UNIT RESIDENTIAL BUILDING.

Planning Director Jeff Briggs explained the process for the hearing, the four items the Commission needs to take action on this evening, and what the Winter Park Towers was requesting. Mr. Briggs alerted the audience about the sign in sheet they are required to sign if they want to be kept in touch with the correspondence from the DCA. He explained that after this is adopted on first reading by the City Commission it will be reviewed by the Florida DCA who will comment and provide the ORC report and then the adoption will take place in about three months when this comes back for adoption. He explained that the Winter Park Towers located at 1111 South Lakemont Avenue is requesting approval to build a four-level, 383 space parking garage and a five-story, 60 unit residential retirement apartment building. He said that in order to accomplish that building program, in the locations proposed, the Winter Park Towers is requesting four items:
1. Amending the Future Land Use Map of the Comprehensive Plan on 2.74 acres from low density residential to high density residential to permit rezoning.

2. Amending the Official Zoning Map on the same 2.74 acres from Planned Unit Residential (PURD) district to Multi-Family (high density R-4) district.

3. Amending in the Future Land Use Element of the Comprehensive Plan, Policy 1-3.8.4 to permit the land use changes as requested above, and

4. Conditional use approval of the specific project for the 383 space, four level parking garage and 60 unit, five story retirement apartment building.

Mr. Briggs presented the recent history of the development of the WP Towers and the evolution of these development plans. He said that this project represents the current phase of the Winter Park Towers Master Plan that they wish to pursue. Further, there is one other future phase, shown on their graphics which depicts a future two-story, 14-unit garden apartment building proposed for the western portion of their existing surface parking lot. He noted that the calculations on the proposed size of the parking garage reflect both the need for new parking for those new 14 units as well as the loss of the existing parking when that existing surface parking lot is reconfigured. He provided background information and information relating to the Comprehensive Plan Future Land Use change/rezoning, the Winter Park Towers Master Plan, a Concurrency Analysis, building height and proximity to Lake Berry, and the Comprehensive Plan Policy text change.

He stated that aside from the specific project requested there are three other issues to address:

1. Traffic Light at Lakemont Avenue: The City has heard frustrations for years from WP Towers residents and visitors about the difficulty and safety of left turns out of and into the WP Towers property. A traffic light has been studied and the major complication is the offset between the WP Towers entrance/exit and Strathaven Road on the opposite side of Lakemont Avenue.

2. Further expansion into Waterbridge: The WP Towers owns 23 attached villa units in the adjacent part of Waterbridge on Melissa Ct., Serena Dr. and Sara Ct. The proposed WP Towers Master Plan needs to have geographical limits to further expansions into Waterbridge which staff would suggest be limited to those three streets now utilized.

3. Further wall screening for Waterbridge: Waterbridge residents have requested additional wall screening both in height and length down toward the lake to better shield their homes from noise (AC compressors/vehicles) and lights. The WP Towers is agreeable to providing additional wall screening.

He explained that the proposed Development Agreement contains the exhibits and representations for the current request, it establishes this approval as comprising an approval of the WP Towers Master Plan (including the future phase of the 14 units (subject to conditional use review), it places limits and restrictions upon further density expansions, it limits expansion into Waterbridge to the three streets (Melissa, Serena and Sara) and requires those units to remain on the tax rolls, it requires the further buffer wall screening to Waterbridge as has been discussed and it provides for a cost sharing (2/3 by the Towers/1/3 by City) for any future approval of a new traffic light on Lakemont Avenue.

Staff recommended approval subject to a development agreement including one of the two options stated. He detailed the options as follows:

OPTION #1: Approval of the Comp. Plan text/map amendments, rezoning and conceptual plans (as submitted at a 98 foot setback) but limited and restricted to R-3 zoning (which has a three story, 35 foot height limit) and resubmission for conditional use approval of those revised plans.

OPTION #2: Approval of the Comp. Plan text/map amendments, rezoning and conceptual plans (as submitted from the design charrette) but limited and restricted to a four-story, 45-foot height limit) and resubmission for conditional use approval of those revised plans.

He noted that both options allow additional units along northern face to reach 60 unit total.
Rebecca Furman, Lowndes Drosdick, was the attorney representing the Winter Park Towers in this request, 
introduced the members of her development team. They used a Power Point presentation to provide an 
overview of the redevelopment proposal. She entered a petition with approximately 168 signatures from 
Winter Park Towers residents in favor of the project.

The Board members disclosed ex-parte communications that they have had concerning this project.

The following people addressed the Board concerning the request: James Book represented the First Christian 
Church, 1140 South Lakemont Avenue, Tommy Cullens, 1274 Serena Drive, Joe Terranova, 700 Melrose 
Avenue, Art Freeman, 1814 Jill Court, Susan Kuhn, 1842 Jessica Court, Steve Breitbeil 1947 Gunn Road, 
Michael Smith, BB&T Bank, Frank Shepherd, 1647 Joeline Court, Captain Floyd Petiprin, 1085 Lakemont 
Court; Allen Gordon, 1261 Sara Court, Joan Cason, 1915 Woodcrest Drive, Sunit Sanghravijka, 1799 Lake 
Berry Berry Drive, Bernadette Rogers, 1081 Lakemont Court, Jeffrey Blydenburg, 204 Genius Drive, Arlene 
Freeman, 1814 Jill Court, Paul Hutsko, 1111 South Lakemont Avenue, #432, John Webb, 697 Balmoral Road, 
Jim Bogner, 1009 Tuscany Place, Douglas Palmer, 1301 College Point, Allen Trovillian, 271 West Horatio 
Avenue, Maitland, Richard Sturm, 1840 Winchester Drive.

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

Ms. Furman was allowed to provide a summation. She reiterated that a considerable amount of thought has 
gone into this project for the last three years. She expressed why the project was moved to the interior of the 
property as well as a Development Agreement, as well as how the project will be staged for minimal disruption. 
She responded to Board member questions

The Board discussed the pros/cons of this request at length. Mr. Krecicki stated that he feels that the project is 
.a good balance between the needs of the lakefront residences and the needs of the senior citizens. He said 
that he is comfortable with the comprehensive plan amendment as requested and also with the 98 foot 
requested Lake Berry setback. He encouraged the applicants to give the stormwater run-off further 
consideration. He said that he is very much in favor of including these items in a development agreement. 
He stated other items that he wants to be included in the future development agreement. Mrs. Whiting stated 
her concerns regarding the proposed comprehensive plan text amendment. She stated that she is very much 
support of the project and feels that the applicant has done a very good job incorporating previous concerns 
indicated by the Board and further that the impact on Lakemont will be minimal and that they have made efforts 
to minimize the impact on Lake Berry. Mr. Dick expressed concern with the proposed height of 98 feet versus 
80 feet. He said that he feels that the 80 feet will protect the interior trees and further discussed his concerns 
with regard to the height of the building facing the lakefront. Mrs. Cooper stated that she feels that the project 
is necessary and that she supports the parking garage and the addition of the 60 units. Her main concern was 
the height of the building on the lakefront and with R-4 zoning on the lake. She expressed her concerns with 
regard to the installation of a traffic light as well as the comprehensive plan text amendment.

With regard to building height and proximity to Lake Berry, the Board discussed various options. One being 
the staff suggestion of how the residential buildings can be reconfigured at three stories and still 
comprise the 60 units desired with units built further along the northern side of the parking garage, and another 
option was to reduce the lakefront building to three stories and again extend the building along the northern 
side of the parking garage to recoup the lost units. Consensus of the Board was that the Board agreed with 
the plans submitted by the Winter Park Towers although they recommended reducing the building height by 
five feet from 55-feet to 50-feet in height.

With regard to the Comprehensive Plan Amendment, consensus of the Board was that a zoning change to R-4 
was acceptable if it was internal to the large parcel. If there was a transition in density as you moved toward 
adjacent properties and there was some appropriate separation distance that the R-4 would stay away from 
other property owners who would be low density (R-2) or single family (R-1A). (Note: The staff and City 
Attorney will draft the revised policy text to accomplish the Planning Commission's intended goal.
Motion #1: Comprehensive Plan Text Amendment to Policy 3.1-8.4

Motion made by Mr. Krecicki, seconded by Mr. Dick to approve the comprehensive plan text amendment with specific language to be worked out by the city attorney along the lines as discussed by the planning commission with a greater minimum acreage site requirement and internal location requirement with transition to with less density at the perimeter so the R-4 doesn’t negatively affect adjacent properties. Motion carried unanimously with a 4-0 vote.

Motion #2: Comprehensive Plan FLU Map Amendment

Motion made by Mr. Krecicki, seconded by Mr. Dick to approve the Comprehensive Plan future land use map amendment from low density residential to high density residential. Motion carried unanimously with a 4-0 vote.

Motion #3: Rezoning

Motion made by Mr. Krecicki, seconded by Mr. Dick to approve the rezoning request from PURD to R-4 on the 2.74 acres internal to the campus. Motion carried unanimously with a 4-0 vote.

Motion #4: Conditional Use Approval

Motion made by Mr. Krecicki to provide a preliminary approval of the conditional use request as follows: That a development agreement needs to be completed at a future date prior to final approval to include the following:

1. A cap on the WP Towers expansion into Waterbridge. The number and area can be determined later.
2. To review and approve the final master plan which would also place a cap on any future buildings and density.
3. The consideration of the traffic light with staff recommendation of a 2/3 to 1/3 funding split.
4. On the Western perimeter wall where it abuts other Waterbridge neighbors to increase the height or integrity of the wall so that it abates noise from mechanical units, trash, lighting or other service traffic in that location.
5. That the storm water review be done thoroughly.
6. That if any of the existing mature trees along the lakefront are damaged or destroyed either during construction or a period of six months after construction; they will be replaced at their current size.

The motion was amended as follows: Tree replacement is limited to those designated on the tree survey as presented. Compensation is to be determined by the Tree Preservation Board or the City Arborist and, future use of the facility is restricted to elderly housing, nursing or assisted living facility.

Motion #5: Conditional Use – Height of the project

Motion made by Mr. Krecicki, seconded by Mrs. Whiting to approve as follows: The lakefront building with a 98 foot setback and 5-story 55 foot height along with the suggested developer’s agreement. The motion failed with 2-2 vote. (Mr. Krecicki and Mrs. Whiting voted yes. Mr. Dick and Mrs. Cooper voted no.)

Motion made by Mr. Krecicki, seconded by Mrs. Whiting to approve as follows: for the lakefront building a 98 foot setback and 5 stories but limited to a 50 foot height with roof slope design to be approved with the final conditional use approval at a later date. The motion carried with a 3-1 vote. (Mr. Krecicki, Mrs. Whiting and Mrs. Cooper voted yes. Mr. Dick voted no.)
Chairman Krecicki called a brief recess at 11:00 p.m., and reconvened the meeting at 11:05 p.m. (Note: Mrs. Whiting left the meeting.)

REQUEST OF THE CITY OF WINTER PARK TO AMEND CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE III, “ZONING REGULATIONS” SO AS TO ADOPT IN THE R-1AA LAKEFRONT DISTRICT; IN THE R-1AA AND R-1A DISTRICTS; IN THE PLANNED UNIT RESIDENTIAL DEVELOPMENT “PURD” DISTRICT; IN “GENERAL PROVISIONS;” AND IN DEFINITIONS; NEW SINGLE FAMILY RESIDENTIAL BUILDING AND ACCESSORY BUILDING REGULATIONS AND DEFINITIONS.

Building Official George Wiggins provided the Board with a detailed overview of the residential code revisions to date. He said that the proposed zoning requirements include two basic areas of change: (1) building setbacks and impervious coverage limits, which addresses open space and (2) prescriptive requirements which addresses a variety of issues including mass and scale of the main dwelling and accessory buildings. He detailed the standards of the current code as well as proposed. He proposed a transition period of 60 days for implementing new code requirements and plans that were previously approved through a Board for one year. He presented a letter from the property owner at 1369 Canterbury Road, supporting the porte cochere.

Phil Kean, 1011 McKean Circle, is please with the document to this point, likes the detached garage incentives. He said that he feels that helps to reduce the mass of the main structure. He said that he feels if the porte cochere will encourage more people to do them, then please keep that language in and lastly he agreed with the 60 day transition period.

Steve Feller, 126 South Park Avenue, said that he feels that the proposed code is a good code and gave further insight as to what he feels are workable provisions of the code. He also expressed that he feels that more attention should be given to front setbacks.

Bob Kingsland, 555 Sylvan Drive, also addressed the Board concerning the proposed changes.

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

Motion made by Mr. Dick, seconded by Mrs. Cooper to approve the ordinance as amended. Motion carried unanimously with a 3-0 vote.

Motion made by Mr. Krecicki, seconded by Mr. Dick to table the conditional use ordinance until the February public hearing. Motion carried unanimously with a 3-0 vote.
Request of SunTrust Bank for Conditional Use Approval to allow a bank with drive through teller lanes as part of the redevelopment of the parking lot property at 301 S. New York Avenue, zoned C-3.

This item is the request for conditional use approval by Sun Trust Bank for the development of a drive-in teller facility with four drive-through teller lanes on the property at 301 S. New York Avenue, zoned C-3, at the northwest corner of New York and New England Avenues. Sun Trust currently has a remote (drive-in teller) facility on Carolina Avenue that they are leasing. They would move their operations to this location in an ownership venue.

Project Description:

Site: The proposed bank will be a drive-through only building featuring four drive-through lanes with one of the lanes also proposed to be a combination of ATM and drive-through teller service. There will be an additional ATM located on south face of the exterior of the 1,000 sq. ft. building.

Parking: The required parking for this building based on one space for each 250 square feet is four spaces. These would serve the employees working in the building and anyone driving up to use the ATM on the building. The proposal shows four spaces including one handicap space, which meets code.

Traffic Circulation and Stacking: The traffic will enter off of New York Avenue and proceed through the property exiting onto New England Avenue where they can turn right or left. A Traffic Impact Analysis report has been provided, as required per code, as part of the application. It uses industry standards but they also counted the actual cars and transactions on two fridays in March to get the peak times, which are at lunch and after work in that order. The study says there will be no deficiencies in queuing and ingress/egress impacts to the adjacent roadways. Stacking of cars should not interfere with traffic circulation on the site because if there are too many cars stacked behind the teller lanes then traffic can drive out as a pass-through via the drive aisle of the parking lot area. Staff went out and counted cars at the existing Sun Trust tellers on Carolina Avenue during the peak lunch rush on a Friday (pay day) and we did not see more than six cars on-site at any time. The traffic study counts show a peak of up to ten cars at a time. The site plan could accommodate up to twelve cars.
Where the proposed entrance on New York Avenue is shown, there now exists an electric power pole. There is no specific mention of the plans for relocation of that pole or information how underground power for this building or the required transformer will be located. That is not unusual at this preliminary point in the development process.

The cost estimate to relocate that power pole to the City’s electric utility is $5,000 to move the power pole and power pole transformer to the south out of the area proposed for the driveway. However, there is a CRA project planned in the near term to remove the three (very ugly) power poles in this vicinity along New York Avenue and to underground that electric service. (The CRA project cost is $59,000.) So it seems fair that this Sun Trust project should contribute financially the same amount ($5,000) that they would have to spend anyway to move the power pole as their share of this undergrounding project. Typically a development then provides to the City an electric utility easement for the pad mounted electric transformer box (which would be located right up street-side). Since a better less visible location for that electric transformer box is back in the northwest corner of this property that is definitely preferred to achieve a more appealing New York Avenue frontage.

The site plan does recognize the existing bus stop location and provides space for the City and Lynx to erect a bus shelter similar to the one on the opposite corner by the Farmers Market.

Tree Preservation: The one significant tree on the property is a 32 inch laurel oak tree, which is requested for removal. It is infected with Ganaderma and has lost a number of large limbs in the past as a result. This tree is in irreversible decline. (See email from Alan Lee) Removal of the 32 inch Laurel Oak requires planting one 3" caliper shade tree on site. The palms are exempt from permit requirements so no permit is required for their removal. The landscape plan shows several new shade tree plantings as compensation. There are several issues with the landscape plan (such as understory trees planted due to where power lines exist except the power lines are coming down. There also seems to be way too many cypress trees (7) vs. oaks (1) and other features that may need to be revised. As a result, the staff will suggest as a condition of approval that the landscape plan needs to come back as part of the final conditional use approval.

Architecture: Preliminary architectural elevations are provided. Staff believes that improvements can be made to the designs presented and understands that Sun Trust is very willing to work with the City toward that goal. Sun Trust is looking for guidance from the City as to what we would want to see on this important corner in downtown Winter Park. This would be a similar situation to the design direction the City provided to Walgreens for the store at Fairbanks and 17-92. While that was forced upon Walgreens, in this case, staff applauds Sun Trust’s their willingness to accommodate the City’s desires for architectural enhancements.
The staff was able to get some quick sketches prepared to show how the elevations could be revised with more architectural detail to achieve a much more interesting architectural presentation on that corner. Staff is suggesting as a condition that the architecture be approved as part of the final design package submitted for the final conditional use approval.

**STAFF RECOMMENDATION IS FOR PRELIMINARY APPROVAL** of the conditional use with the following conditions:

1. That the preliminary conditional use approval does not include approval of the architectural elevations. The architectural designs shall be approved by the City coincident with the final conditional use approval. Following recommendations from the City staff and revisions by the applicant as to style, incorporation of a front door image onto New York Avenue and compatibility with adjacent buildings, such revised architectural plans shall be submitted as part of the final conditional use review process.

2. That the landscape plan (with required tree compensation) and lighting plan also be approved as part of the final conditional use review process.

3. That the ATM facility shown on the westernmost drive-thru lane be relocated to the easternmost drive-thru lane or eliminated as necessary so as to minimize light spread and comply with city code related to the adjacent residential property.

4. That Sun Trust contribute the proportionate share ($5,000) to the electric undergrounding project for New York Avenue and provide an electric utility easement for a pad mounted transformer in the northwest corner of the site and as otherwise needed for underground service to provide service to this building and to facilitate the removal of the utility poles on New York Avenue in conjunction with the CRA project.

5. That the sign plans be included as part of the final conditional use approval package and that consistent with the Park Avenue and New England Avenue design guidelines, no internally illuminated signs are permitted. Furthermore that the signage be limited to that allowed in the office zoning districts so as to be the same as permitted in height, square footage, etc. to that of the adjacent Wachovia and Washington Mutual banks, zoned O-1.
April 27, 2010

Ms. Stacey Scowden
Senior Planner
City of Winter Park
401 Park Avenue South
Winter Park, Florida 32789

RE: Proposed SunTrust Bank
Northwest quadrant of New York Avenue & New England Avenue
City of Winter Park, Florida
CPH Project Number: S13322
Traffic Impact Analysis

Dear Ms. Scowden:

Provided here for your review and comment is a Traffic Impact Analysis for the above referenced project. This analysis has been prepared to be consistent with the City of Winter Park Traffic Study Requirements and our discussions with you regarding this project.

Introduction
This following traffic impact study analysis outlines the procedures and data used to evaluate the projected traffic impacts of the proposed Drive-In Bank located in the northwest quadrant of the intersection New York Avenue & New England Avenue in the City of Winter Park, Florida. The access to the site is proposed by one (1) left-out/right-out driveway on New England Avenue and one left-in/right-in driveway on New York Avenue. Please see the attached site location map and site plan for reference. The build-out year for the proposed project is 2011.

Methodology
The traffic impact analysis was based on the City of Winter Park requirements for traffic analysis for Drive-In Businesses and coordination with the City staff. Please see the attached methodology correspondence for reference. Per coordination with the City staff, the following will be required for traffic impact analysis:

- Trip generation projection;
- Manual Trip distribution;
- Roadway segment analysis for adjacent roadways (New York Avenue and New England Avenue); and
- Internal Queuing Analysis for Drive-In Lanes based on field collected traffic data on a Friday from 11:00 AM to 1:00 PM.

Project Trip Generation
The trip generation potential for the proposed project, four drive-in lanes bank was determined based upon rates contained in the Institute of Transportation Engineers (ITE) Trip Generation, 8th Edition, for ITE land use code 912 (Drive-In Bank).

Based upon a trip generation projection it was determined that the project is anticipated to generate 557 daily trips and 110 gross pm peak hour trips. To determine net-new pm peak hour trips, a pass-by rate of 47% was applied to gross peak hour trips based upon ITE Trip Generation Handbook, 2nd Edition. Pass-by trips were checked to see if those were less than 10% of the adjacent street peak hour traffic. Table 1, shows a summary of the trip generation calculations.
**Table 1. ITE Trip Generation**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Land Use Code</th>
<th>Size (Drive-In Lanes)</th>
<th>Average Daily Trips</th>
<th>PM Peak Hour Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drive-In Bank</td>
<td>912</td>
<td>4</td>
<td>557</td>
<td>110</td>
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<tr>
<td></td>
<td></td>
<td></td>
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<td>58</td>
</tr>
</tbody>
</table>

Based upon trip generation projections, it is anticipated that the proposed project generates 557 average daily trips and 58 net-new pm peak hour trips. Please see the attached trip generation worksheets for reference.

**Project Trip Distribution**

Trip distribution for the proposed project was determined based upon existing travel patterns observed through Annual Average Daily Traffic (AADT) data and engineering judgment. Please see the attached trip distribution sheet for reference.

**Roadway Analysis**

Roadway analysis for the adjacent roadway segments of New York Avenue and New England Avenue was conducted at a generalized level based upon traffic data available from the *Transportation Element* of the City’s Comprehensive Plan. The 2006 year traffic data from comprehensive plan was projected to the year 2010 using a 2% per year background growth rate for conservative analysis purposes.

The year 2010 data was considered as existing traffic data. A future background growth rate of 2% per year was applied to determine the future background traffic volumes. Project traffic volumes were added to future background traffic volumes to obtain future total traffic volumes. Please see Table 2, for pm peak hour peak directional roadway analysis. Please see the attached supporting documents consisting of traffic data, level of service standards, and service volumes for reference.

**Table 2. PM Peak Hour Peak Directional Roadway Segment Analysis**

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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New England Avenue from Pennsylvania Avenue to New York Avenue</td>
<td>2LU</td>
<td>D</td>
<td>760</td>
<td>152</td>
<td>C</td>
<td>155</td>
<td>C</td>
<td>10%</td>
<td>3</td>
<td>158</td>
<td>C</td>
</tr>
<tr>
<td>New England Avenue from New York Avenue to Park Avenue</td>
<td>2LU</td>
<td>D</td>
<td>760</td>
<td>152</td>
<td>C</td>
<td>155</td>
<td>C</td>
<td>15%</td>
<td>4</td>
<td>159</td>
<td>C</td>
</tr>
<tr>
<td>New York Avenue from Morse Boulevard to New England Avenue</td>
<td>2LU</td>
<td>D</td>
<td>760</td>
<td>437</td>
<td>C</td>
<td>446</td>
<td>C</td>
<td>10%</td>
<td>3</td>
<td>449</td>
<td>C</td>
</tr>
<tr>
<td>New York Avenue from New England Avenue to Fairbanks Avenue</td>
<td>2LU</td>
<td>D</td>
<td>760</td>
<td>437</td>
<td>C</td>
<td>446</td>
<td>C</td>
<td>65%</td>
<td>19</td>
<td>465</td>
<td>C</td>
</tr>
</tbody>
</table>
Roadway analysis conducted for the adjacent roadway segments of New York Avenue and New England Avenue shows that there is capacity available to accommodate the proposed project and the roadways are anticipated to operate at or above the adopted level of service standard from existing through future total traffic conditions. Please see the attached roadway segment analysis sheet for reference.

**Internal Queuing Analysis**
CPH has conducted internal queuing analysis for drive-through lanes for the proposed project based upon traffic data collected at a drive-in bank located at 345 Carolina Avenue, Winter Park, Florida on two Fridays (February 26, 2010 and March 12, 2010). This location has five (5) remote drive-through lanes. Traffic data was collected for each lane separately and was reported in 15-minute increments. Based on the results of counts taken at this location on a Friday from 8:00 AM to 5:00 PM, the peak occurred during 11:00 AM to 1:00 PM. The traffic data from 11:00 AM to 1:00 PM shows that the maximum number of vehicles at any given 15-minute interval is 11. Please see the attached traffic data for reference.

For the proposed project, four (4) drive-through lanes are proposed. The maximum number of vehicles as determined above was used to project queuing for each of the four drive-through lanes. Therefore, at any 15 minute interval, it is anticipated that the maximum number of vehicles in drive-through lanes is 11, which translates to approximately 2.75 vehicles per lane. The proposed drive-through lane configuration as shown in the site plan is adequate to accommodate 2.75 vehicles per lane at any 15-minute interval during the peak hour conditions.

**Conclusion**
Traffic impact analysis conducted for the proposed project shows that the adjacent roadways operate at acceptable levels of service from existing through future total conditions with addition of project trips. Internal queuing analysis conducted for the proposed drive-through lanes, (as shown in the site plan) shows that the proposed drive-through lanes are adequate to accommodate 2.75 vehicles per lane at any 15-minute interval during the peak hour conditions.

Please feel free to contact us at (813) 288-0233 if you have any questions or comments regarding the above analysis, attached documentation, or require additional information.

Sincerely,

**CPH ENGINEERS, INC.**
(Certificate of Authorization #00003215)

[Signature]

Raghu K. Veturi, P.E.
Traffic Engineer
FL PE 68918

**Attachments**
1. Site Location Map
2. Site Plan
3. Methodology Correspondence
4. Trip Generation Worksheets
5. Pass-by Rate Exhibit from ITE Trip Generation Handbook, 2nd Edition
6. Trip Distribution
7. PM Peak Hour Peak Directional Roadway Analysis
8. Traffic Data for Internal Queuing Analysis
9. Traffic Data from the City of Winter Park Comprehensive Plan
CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION

Staff Report
JUNE 8, 2010

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" WITHIN THE FUTURE LAND USE ELEMENT SO AS AMEND POLICIES INVOLVING DENSITIES, BUILDING HEIGHTS AND MIX OF USES WITHIN THE CENTRAL BUSINESS DISTRICT AND MEDIUM DENSITY RESIDENTIAL FUTURE LAND USE CATEGORIES, AMEND POLICIES CONCERNING THE PROHIBITIONS ON SUBDIVISIONS AND CERTAIN FUTURE LAND USE MAP CHANGES AND TO CLARIFY CERTAIN OTHER POLICY PROVISIONS AND DEFINITIONS, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

The Winter Park City Commission, based on property owner, planning staff and city attorney input is sponsoring several comprehensive plan amendments to the future land use element as detailed in the attached report. The proposed modifications fall into three categories; 1) those to adjust policies that may affect property values; 2) those that 'prohibit' asking for a comp. plan amendment or subdivision approval; and 3) those needed to clarify the intent of a policy.

Prior to this public hearing, the City Commission held public hearings on March 22, 2010 and on April 12, 2010 to discuss and agree upon the changes to be advertised. The Planning and Zoning Commission held a work session on March 24, 2010 to review these changes prior to advertisement.

A city-wide notice was mailed and received the on April 29/30, 2010 in the homes that complied with the 30 day notice requirement in our code for any text amendment of the Comprehensive Plan. It was posted on the City's website on April 30, 2010. These amendments will require a quarter page advertisement for the City Commission public hearings and a supermajority of the City Commission to be approved. After these amendments are approved on first reading by the City Commission, which has been advertised for June 28, 2010, with any changes made by the Planning Commission and City Commission, they will be transmitted to the Florida Department of Community Affairs (DCA) for their review and comment. That review called an "ORC" for Objections, Recommendations and Comments” report by Florida DCA will be made 60 days after submission and the package is deemed sufficient. So if there are no objections by Florida DCA these amendments will be ready for second reading and adoption by the City Commission in October.

STAFF RECOMMENDATION IS FOR APPROVAL
The City Commission is proposing a series of potential Comprehensive Plan Amendments to address the effect of certain policies on property values, to address options for property owners to request changes, and to clarify the meaning and intent of certain policies. A detailed description of these proposed Comprehensive Plan text amendments can be found at www.cityofwinterpark.org under Info at Your Fingertips or by contacting the Planning Department at 407-599-3217.
Potential 2010 Comprehensive Plan Changes:

The Winter Park City Commission, based on property owner, planning staff and city attorney input is sponsoring several comprehensive plan amendments to the future land use element as detailed in this report. The proposed modifications fall into three categories: 1) those to adjust policies that may affect property values; 2) those that ‘prohibit’ asking for a comp. plan amendment or subdivision approval; and 3) those needed to clarify the intent of a policy.

Potential Affect on Property Values:

1. The maximum residential density permitted in the Central Business District (CBD) future land use category of 17 units per acre has been questioned due to concerns about the affect on property values and the creation of non-conforming structures. There are several existing buildings designated CBD with densities significantly in excess of that number. These include the 362 S. Pennsylvania building, the 433 and 444 W. New England Avenue buildings and the Landmark Condominium at 140 E. Morse Blvd.

The 362 S. Pennsylvania building has ground floor retail space and three floors (14 units) of apartments with a density of 28 units/acre and FAR of 97% not counting the parking garage component. The 433 W. New England Avenue property has a total of 32 apartments (51 units/acre) and a FAR of 114%. The 444 W. New England building has a FAR of 189% with 18 apts. on the third floor and an unfinished second floor. The density is 25 units/acre which could increase to 50 units/acre if the second floor was finished as apartments. However, the reason that these densities were achieved is these buildings all rely on off-site parking and that land is excluded from the calculation.

The previous 1991 Comprehensive Plan did not have any maximum residential density limitation. Density was only controlled by the maximum FAR, height limits and parking. The City’s Comprehensive Plan version adopted in 2007, had no maximum density limitation in the CBD category and this was specifically identified by Florida DCA as a reason for the initial finding of non-compliance. Fl. DCA specifically directed the City to “designate a density standard, in terms of maximum residential units allowed, for the Central Business District .category”. Staff then recommended a maximum density of 25 units per acre, which P&Z amended to 17 units per acre and that was subsequently approved by the City Commission.

The primary reason for the existing density limitation of 17 units per acre is to insure that there is a mix of uses (business and residential) within any building on CBD designated land. As such, the Comprehensive Plan should include new policy text indicating that public policy direction and a maximum mix as shown below:
Policy 1-2.3.3: Central Business District (CBD). This land use designation includes the retail business, restaurant, professional office and residential uses that are permitted within the historic downtown core of Winter Park. Properties with this land use classification are zoned C-2. This designation differs from the other commercial, office or planned development designations in terms of the land use policies for this area which strive to maintain and enhance pedestrian orientation, preserve the scale of the historic premiere retail areas, enhance the eclectic mix of architectural styles, preserve and maintain the mix of retail, office and residential uses, preserve the open space vistas and non-commercialization of historic Central Park and the predominance of small distinctive specialty shops. The floor area ratio shall not exceed the percentages listed in the Maximum Future Land Use Density/Intensity Table and as governed by the maximum number of stories permitted in the Maximum Height Map within this Future Land Use Element and the maximum mix of residential area within any building shall not exceed fifty (50%) percent.

2. Historically, properties zoned R-3, have been used for one story duplexes or two story townhouses or apartments. In the 1990's, in order to increase the square footage yield and given the 35 foot height limit in R-3, the city has seen several three story, flat roofed townhouses that are architecturally incompatible with their neighborhood and have generated citizen complaints. The Comprehensive Plan now includes a policy to limit R-3 development to two stories, except in the CBD geographic area. The property value concern raised is related to the loss of potential square footage and staff suggests that this issue should be decided case by case via conditional use. Additionally, for architectural and neighborhood compatibility, it has been suggested that the City follow the recently adopted single family regulations to permit such third floor space only under a sloping roof as outlined below:

Policy 1-3.8.6: Promote Appropriate Scale and Height for Medium Density Multi-Family Development. Except within the Central Business District geographical area, no multi-family residential development within areas designated medium density residential (R-3) that are located within the city on properties east of Denning Drive shall not exceed two stories in height unless approved via conditional use by the City Commission. In addition, such third floors must be entirely contained within a sloping roof of not less than 12:12 roof slope. Notwithstanding, the maximum floor area ratios permitted elsewhere in this element, any buildings limited to two stories shall be restricted to a maximum 75% FAR.

Remove Certain “Prohibits” from Comp. Plan Text Policies:

1. The City Attorney is concerned that certain Comprehensive Plan policies that “prohibit” a property owner from applying for a comprehensive plan amendment are unenforceable. The City adopted these “prohibits” in order to protect certain specific residential areas from being rezoned to commercial/office because the City has repeatedly denied such changes in these neighborhoods for decades. The city attorney advises that the city can still use strong language such as “in conflict with the goals of the Comp. Plan” or “discourage”; it is just that the City cannot, as a practical matter, prohibit applications for such comprehensive plan amendments. However, not every prohibit needs to come out. The City can, by policy, prohibit certain building types or business types such as tattoo parlors or pawn shops but the city cannot prohibit
applications for a comprehensive plan amendment/rezoning even if it has zero chance of success. Thus, the city attorney recommends the following changes:

Policy 1-3.8.4: Encourage Single-Family Detached Homes. The City shall encourage single family detached homes as opposed to apartments and condominiums by discouraging prohibiting Future Land Use Map amendments from Single-Family Residential or Low-Density Residential to Medium or High-Density Residential. The intent of this policy is to provide a smooth transition of density/intensity of land use unless such amendment involves a development that is larger than 10 acres, the parcel to be changed is internal to the development, being at least 200 feet from Low Density or Single Family in other ownership, and there is a step down in intensity towards the perimeter of the development. (yellow text pending WP Towers amendment)

Policy 1-3.8.4: Encourage Single-Family Detached Homes. The City shall encourage single detached homes as opposed to apartments and condominiums by discouraging prohibiting Future Land Use Map amendments from Single-Family Residential or Low-Density Residential to Medium or High-Density Residential.

Policy 1-4.1.A.3: Prohibited Comprehensive Plan Amendments from Residential to Office/Professional. The City shall prohibit Comprehensive plan amendments from residential to office/professional on the south side of Howell Branch Road from the Maitland city limits to Temple Drive shall be deemed to be in conflict with the Comprehensive Plan.

Policy 1-4.1.B.14: Maintain Residential Zoning in Certain Areas along Edwin Boulevard and Lakemont Avenue. No Comprehensive plan amendments from residential to office/professional or commercial shall be deemed to be in conflict with the Comprehensive Plan occur north of Edwin Boulevard along Lakemont Avenue or on properties fronting on Edwin Boulevard.

Policy 1-4.1.H.3: Restrictions on Multifamily Development. The City shall discourage prohibiting Comprehensive Plan Amendments from Low-Density to Medium-Density or High-Density Multifamily Future Land Use Map designations.

Policy 1-4.1.H.7: Prohibit Non-Residential Uses on Certain Segments of New England Avenue and Symonds Avenue. The City shall prohibit Non-residential land uses and zoning on New England Avenue between Denning Drive and Pennsylvania Avenue and on Symonds Avenue between Capen Avenue and Pennsylvania Avenues shall be deemed to be in conflict with the Comprehensive Plan.

Policy 1-4.1.H.8: Prohibit Commercial, Office, or Non-residential Development on the East Side of Denning Drive or Webster Avenue. The conversion or redevelopment of any existing residential property fronting on the east side of Denning Drive or on Webster Avenue for commercial, office or other non-residential development shall be deemed to be in conflict with the Comprehensive Plan.

Policy 1-4.1.J.3: Protect Low-Density Residential Use West of Schultz Avenue within Lawndale, and Prevent Discourage Non-Residential Encroachment and Maintain the Low-Density Future Land Use Map Designation Restriction on Rezoning. The City shall preserve and protect the low-density residential land use west of Schultz Avenue, within Lawndale, in this planning area, from commercial and office encroachment. The Future Land Use Map shall
maintain the Low-Density Residential designation and no map amendments to non-residential or Urban Use Mixed Use shall be deemed to be in conflict with the Comprehensive Plan permitted within 200 feet of Shultz Avenue.

2. The City Attorney is concerned that certain Comprehensive Plan policies "prohibit" a property owner from applying for a subdivision or lot split which is unenforceable. The city attorney advises that the city can still use strong language such as "strongly discourage" or "in conflict with the goals of the Comp. Plan"; it is just that the City cannot prohibit applications for such subdivisions of lot splits. Also included are suggested modifications to the lot consolidation policy.

Policy 1-3.6.7: Subdivision of Lot Splits of Single Family Estate Properties. Historically, Winter Park is a distinct residential community in part because of the existence of large estate properties. These existing estates, many with historical or architectural significance, provide a character that in turn creates value throughout the surrounding neighborhoods and the community. Thus, their preservation maintains the attractive character of Winter Park that helps to set it apart from other cities in Florida. The existence of large estate properties dispersed throughout Winter Park adds great attractiveness, appeal and value to residents and potential buyers as contrasted with newer more uniform homogenous subdivisions. In order to protect these features and values and preserve neighborhood character, the City shall strongly discourage not consider or approve any subdivisions or lot splits of estate lots (one acre or greater) within areas designated single family residential.

Policy 1-3.7.1: Preserve Lakefront Estates. It is a policy of the City and of this Comprehensive Plan to maintain the diversity of sizes of lakefront properties and estates and to strongly discourage prohibit the subdivision or split such properties. The City shall preserve low densities along the City's lakefront property, including larger lakefront estates in order to perpetuate the unique character of Winter Park that sets it apart from other cities throughout Florida.

Policy 1-3.6.9: Lot Consolidations. Within one year after adoption of this Comprehensive Plan the City shall draft land development regulations which would require Planning Commission recommendation and City Commission approval for the consolidation or aggregation of residential lots in order to preclude the formation of lot sizes and resultant larger building sizes that may be out of scale and size with existing street or neighborhood character. Lot consolidations resulting in the addition of more than 25 feet of new lot width and if such consolidation also results in consolidated new lot sizes greater than 150% - 250% of the lot width and lot area standards shall require the approval by the City Commission. The City Commission in consideration of lot consolidation requests may limit the applicable floor area ratio as a condition of approval in order to preserve neighborhood scale and character.

Staff Administrative Policy Clarifications:

There are three Comprehensive Plan text policies where the wording should be clarified to eliminate confusion about the clear intent of the policy. As long as the City is making other changes, the staff would recommend these text cleanups and clarifications as follows:

1. As was modified in the Zoning Code, concern has been raised about the discretion that one sentence in Policy 1-2.1.6 provides to the City Commission to limit and restrict
floor area ratio on any project. That sentence is "The City in the review and approval of specific projects may limit and restrict the achievable floor area ratios." This is certainly not the intended as meant to apply to "any" project, as if the Commission could pick any project or any building and decide to restrict the floor area ratio. It is only in the review of projects via conditional use and subject to those conditional use standards and criteria that the City Commission has such authority. The clarification is shown below.

**Policy 1-2.1.6: Floor Area Ratio Limitations.** The floor area ratios detailed in this Comprehensive Plan are the maximum density and intensity parameters potentially permitted in each respective future land use designation. These maximum floor area ratios are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to parking, setbacks, lot coverage and design standards. The City in the review and approval of conditional uses for specific projects may limit and restrict the achievable floor area ratios.

2. The issue and confusion about what is in the Central Business District (as a geographical area), what can be zoned Central Business District (C-2) has been a problem all through the Comp. Plan and LDC adoption process. The new text added to Policy 1-3.8.11, as shown below improves and clarifies the text and remedies the misunderstandings.

**Policy 1-3.8.11: Restriction on the Use of (C-2) Zoning.** The City shall not permit the use of the (C-2) zoning on any property outside of the Central Business District area depicted in the CBD Map located on page D-4 within the definitions sections of this Comprehensive Plan, the area generally described as west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of and including the New York Avenue Corridor. C-2 zoning shall also be permitted on properties abutting Morse Blvd between Capen and Virginia Avenues, abutting New England Avenue between Pennsylvania and New York Avenues, abutting Pennsylvania Avenue between Garfield and Lyman Avenues, or abutting Hannibal Square, East. Applications for Central Business District future land use designations or C-2 zoning shall not be permitted accepted or processed by the City for any property outside these designated areas. Properties within these designated areas are not deemed entitled to Central Business District future land use or to C-2 zoning nor should any property owner have any reasonable expectation that CBD FLU/C-2 zoning will be allowed. These are simply the area locations where properties may be candidates for C-2 which may or may not be granted by the City Commission on a case by case basis at their discretion.

There also has been confusion about the policy below from Planning Area G: Downtown/Rollins College. It doesn't mention the properties in the Hannibal Square neighborhood as also being eligible for CBD land use or C-2 zoning because those properties are outside of this study area. Yet some are reading this policy such that it is internally inconsistent and in conflict with the policy above. Since the Policy 1-3.8.11 supercedes this study area policy, the solution is to delete this policy altogether.

**Policy 1-4.1.G.15: Limit Use of CBD Future Land Use Designation.** The City shall restrict the use of the Central Business District future land use designations and CBD (C-2) zoning district to those properties west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of Virginia Avenue. Properties with CBD future land use and zoning outside
this geographic area in effect upon adoption of the Comprehensive Plan shall be entitled to
utilize the uses and densities permitted.

3. In order to eliminate the confusion, with Commercial C-2 Zoning Map (Definitions
page D-4) the current red outline of the geographic CBD has been removed from this
map since those boundaries are already shown in the CBD Map on Page D-3. The map
issue involving the six properties on the south end of Park Avenue that are zoned C-2
which were not on the map in resolved by adding them as shown in yellow. In addition,
the text heading to this map is being revised as shown below.

Central Business District Future Land Use Designated Area and Commercial C-2 Zoning
Map means the Central Business District Future Land Use Designated Area is shown within the
green outlined areas and is the only areas designated as with the potential candidates for CBD
Future Land Use and associated C-2 zoning within the Central Business District. The red
outlined area depicts the Winter Park Central Business District Boundary.
LOT CONSOLIDATIONS WITH THE CURRENT
125% Threshold

If Neighborhood Average is: (Assumes 150 foot lot depth)

<table>
<thead>
<tr>
<th>Lot Width</th>
<th>Lot Width Allowed to Add</th>
<th>Maximum Old FAR</th>
<th>Maximum New FAR</th>
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<tbody>
<tr>
<td>50 feet</td>
<td>12.5 feet up to 62.5 feet</td>
<td>3,225</td>
<td>4,031</td>
</tr>
<tr>
<td>65 feet</td>
<td>16.25 feet up to 81.25 feet</td>
<td>4,193</td>
<td>5,200</td>
</tr>
<tr>
<td>75 feet</td>
<td>18.75 feet up to 93.75 feet</td>
<td>4,838</td>
<td>5,344</td>
</tr>
<tr>
<td>100 feet</td>
<td>25 feet up to 125 feet</td>
<td>5,700</td>
<td>7,125</td>
</tr>
<tr>
<td>150 feet</td>
<td>37.5 feet up to 187.5 feet</td>
<td>8,550</td>
<td>10,688</td>
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LOT CONSOLIDATIONS WITH THE CURRENT 150% Threshold

<table>
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<tr>
<th>Lot Width</th>
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<th>Maximum Old FAR</th>
<th>Maximum New FAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 feet</td>
<td>25 feet up to 75 feet</td>
<td>3,225</td>
<td>4,838</td>
</tr>
<tr>
<td>65 feet</td>
<td>32.5 feet up to 97.5 feet</td>
<td>4,193</td>
<td>5,557</td>
</tr>
<tr>
<td>75 feet</td>
<td>37.5 feet up to 112.5 feet</td>
<td>4,838</td>
<td>6,412</td>
</tr>
<tr>
<td>100 feet</td>
<td>50 feet up to 150 feet</td>
<td>5,700</td>
<td>8,550</td>
</tr>
<tr>
<td>150 feet</td>
<td>75 feet up to 225 feet</td>
<td>8,550</td>
<td>12,825</td>
</tr>
</tbody>
</table>

The 150% threshold permits the acquisition of land and construction of a home (if at the maximum FAR) that is 1,613 sq. ft. to 4,275 sq. ft. larger than the neighborhood average.
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" WITHIN THE FUTURE LAND USE ELEMENT SO AS AMEND POLICIES INVOLVING DENSITIES, BUILDING HEIGHTS AND MIX OF USES WITHIN THE CENTRAL BUSINESS DISTRICT AND MEDIUM DENSITY RESIDENTIAL FUTURE LAND USE CATEGORIES, AMEND POLICIES CONCERNING THE PROHIBITIONS ON SUBDIVISIONS AND CERTAIN FUTURE LAND USE MAP CHANGES AND TO CLARIFY CERTAIN OTHER POLICY PROVISIONS AND DEFINITIONS, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the Winter Park City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09 which was subsequently determined to be in compliance by the Florida Department of Community Affairs with Chapter 163, Florida Statutes and Florida Administrative Code on May 14, 2009, and

WHEREAS, the City Commission now desires to amend and modify certain policies and definitions within the Future Land Use Element and Definitions section of the Comprehensive Plan, and

WHEREAS, these City initiated amendments of the Comprehensive Plan future land use element and definitions section meet the criteria established by Chapter 163, Florida Statutes and Rule 9J-5, Florida Administrative Code and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held, and

WHEREAS, the proposed amendments were reviewed and a recommendation provided following a duly noticed public hearing by the City’s Planning and Zoning Board on June 8, 2010, and said amendments were found to be consistent with the Comprehensive Plan, and

WHEREAS, this ordinance has been adopted by a supermajority of the City Commission as is required by Section 58-6 of the Code of Ordinances.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK:
SECTION 1. That Chapter 58 “Land Development Code”, Article I "Comprehensive Plan" of the Code of Ordinances is hereby amended by repealing and replacing within the Future Land Use Element Policy 1-2.3.3 on Page 1-13/1-14 involving the central business district future land use category to read as follows:

Policy 1-2.3.3: Central Business District (CBD). This land use designation includes the retail business, restaurant, professional office and residential uses that are permitted within the historic downtown core of Winter Park. Properties with this land use classification are zoned C-2. This designation differs from the other commercial, office or planned development designations in terms of the land use policies for this area which strive to maintain and enhance pedestrian orientation, preserve the scale of the historic premiere retail areas, enhance the eclectic mix of architectural styles, preserve and maintain the mix of retail, office and residential uses, preserve the open space vistas and non-commercialization of historic Central Park and the predominance of small distinctive specialty shops. The floor area ratio shall not exceed the percentages listed in the Maximum Future Land Use Density/Intensity Table and as governed by the maximum number of stories permitted in the Maximum Height Map within this Future Land Use Element and the maximum mix of residential unit areas within any such building shall not exceed fifty (50%) percent of the total building area.

SECTION 2. That Chapter 58 “Land Development Code”, Article I "Comprehensive Plan" of the Code of Ordinances is hereby amended by repealing and replacing within the Future Land Use Element Policy 1-3.8.6 on Page 1-24 involving the medium density residential future land use category to read as follows:

Policy 1-3.8.6: Promote Appropriate Scale and Height for Medium Density Multi-Family Development. Except within the Central Business District geographical area, no multi-family residential development within areas designated medium density residential (R-3) that are located within the city on properties east of Denning Drive shall not exceed two stories in height unless approved via conditional use by the City Commission. In addition, such third floors must be entirely contained within a sloping roof of not less than 12:12 roof slope. Notwithstanding, the maximum floor area ratios permitted elsewhere in this element, any buildings limited to two stories shall be restricted to a maximum 75% FAR.

SECTION 3. That Chapter 58 “Land Development Code”, Article I "Comprehensive Plan" of the Code of Ordinances is hereby amended by repealing and replacing within the Future Land Use Element various policies including Policy 1-3.8.4 on Page 1-23; 1-4.1A.3 on Page 1-37; 1-4.B.14 on Page 1-38; 1-4.H.3 on Page 1-55; 1-4.1.H.7 on page 1-55; 1-4.1.H.8 on page 1-55 and 1-4.1.J.3 on Page 1-60 involving applications for amendments to future land use categories to read as follows:

Policy 1-3.8.4: Encourage Single-Family Detached Homes. The City shall encourage single family detached homes as opposed to apartments and condominiums by discouraging prohibiting Future Land Use Map amendments from Single-Family Residential or Low-Density Residential to Medium or High-Density Residential. The intent of this policy is to provide a smooth transition of density/ intensity of land use unless such amendment involves a development that is
larger than 10 acres, the parcel to be changed is internal to the development, being at least 200 feet from Low Density or Single Family in other ownership, and there is a step down in intensity towards the perimeter of the development. (Yellow text pending WP Towers amendment)

Policy 1-4.1.A.3: Prohibited Comprehensive Plan Amendments from Residential to Office/Professional. Comprehensive plan amendments from residential to office/professional on the south side of Howell Branch Road from the Maitland city limits to Temple Drive shall be deemed to be in conflict with the Comprehensive Plan.

Policy 1-4.1.B.14: Maintain Residential Zoning in Certain Areas along Edwin Boulevard and Lakemont Avenue. No Comprehensive plan amendments from residential to office/professional or commercial shall be deemed to be in conflict with the Comprehensive Plan occur north of Edwin Boulevard along Lakemont Avenue or on properties fronting on Edwin Boulevard.

Policy 1-4.1.H.3: Restrictions on Multifamily Development. The City shall discourage prohibit Comprehensive Plan Amendments from Low-Density to Medium-Density or High-Density Residential Multifamily Future Land Use Map designations.

Policy 1-4.1.H.7: Prohibit Non-Residential Uses on Certain Segments of New England Avenue and Symonds Avenue. The City shall prohibit Non-residential land uses and zoning on New England Avenue between Denning Drive and Pennsylvania Avenue and on Symonds Avenue between Capen Avenue and Pennsylvania Avenues shall be deemed to be in conflict with the Comprehensive Plan.

Policy 1-4.1.H.8: Prohibit Commercial, Office, or Non-residential Development on the East Side of Denning Drive or Webster Avenue. The conversion or redevelopment of any existing residential property fronting on the east side of Denning Drive or on Webster Avenue for commercial, office or other non-residential development shall be deemed to be in conflict with the Comprehensive Plan.

Policy 1-4.1.J.3: Protect Low-Density Residential Use West of Schultz Avenue within Lawndale, and Prevent Discourage Non-Residential Encroachment and Maintain the Low-Density Future Land Use Map Designation; Restriction on Rezoning. The City shall preserve and protect the low-density residential land use west of Schultz Avenue, within Lawndale, in this planning area, from commercial and office encroachment. The Future Land Use Map shall maintain the Low-Density Residential designation and no map amendments to non-residential or Urban Use Mixed Use shall be deemed to be in conflict with the Comprehensive Plan permitted within 200 feet of Shultz Avenue.

SECTION 4. That Chapter 58 “Land Development Code”, Article I "Comprehensive Plan" of the Code of Ordinances is hereby amended by repealing and replacing within the Future Land Use Element Policy 1-3.6.7 on Page 1-21 and Policy 1-3.7.1 on page 1-22 involving applications for subdivisions or lot splits for estates or lakefront properties and for lot consolidations to read as follows:
Policy 1-3.6.7: Subdivision of Lot Splits of Single Family Estate Properties. Historically, Winter Park is a distinct residential community in part because of the existence of large estate properties. These existing estates, many with historical or architectural significance, provide a character that in turn creates value throughout the surrounding neighborhoods and the community. Thus, their preservation maintains the attractive character of Winter Park that helps to set it apart from other cities in Florida. The existence of large estate properties dispersed throughout Winter Park adds great attractiveness, appeal and value to residents and potential buyers as contrasted with newer more uniform homogenous subdivisions. In order to protect these features and values and preserve neighborhood character, the City shall strongly discourage not consider or approve any subdivisions or lot splits of estate lots (one acre or greater) within areas designated single family residential.

Policy 1-3.6.9: Lot Consolidations. Within one year after adoption of this Comprehensive Plan the City shall draft land development regulations which would require Planning Commission recommendation and City Commission approval for the consolidation or aggregation of residential lots in order to preclude the formation of lot sizes and resultant larger building sizes that may be out of scale and size with existing street or neighborhood character. Lot consolidations resulting in the addition of more than 25 feet of new lot width and if such consolidation also results in consolidated new lot sizes greater than 150% -25% of the lot width and lot area standards shall require the approval by the City Commission. The City Commission in consideration of lot consolidation requests may limit the applicable floor area ratio as a condition of approval in order to preserve neighborhood scale and character.

Policy 1-3.7.1: Preserve Lakefront Estates. It is a policy of the City and of this Comprehensive Plan to maintain the diversity of sizes of lakefront properties and estates and to strongly discourage prohibit the subdivision or split such properties. The City shall preserve low densities along the City’s lakefront property, including larger lakefront estates in order to perpetuate the unique character of Winter Park that sets it apart from other cities throughout Florida.

SECTION 5. That Chapter 58 “Land Development Code”, Article I "Comprehensive Plan" of the Code of Ordinances is hereby amended by repealing and replacing within the Future Land Use Element Policy 1-2.1.6 on page 1-4 and Policy 1-3.8.11 on Page 1-24 & 1-25 clarifying the intent of floor area ratio limitations and those geographic areas permitted to have a central business district future land use designation and repealing altogether Policy 1-4.1.G.15 on Page 1-52 to read as follows:

Policy 1-2.1.6: Floor Area Ratio Limitations. The floor area ratios detailed in this Comprehensive Plan are the maximum density and intensity parameters potentially permitted in each respective future land use designation. These maximum floor area ratios are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to parking, setbacks, lot coverage and design standards. The City in the review and approval of conditional uses for specific projects may limit and restrict the achievable floor area ratios.
Policy 1-3.8.11: Restriction on the Use of (C-2) Zoning. The City shall not permit the use of the (C-2) zoning on any property outside of the Central Business District area depicted in the CBD Map located on page D-4 within the definitions sections of this Comprehensive Plan. The area generally described as west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of and including the New York Avenue Corridor. C-2 zoning shall also be permitted on properties abutting Morse Blvd between Capen and Virginia Avenues, abutting New England Avenue between Pennsylvania and New York Avenues, abutting Pennsylvania Avenue between Garfield and Lyman Avenues, or abutting Hannibal Square, East. Applications for Central Business District future land use designations or C-2 zoning shall not be permitted accepted or processed by the City for any property outside these designated areas. Properties within these designated areas are not deemed entitled to Central Business District future land use or to C-2 zoning nor should any property owner have any reasonable expectation that CBD FLU/C-2 zoning will be allowed. These are simply the area locations where properties may be candidates for C-2 which may or may not be granted by the City Commission on a case by case basis at their discretion.

Policy 1-4.1.6.15: Limit Use of CBD Future Land Use Designation. The City shall restrict the use of the Central Business District future land use designations and CBD (C-2) zoning district to those properties west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of Virginia Avenue. Properties with CBD future land use and zoning outside this geographic area in effect upon adoption of the Comprehensive Plan shall be entitled to utilize the uses and densities permitted.

SECTION 6. That Chapter 58 “Land Development Code”, Article I “Comprehensive Plan” of the Code of Ordinances is hereby amended by repealing and replacing within the Definitions section the definition and map of the Central Business District Future Land Use Designated Area on Page D-4 to read as follows on the following page:
Central Business District Future Land Use Designated Area and Commercial Central Business District C-2 Zoning Map means The Central Business District Future Land Use Designated Area is shown within the green outlined areas and is the only areas designated as with the potential candidates for CBD Future Land Use and associated C-2 zoning within the Central Business District. The red outlined area depicts the Winter Park Central Business District Boundary as shown on page D-3.
SECTION 7 - SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 8 - CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 9. EFFECTIVE DATE. This ordinance shall become effective 31 days after adoption on May 10, 2010. If this Ordinance is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption, it will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance with Chapter 163, Florida Statutes.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _______________, 2010.

ATTEST: ______________________________
Kenneth W. Bradley, Mayor

City Clerk