REQUEST OF McDonald's Corp. FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE MAP SO AS CHANGE THE FUTURE LAND USE DESIGNATION OF OFFICE TO COMMERCIAL ON THE PROPERTIES AT 1289 AND 1301 GENE STREET.

This request is from McDonald's Corp. (on behalf of the property owner, Bank First) to amend the Comprehensive Plan future land use map on two lots of property at 1289 and 1301 Gene Street from Office to Commercial. These two lots, fronting on Gene Street are combined in ownership with another adjacent lot on Gene Street and three adjacent lots fronting on West Fairbanks Avenue that are already designated Commercial. McDonald's is prospectively either leasing or buying this entire property to use for a new fast food restaurant.

Restaurants are not permitted on properties designated as "office". They need to be designated "commercial". So in order to build a restaurant, the applicant needs the City to change the Comprehensive Plan designation on these two lots to "commercial".

The Approval Process

McDonald's ultimately needs three approvals from the City Commission to build their new restaurant on this property. They first need this change to the Comprehensive Plan future land use map, which is a "legislative" change. Then, if that is successful, they secondly need the companion rezoning from O-1 to C-3 and a Conditional Use approval for a drive-in business. Those two approvals are "quasi-judicial".

There are different standards for the consideration of "legislative" and "quasi-judicial" matters. Our assistant city attorney, Katie Reischmann, will be at the P&Z meeting to further explain. However, in summary, a "legislative" decision is more 'big picture' as in "what is in the best interests of the City". It is also subject to the "fairly debatable" rule, if challenged in court. There can be reasons in favor of the request and reasons against the request. You don't have to have the best reasons or the most reasons. As long as the issue is "fairly debatable" then the City can decide in either way.
"Quasi-judicial" decisions however, are very fact specific. There are standards for approval of "quasi-judicial" matters (rezonings and conditional uses) in our Code. If the applicant demonstrates that they have satisfied those standards then the burden shifts to the City. The City must produce competent, substantial evidence as to why a project does not meet the standards for approval.

So it is important what the Planning Commission is not doing at this point. Normally, P&Z is handling "quasi-judicial" requests and we are looking at traffic studies, storm water retention plans, landscape plans, architectural plans, sign plans, etc. Normally, P&Z is trying to figure out if a project 'works' on the site and how to make it a better project. The Planning Commission is not doing that now. This is the legislative public hearing when you ask yourselves, "Is this the appropriate location for additional land to be designated for commercial businesses?" So staff is cautioning the Planning Commission not to get 'down in the weeds' about details of the project but to stay focused on the 'big picture' as to whether this commercial intensity on these two lots is in the best interests of the City at this location, both now and in the future.

More specifically, the city code section dealing with Comp. Plan amendments (Section 58-6) says the City should consider requests for Comprehensive Plan amendments based upon:

(2) All proposed comprehensive plan text or map amendments shall be submitted to the planning and zoning commission for study and recommendation. The planning and zoning commission shall study such proposals to determine:
   a. The need and justification for the change;
   b. When pertaining to the future land use designation of land, the effect of the change, if any, on the particular property and the surrounding properties;
   c. When pertaining to the future land use designation of land, the amount of undeveloped land in the general area and in the city having the same classification as that requested; and
   d. The relationship of the proposed amendment to the goals, objectives and policies text of the city's comprehensive plan, with appropriate consideration as to whether the proposed change will further, or at least not be contrary to the comprehensive plan.

The planning staff has explained to the applicant that their request needs to address how the request for the Comp. Plan future land use map change satisfies these criteria. The applicant's letter of justification or explanation is attached. It is up to the Planning Commission to determine if the reasons presented are sufficient to justify changing the Comprehensive Plan.
 Comprehensive Plan History

These two lots in question have been designated as "office" in the Comprehensive Plan since the City adopted our first Comprehensive Plan in 1976. They have been zoned office at least since 1953. (That's the earliest zoning map we have). So one question, is the history question of why were/are these lots designated office in the first place.

When you look at the Comp. Plan future land use map, you could wonder why all the lots, at least on the north side of Gene Street, aren't designated commercial since they back up to commercial uses along Fairbanks Avenue. The answer is likely that Gene Street, as a narrow brick street, was not and is not, built handle the additional traffic that commercial businesses can produce versus office businesses. Also knowing that office allows residential use (most of the offices along Gene Street were residential conversions) and knowing that the Hollieanna Garden Apts. are very close by, the thinking in 1953 and in 1976 was likely that the intensity and expanded night time and weekend hours of commercial businesses (most offices are 9-5) was deemed inappropriate so close to residential and on such a small brick street.

Construction of a fast food restaurant will foster the two things that are the major differences between commercial and office land use. Commercial land use represents an expansion of the amount of traffic that can be generated onto Gene Street, in this case from a commercial drive-thru fast food restaurant business versus an office business. It also represents an expansion of the hours of operation versus office businesses. So that is part of the Planning Commission's consideration of this "legislative" question, as to whether that resultant increase in intensity (traffic & hours of operation) is in the best interests of the City at this location.

 West Fairbanks Avenue Improvement project

The Planning Commission is aware that the City is about to embark in June, 2011 on a West Fairbanks Avenue improvement project. It involves the extension of sanitary sewer throughout the corridor ($8 million). It also is a streetscape project involving the addition of new landscape medians, new traffic signals and new street lights ($2.8 million) in order to foster redevelopment and to improve the appearance of this 'gateway' corridor into the City. On the Fairbanks Avenue frontage of this prospective project, there will be a new landscape median that will then prohibit left turns into or out of this site on Fairbanks Avenue. The applicant has submitted a traffic study for the future conditional use request. Due to the existing traffic congestion on Fairbanks Avenue and the addition of the new landscape median, the report indicates that 75% of the traffic for this fast food restaurant will need to use Gene Street in the rear for access into and out of the site.
The Planning Commission is also aware that the City Commission has hired the Placemakers consulting firm to develop a Form Based Code and Design Guidelines for redevelopment along the West Fairbanks Avenue corridor. The essential elements of those new codes will be to have future buildings oriented to the street; parking in the rear or on the side screened from view to the maximum extent possible; interconnections with adjacent properties for access between sites and street front design that encourages pedestrian and bicycle access as opposed to be only auto-centric. None of these critical design elements are incorporated in the site plan presented by the applicant for this fast food restaurant. The staff does not mean there is anything wrong with the site plan presented. The staff is just pointing out that the site plan represents the state-of-the-art 1970's style of suburban auto-oriented land design.

Planning Staff Analysis and Summary

Among the criteria to be used to analyze a request to change the Comprehensive Plan future land use map are:

b. When pertaining to the future land use designation of land, the effect of the change, if any, on the particular property and the surrounding properties;

A change from office to commercial land use increases the potential for more traffic and more hours of operation. Both are true with a fast food restaurant. Gene Street, Shoreview and Nicolet Avenues are already overburdened as cut-thru routes from the Publix supermarket and Wachovia Bank on US 17-92. Gene Street, as a two lane, brick surface, local street is not meant to be used as the “front door” for a fast food restaurant handling 75% of the traffic generation and to have the “back door” (Fairbanks Avenue), a four lane arterial State highway handling 25% of the traffic generation.

c. When pertaining to the future land use designation of land, the amount of undeveloped land in the general area and in the city having the same classification as that requested;

There is no shortage of commercial land on Fairbanks Avenue and along the US 17-92 corridor that is already designated commercial. It seems to staff that if one is picking a site for a fast food restaurant, you pick one first that is zoned correctly and second you pick one that is not so restricted by traffic congestion and access limitations on the principal road frontage that you have put 75% of your traffic onto a two lane rear local street. There doesn't seem to be any compelling reason to alter the Comprehensive Plan, in place since 1976, for a type of fast food business that is not envisioned for this site and is not in the best interests of the immediate neighborhood or the city at large.

STAFF RECOMMENDATION IS FOR DENIAL.
ORDINANCE NO.  

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 FUTURE LAND USE DESIGNATION OF OFFICE TO COMMERCIAL ON THE PROPERTIES AT 1289 AND 1301 GENE STREET, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, this amendment of the Comprehensive Plan future land use designation meets 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.

NOW THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to change the future land use map designation of office to commercial on the properties at 1289 and 1301 Gene Street, said properties being more particularly described as follows:

Lots 40 & 41, Beverly Park subdivision as recorded in Plat Book "K", Pages 45 of the Public Records of Orange County, Florida.

SECTION 2. This ordinance shall become effective 31 days after adoption on ________________, 2011. 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 ______________, 2011.

______________________________
Mayor

Attest:

______________________________
City Clerk
To: Jeffrey Briggs
Planning Director
City of Winter Park

Dear Mr. Briggs,

Thank you for requesting our review of the McDonald’s plan in light of the Form-Based Code and Architectural Standards we are currently developing for Winter Park. We’re very concerned that the current plan will undermine the City’s investment and commitment to incentivize redevelopment at this critical gateway. The plan under consideration is “business as usual”, and does nothing to support the City’s considerable investment in West Fairbanks Avenue.

Fundamentally, this plan is not consistent with the City’s vision for the Avenue. It is a classic 20th century strip commercial format and in no way reflects the vision the City Commission and the Comprehensive Plan has established for the West Fairbanks corridor redevelopment. At a minimum, this parcel should:

- Move the building up to street and reorient it 90 degrees. The front turnaround is particularly disruptive to future pedestrian activity
- Provide an entry to the building from the sidewalk. This would help to reduce the high trip demand of the current plan, and the traffic burden this will place on the adjacent neighborhood.
- Design the façade as a commercial "main street" building with piers and parapets, an externally lit sign band, and substantial glazing of the façade facing Fairbanks. The branding may still be achieved on the sign band, the awnings, and the windows.
- The site plan should include the required planting area and sidewalk setbacks as consistent with the draft corridor plan. All vehicular breaks should be secondary to the sidewalk and planters. The laneway leading to Fairbanks should be paved with concrete to match the sidewalk, and the planter area should be integrated with the sidewalk. Rather than an 18’ right-in/right-out with a 25’ turning radius, a 10’ lane with a 15’ radius would produce much less intrusion on the pedestrian realm.
- The site should achieve at least 50% building frontage width along Fairbanks to height of 20’ to the top of the parapet and within 8’ of the required sidewalk and planter setback. The frontage should be a shopfront, but it may have up to an additional 8’ landscaped setback that may include an outdoor seating area. McDonald’s has urban format units they use in city environments. Winter Park deserves this format and should require it.
- Except for vehicle entries, there should be a 3’ high masonry street screen built coplaner with, and matching
the materials of the front facade. A landscape strip and appropriate pedestrian access should also be integrated with the building design.

We are relieved the entitlements are not in place and the City has the opportunity to deny this presumptuous request. It is completely out of context with the character of Winter Park and the great efforts the City is making to incentivize redevelopment along West Fairbanks. This design proposal could be implemented along any corridor in the US and has very little to do with the village character of the City.

We would strongly encourage the Commission to send a very clear message about desired redevelopment character by denying this rezoning request.

Best Regards,

Susan Henderson
Principal
PlaceMakers, LLC
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, March 1, 2011 at 7:00 p.m., and by the City Commission on Monday, March 28, 2011 at 5:00 p.m., in the Commission Chambers of City Hall, 401 Park Avenue South, Winter Park, Florida, to consider the following PUBLIC HEARINGS:

REQUEST OF MCDONALD'S CORP. FOR: 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 CHANGE THE FUTURE LAND USE MAP DESIGNATION OF OFFICE TO COMMERCIAL ON TWO LOTS OF PROPERTY AT 1289 AND 1301 GENE STREET THAT ARE PART OF AN OVERALL PARCEL CONSISTING OF THREE LOTS FrontING ON W. FAIRBANKS AVENUE AND THREE LOTS FRONTING ON GENE STREET IN ORDER TO PERMIT THE USE OF THE ENTIRE PROPERTY FOR A MCDONALD’S RESTAURANT.

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE III, “ZONING” SECTION 58-90 “CONDITIONAL USES”, SO AS TO REVISE APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL PROCEDURES FOR CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

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.

/s/ Cindy S. Bonham, CMC
City Clerk

PUBLISH: Sunday, February 6, 2011, Orlando Sentinel
APPLICATION FOR COMPREHENSIVE PLAN
AMENDMENT AND/OR
APPLICATION FOR A CHANGE IN ZONING CLASSIFICATION

General Instructions: To request a change in land use category, complete this application and submit it to the Planning Department along with the fee of $1,000 for less than one (1) acre or $6,000 for more than one (1) acre and all additional information necessary for public hearing before the Planning and Zoning and the City Commissions. All required documents must be submitted with the application.

I. APPLICANT
Name: CPH Engineers, Inc./Justin T. Polk, P.E.
Address: 500 W. Fulton Street
Sanford, FL 32771
Phone: 407-322-6841
Email Address: jpolk@cphengineers.com

II. OWNER
Name: BankFIRST Realty, Inc./Thomas P. Abelmann, Vice President
Address: 1031 West Morse Blvd. – Suite 323
Winter Park, FL 32789
Phone: 407-622-3183
Email Address: 

Is the property under contract for purchase or lease? ☑ Yes ☐ No

If the applicant is NOT the owner, attach a copy of the purchase or lease contract or option on the property, or a letter signed by the owner of record authorizing the applicant to act as agent for the owner. This information is requested to establish the legal status of the applicant and will be held in confidence, except as the information pertains to the zoning application.

Is the contract for purchase or lease contingent upon this approval? ☑ Yes ☐ No

III. PROPERTY
Street Address: 1302 W. Fairbanks Avenue, Winter Park, FL
PARCEL #: 12-22-29-0664-00-040, 12-22-29-0664-00-410 (same as tax ID number of Orange County property tax records)
Legal Description: Provide complete and accurate legal description below including Plat Book and Page Number OR attach a copy of the legal description to this application.
(parcel #’s for balance of proposed site but not for Comp Plan or Rezoning): 12-22-29-0664-00-420
12-22-29-0664-00-170, 12-22-29-0664-00-150, 12-22-29-0664-00-160. Legal Description Attached

III. ZONING MAP AMENDMENT/COMPREHENSIVE PLAN AMENDMENT
Current Future Land Use: Office Professional
Current Zoning: O-1
The applicant requests that the property be changed to a zoning/land use of C-3 / Commercial for the following specific use or uses:
McDonald’s Restaurant with Drive-Thru (CUP approval under review with City for Drive-Thru use)

IV. CERTIFICATION
I certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate, and that I am:

☑ the owner of the property described herein
☐ a party to an agreement for purchase or lease of this property
☐ an agent for the owner or purchaser/lessee of this property

If applicable, it is understood and agreed that approval of this application by the Planning and Zoning Commission is contingent upon the recording of restrictive covenants defining the terms and conditions of an approval. These restrictive covenants will be executed by the owner of the property and recorded by the City of Winter Park. Said owner will be responsible for all fees associated with the recording of this document.

Signature ______________________ Date 1/27/2011

N:\depts\planning\FCD\Applications\Rezoning\CP Application.doc 8/5/2010
January 31, 2011

Ms. Stacey Scowden, Senior Planner
City of Winter Park Planning & Zoning Department
401 Park Avenue South
Winter Park, Florida 32789-4386
(407)599-3217

RE: Proposed Minor Comprehensive Plan Amendment
McDonald’s Hollinena/Winter Park
Located at 1302 W. Fairbanks Ave.
City of Winter Park, Florida
CPH Project No. M29542

Ms. Scowden:

On behalf of McDonald’s Corporation, we are pleased to submit a Minor Comprehensive Plan Amendment Application request for review and approval by the City of Winter Park. The two parcels being requested for a Minor Comprehensive Plan Amendment contain approximately 0.344 acres and currently have a Future Land Use (FLU) designation of Office_Professional. McDonald’s Corporation is requesting the approval of the Minor Comprehensive Plan Amendment to change the two lots FLU designation from Office_Professional to Commercial.

The entire site proposed for development consists of six total lots equaling approximately 0.99 acres and is proposed for the development of a McDonald's Restaurant and drive-thru. Four of the six lots have a FLU designation of Commercial and are zoned C-3. Previously the lots were developed with various dilapidated commercial and office buildings, parking and associated infrastructure; however, the lots are currently vacant. McDonald's Corporation is proposing to construct a new McDonald’s Restaurant with Drive Thru (4,147 S.F.) and the required site infrastructure to serve it. In order to comply with the City’s building set backs, a portion of the proposed building falls within the two Office_Professional lots and would therefore require an amendment to the Comprehensive Plan to change the FLU designation to Commercial. The construction plans and associated documents have been submitted to the City for review for a Conditional Use Application Approval for the proposed drive-thru. The Conditional Use process and the redevelopment of these vacant parcels are contingent upon the minor Comprehensive Plan Amendment and Re-zoning approvals.

The proposed change in FLU designation from Office_Professional to Commercial for the requested two lots is consistent with the City’s Comprehensive Plan Goal 1-1 to “Maintain individual identity, character, natural environment and socio-economic and ethnic diversity” by improving the vacant lots, formerly developed with old buildings and little open space, by building a new site and building consistent with the City’s current codes, including new landscape and adequate open space. The change in FLU will be consistent with the lots that surround the vacant parcels to north, east and south (across Gene) all designated as FLU Commercial and zoned C-3. The parcel directly to the west has a FLU designation of Office_Professional but is currently developed as a parking lot. If the lots remain undeveloped it may lead to an influx of transient individuals that could threaten the health, safety and welfare of the adjacent property owners and patrons and the dirt lots do not add aesthetic appeal to the Cityscape along Fairbanks Avenue. The proposed site will also provide the required water quality treatment that did not exist on the previously developed site or the currently vacant sites, therefore improving the environmental impacts of the existing parcels. The proposed McDonald’s will aide to revitalize an area that has
older developments and will likely bring increased business and increased property values to the surrounding properties.

The development of the site will also follow in line with the City's desire to improve the Fairbanks corridor and image. The vacant parcels are approximately 500 feet away from the intersection of Fairbanks and 17/92; a major corridor for the City. Redevelopment of the vacant land will greatly increase the aesthetics as patrons enter into the City from I-4. As part of the Conditional Use Process the proposed plans will be sent for review by the City's external Fairbanks consultant for coordination to be consistent with the beautification efforts for revitalizing Fairbanks Avenue.

At this time, we respectfully request the City's review and approval of the enclosed materials. The future development of this site is contingent upon the City's approval of the Comprehensive Plan Amendment.

In support of this application, please find enclosed:

1. One (1) copy of the Comprehensive Plan Amendment Application.
2. One (1) letter of justification for the Minor Comprehensive Plan Amendment.
3. Seven (7) 11"x17" copies of the proposed Site Plan.
4. One (1) Full size copy of the proposed Site Plan.
5. One (1) check in the amount of $1,000 for Comprehensive Plan Amendment Review for a site under 1 acre.

Please feel free to contact us at 407-322-6841 if additional information is needed for your review process.

Sincerely,

CPH ENGINEERS, INC.

[Signature]

Justin Polk, P.E., LEED AP
Vice President / Associate
jpolk@cpengineers.com

cc: file
Winter Park Future Land Use

- Central Business District
- High Density PD 2
- Medium Density PD1
- Commercial
- Office_Professional
- Industrial
- Institutional
- High Density Residential
- Medium Density Residential
- Low Density
- Single Family
- Conservation
- Open Space_Recreation

[ ] = Proposed Site

Winter Park Boundary
Aerial Map
Proposed Comprehensive Plan Amendment
Office Professional to Commercial

= Proposed Site

= Proposed lots for Minor Comprehensive Plan Amendment
This ordinance proposes to update the Conditional Use section of the Zoning Code portion of the Land Development Code to better outline the submittal requirements for preliminary and final conditional use applications. This revision was suggested by the City Commission and discussed by the Planning Commission at the work session on January 26, 2011.

The major change is to split into two separate subsections, the submittal requirements for preliminary and final conditional uses. The ‘track changes’ feature shows the deletions with red strike-thru and the additions in blue underlined text.

At the work session, there was some discussion of other changes to the section dealing with development agreements. The city attorney and staff feel that the current process of letting the applicant start on the first draft has been working well and it saves time and money for the City. There can be some suspicion about agreements prepared by the applicant, but ultimately the city attorney is in complete control the draft development agreement that gets submitted to the Planning Commission and then to the City Commission. So, that section is not recommended for any changes.

The conditional use (drive-in) request by McDonald’s has illuminated some concerns about the submittal requirements and standards for approval. The staff is requesting additional time to bring those back to P&Z next month as part of this process.

STAFF RECOMMENDATION IS TO TABLE THIS ORDINANCE until next month so staff can work on the drive-in section.
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-90 "CONDITIONAL USES", SO AS TO REVISE APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL PROCEDURES FOR CONDITIONAL USES, PROVIDING FOR SEVERABILITY, CONFLICTS, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Winter Park has recommended approval of this Ordinance at its March 1, 2011 meeting; and

WHEREAS, the City Commission of the City of Winter Park held duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park's Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby find that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting within Section 58-90 "Conditional Uses", a new subsection 58-90 (i) "Conditional Use Submittal Requirements" to read as follows:

Sec. 58-90. Conditional uses.

(i) Conditional Use Submittal Requirements.

(1) For conditional use approvals involving buildings over 10,000 square feet or for three story buildings within the central business district geographic area as defined in this code, the applicant for approval of a conditional use shall submit to the city, plans and all supplemental materials required to accompany such plans, as outlined in this subsection. The maximum sheet size for plans shall not exceed 24 inches by 36 inches. Provide one copy at that size. In addition, the applicant shall provide twelve copies of each site or development plan sheet reduced to no larger than 11 inches by 17 inches. Applicants shall also provide a copy of the application submittals in electronic format.
(2) All site and development plans Applications for preliminary conditional use approval shall contain the following data and information:
- Plan sheet format. The maximum sheet size for plans shall not exceed 24 inches by 36 inches. Provide one copy at that size. In addition, the applicant shall provide twelve copies of each site or development plan sheet reduced to no larger than 11 inches by 17 inches. Applicants shall also provide a copy of the application submittals in electronic format.

(3) General information.

a. The identification of each sheet;
b. Legend, including:

1. Name of development;
2. Legal description;
3. Acreage;
4. Scale;
5. North arrow;
c. Existing zoning and other special districts;
d. Preparation/revision date;
e. 100-year flood plain elevation.

(4) Application, application fee, name, address and phone number of:

a. Owner;
b. Owner's authorized agent;
c. Engineer;
d. Surveyor;
e. Others involved in application.

(5) Vicinity map;

(6) Existing conditions survey showing existing streets structures and topographic contours on the subject property and adjacent to and within fifty (50) feet of site and also including:

a. Name;
b. Location;
c. Right-of-way width;
d. Driveway approaches;
e. Medians and median cuts;
f. Existing on-site trees of nine inch caliper or greater.

(7) Proposed development plan.

a. Proposed buildings and structures, individually identified by number, symbol or other appropriate system, including the following information:

1. Location;
2. Proposed use for each building or portion thereof;
3. Dimensions and height;
4. Gross floor area, in square feet by building, use and total;
5. Preliminary architectural elevations;
6. Proposed fences or walls.

b. Required yards, setbacks, buffers and distances; indicate location and dimensions of all required yards, setbacks and buffers. Also indicate distance between buildings.

c. Proposed on-site vehicular circulation system, and parking areas; include location, dimensions, and typical construction specifications of:

1. Driveways, approaches and curb cuts;
2. Vehicular access points, access ways, and common vehicular access points;
3. Off-street parking spaces and comparison of numbers provided with applicable code requirements;
4. Other vehicular use areas;
5. Sidewalks and other pedestrian use areas;

d. Landscaping plan; which may be conceptual, landscaping plan which for preliminary approval but for final approval shall include the location and specifications for plantings for parking lot landscaping, buffers, open spaces, recreation areas, and other landscaped areas and landscape. Indicate provisions and method made for the continued maintenance of landscaped areas, open spaces, and recreational areas.

e. Existing tree protection; identify existing trees from tree survey to be removed and/or protected and explain or illustrate method to preserve such trees or compensate for their removal, both during and after construction. Applicants shall meet on-site with city staff to develop such tree protection and tree compensation plan.

f. Storm Water retention and Drainage plan; in accordance with the requirements of the St. Johns River Water Management District and City Code for preliminary approval the submission shall detail the conceptual design approach and method of code compliance including preliminary storm water retention calculations to demonstrate adequate capacity. In cases where underground storm water exfiltration is planned, the preliminary submission shall also include soil boring(s) and determination of water table to address the adequacy and design parameters of this approach, and for final approvals show all existing and proposed grades, proposed guttering on buildings and storm water management details, including swales, berms, piping or other methods used to achieve compliance.

g. Street signs graphics and outdoor lighting; include the locations and sizes of all street signs and the method proposed for outdoor lighting, intensity and nature of all proposed lighting (required only for final approval).

h. Flood plain; provide contours and elevation of 100-year floodplain and floodway, when applicable.

i. Transportation; a transportation analysis of the net trip generation for the proposed project and the analysis of whether the transportation level of service criteria of the city's comprehensive plan and concurrency regulations are affected.

(8) For projects meeting the requirements for city-wide public notice, applicants for preliminary conditional use approval shall also submit at the time of application fully rendered digital 3-D
digital architectural perspective images and elevations that show all sides of the proposed building(s), parking areas, parking structures and any other site improvement. Additionally, all adjacent buildings and site improvements within one hundred (100) feet of the proposed site must should be included within the digital 3-D images for review of the context with the immediately surrounding properties.

(9) Applications for final conditional use approval shall submit the following data and information:

(a) Project overview: for final approval, applicants shall resubmit the information provided for the preliminary approval as approved by the City Commission and as revised with any changes or modifications required pursuant to the preliminary approval incorporating any conditions of approval or other modifications made as a result of the preliminary approval process.

(b) Landscape plan: for final approval, applicants shall indicate the locations and specifications for plantings for parking lot landscaping, buffers, open spaces, recreation areas and other landscape areas and landscape. The plans shall include a plant list, size at planting, plant count and spacing. Plan shall indicate the method for continued maintenance of the landscaped areas such as by the property owner, tenant, HOA, etc.

(c) Storm Water retention and Drainage plan: for final approval, in accordance with the requirements of the St. Johns River Water Management District and City Code, applicants shall submit the final storm water design and calculations including all existing and proposed grades, swales, berms, piping, guttering on buildings as necessary for building permit submittal.

(d) Development Agreement: for final approval, applicants shall submit a draft of any proposed development agreement prepared to accompany such application in accordance with Section 58-90 (f).

(e) Transportation: a transportation impact report in compliance with the requirements of the city's comprehensive plan and concurrency management regulations outlining the impacts and the methods of compliance with those regulations.

SECTION 2. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting within Section 58-90 "Conditional Uses", a new subsection 58-90 (n) "Drive-in business" to read as follows:

(n) Drive-in business.

(1) The city, as an existing urbanized area, does not lend itself to the establishment of new transportation corridors or to the expansion of existing streets. As a result, the city must strive to maintain the most effective and efficient movement of traffic on the existing road network. Since the drive-in components of any business can increase traffic congestion, create safety hazards and adversely impact adjacent neighborhoods or existing streets when they are improperly designed or located, the city has determined that in order to protect the safety and convenience of its citizens, drive-in components of any business shall be conditional uses to be disapproved, approved or approved with conditions. In addition to the site plan and building plan submittals previously outlined, all applications for drive-ins shall contain the following information if required by the city planning staff:
(2) Applicants shall submit a traffic data and impact analysis, including the average daily traffic on adjacent streets and the peak-hour(s) traffic on adjacent streets. This data shall also include daily and peak-hour traffic generation to and from the site, as well as the distribution of trips to the various entrances and exits. The peak hour analysis shall be for the peak hour(s) of the business as well as the peak hours of the adjacent roadways. This data shall also include an analysis of internal traffic flow including the nature and adequacy of stacking areas for average and peak periods. Relevant accident history data shall also be considered.

(3) Applicants shall submit projections of the number of customers and the location of other similar businesses within this area of the city.

(4) In order for the city to undertake its own analysis of these applications, all the above data shall be submitted no less than thirty (30) days prior to the planning and zoning commission meeting date. This shall allow sufficient time to conduct traffic counts, turning movement studies, and to determine the adequacy of data submitted, as well as to question conclusions and findings by requesting supplementary information to back up previous submissions.

(5) It is the intention of the city to permit drive-in businesses only when they impose no substantial adverse traffic impacts on adjacent streets and are consistent with existing character of the area. It is not the intention to permit drive-ins for a parcel which is not suited by location or configuration for such use. Thus, no permit shall be issued unless the city commission shall first determine that:

a. It is generally necessary or appropriate for the general welfare and public interest;

b. That the proposed use is consistent with the character of the surrounding neighborhood and that the property values are reasonably safeguarded;

c. That the size of the property is enough to accommodate the use during peak periods without substantial adverse effect on adjacent streets;

d. That no significant deterioration of traffic flow and/or turning movements will result on adjacent streets from this use;

e. That no undue traffic safety or traffic hazards will be created.

SECTION 3. 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 4. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its final passage and adoption.

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 _____________, 2011.
ATTEST:

City Clerk

Mayor