REQUEST OF THE CITY OF WINTER PARK FOR: TO AMEND THE "ZONING REGULATIONS" SECTION 58-75 "COMMERCIAL (C-2) DISTRICT," TO REVISE THE PERMITTED USES ALONG PARK AVENUE, SOUTH OF COMSTOCK AVENUE; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

This agenda item amends the C-2 commercial zoning rules for the Central Business District area by proposing to revise the permitted uses along Park Avenue in the one block south of Comstock Avenue. This block of Park Avenue has struggled for many years. It is 'cut-off' by City Hall for many pedestrians and also has challenges with available parking. Historically there has been more turnover and vacancies in this block than elsewhere along Park Avenue. In order to help with the “economy” of this one block of Park Avenue, south of Comstock Avenue, this ordinance proposes to allow all types of restaurants (not just fine dining restaurants) and to allow offices and salons on the ground floor (that otherwise are not permitted).

Context South of Comstock Avenues:

This ordinance addresses the C-2 zoning rules just for the specific one block area along Park Avenue between Fairbanks and Comstock Avenues. This has always been a difficult “retail” block. City Hall represents a stopping point for sidewalk window shoppers. The proximity to Fairbanks Avenue gives it some of the general commercial character versus the traditional CDB feel.

The City recently approved a new BurgerFi restaurant in that block at 538 S. Park Avenue. It is a bit of a hybrid with table service and also an order counter for take-out. That experience has made the planning and economic development staff believe that in this one block, the zoning rules should be changed to allow all types of restaurants to be a permitted use. In addition the staff believes that offices and salons that are prohibited on the ground floor along Park Avenue should be permitted in this one block just as they are within the C-2 zoned section of New England Avenue.

This proposed change has not been requested by the three property owners in this block. This is a staff generated proposal because staff believes will help the economic growth in this block without affecting the predominant character of the Park Avenue experience. It does have the support however of those owners.
This ordinance only affects the five properties on Park Avenue, south of Comstock Avenue (see map attached) which encompasses about 180 feet of length along Park Avenue. There are three property owners who collectively own the five properties and they have all been contacted about this proposed change.

This proposed change was discussed by the Economic Development Advisory Board at their June 12th meeting. The Board is in support of the change.

**History of Park Avenue Restaurant Zoning Regulations:**

There have been many questions about the regulation of restaurants along Park Avenue. So this section outlines a history of the evolution of zoning rules.

The regulation of restaurants within the Central Business District and thus primarily along Park Avenue has undergone an evolution over the last 40 years. Back in the early 1970’s there were only 4 restaurants along Park Avenue. By 1982 that number had grown to 18 restaurants. At that time in 1982, the retail merchants were complaining that these restaurants were hurting the “Avenue” because all of the available parking was being dominated by the restaurant staff and customers. So in response to the outcry by the merchants and other parking concerns, the City Commission established a Downtown Parking Advisory Commission to make recommendations on the parking issues in the downtown. Their recommendation on the zoning issue, which was adopted by the City Commission in early 1983, was to make the highest parking generators a “Conditional Use”. The idea was that new restaurants then could be approved only when they had sufficient parking.

Ten years later in 2003, the Economic Development Advisory Board recommended a change to the zoning rules to allow “fine dining” restaurants to be treated as permitted uses versus conditional uses. The definition of “fine dining” restaurants are waiter/waitress table service versus front counter order or self service restaurants.

That change was made because it was felt two circumstances had changed since 1983. One was that the City had seen a reduction in the number of restaurants along Park Avenue. La Belle Verriere, Two Flights Up in the Colony Building and East India Ice Cream Company had closed and those spaces converted to retail stores. It was estimated that there were 400 less restaurant seats along Park Avenue that at the peak in the 1980's.

The other circumstance was the competition from the Winter Park Village and their array of destination fine dining restaurants. The merchants along Park Avenue believed that attracting new “fine dining” restaurants to Park Avenue would help the retail climate. The Economic Development Advisory Board believed that the two months it takes a “fine dining” restaurant to go through the conditional use process was a deterrent to attracting such an enterprise. Instead fine dining restaurants were made a permitted use. The EDAB felt
that the conditional use should still apply to sandwich shops, sub shops, pizza restaurants and other types of formula counter service fast food chains since their parking impact is concentrated almost entirely on the lunch hour and not evenly spread between lunch and dinner as the case with fine dining restaurants.

Since 2003, that zoning code change has allowed five new “fine dining” restaurants to locate along Park Avenue. They are the Orchid Thai, Paris Bistro, Prado, Bosphorus and Cocina 214. (Luma and Panera’s are also new since 2003 but they would have been permitted regardless since they have parking allocated within their building’s parking garage)

Relaxing the rules for this one block of Park Avenue to allow any type of restaurant will not be detrimental, in the opinion of staff, to the overall character of Park Avenue as a retail shopping and fine dining restaurant district.

**History of Office and Salon Zoning Regulations on Park Avenue:**

The C-2 zoning for Park Avenue is intended to create and maintain almost exclusively a retail shopping and fine dining restaurant district. The zoning code does not permit (on the ground floor) along Park Avenue any new offices, beauty salons, spas or cosmetic treatment businesses. It has been that way since 1983. At that time there was a chorus of complaints to “Preserve park Avenue” from a sudden influx of banks, offices and salons. So the C-2 zoning was changed in 1983 to prohibit those businesses along the ground floor. There are a small number of offices, banks and salons that are grandfathered-in that have existed since prior to the 1983 zoning changes. For example, in this block south of Comstock Avenue, the Gary Lambert salon has been there for at least 30 years.

Not a month goes by when the planning dept. doesn’t get a call from some “famous” hair designer or salon or skin care business or bank or real estate office that absolutely has to be on Park Avenue. So the Code has the purpose and effect of keeping Park Avenue as a retail shopping district.

Relaxing the rules for this one block of Park Avenue however, will not in the opinion of staff, be detrimental to the overall character of Park Avenue as a retail shopping and fine dining restaurant district.

**STAFF RECOMMENDATION IS FOR APPROVAL**
Parcel ID: 302205940077032 (Rng-Twn-Sec format)
This map is for reference only and is not a survey.

Created on 5/16/2012, Copyright 2007. Orange County Property Appraiser.

http://paarcgis.ocpafll.org/Webmap1/Print_Map_Only.aspx?&pin=302205940077032&id=... 5/16/2012
ORDINANCE NO. _________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, TO AMEND CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE III, "ZONING” SECTION 58-75 “COMMERCIAL (C-2) DISTRICT”, TO REVISE THE PERMITTED USES ALONG PARK AVENUE, SOUTH OF COMSTOCK AVENUE, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at its July 10, 2012 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 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.

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” is hereby amended and modified by amending Section 58-75 “Commercial (C-2) District”, subsections (b) and (c) to read as follows:

Sec. 58-75. Commercial (C-2) District.

(b) Permitted uses. All permitted uses shall be conducted so as to emphasize the pedestrian orientation of the district. Thus, drive-in type businesses or uses which have a drive-in component as part of their operation shall not be permitted except to a limited degree in the area on Morse Boulevard, west of Virginia Avenue and confined to non-retail use. All uses permitted shall be conducted exclusively within a building except those uses permitted which are customarily conducted in the open such as off-street parking and out-door patio seating for dining. Storage shall be limited to accessory storage of commodities sold at retail on the premises and storage shall be within a completely enclosed building. Bars, taverns and cocktail lounges are prohibited in this zoning district.

(1) Retail businesses involved in the sale of merchandise on the premises within enclosed buildings but excluding resale establishments or pawn shops (other than clothing resale stores). Liquor stores, provided the store is more than 300 feet from residentially used properties.

(2) Personal services limited to hotels, and shoe/watch repair businesses; but excluding places of amusement such as game rooms, video or internet arcades, tattoo, body art or fortune telling businesses and the like.

(3) Bank, savings and loans, financial institutions, travel agencies, photographic studios, interior design studios, barber shops, beauty/nail salons, spas, state licensed massage therapists, cosmetic treatments businesses, governmental, educational, medical, real estate and other offices but only when such uses are located above the ground floor within the Park Avenue Corridor or located on any floor outside the Park Avenue Corridor or within the Park Avenue Corridor, south of Comstock Avenue. This shall be referred to as the Park Avenue corridor vertical zoning restrictions.
(4) Residences located on any floor outside of the Park Avenue Corridor or above the ground floor within the Park Avenue Corridor.

(5) Public and semi-private facilities such as museums, lodges, libraries and the like.

(6) Fine dining restaurants, as well as ice cream, tea, coffee, cheese, pastry and bakery stores with retail sales and consumption of food and beverage products on premises and other restaurants if located south of Comstock Avenue.

(7) Churches, non-profit organizations' halls/lodges and schools less than 5,000 square feet in size. (See parking requirements for limitations).

(c) Conditional uses. The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this C-2 district section only. See Sec. 58-90 Conditional Uses.

(1) Restaurants, located north of Comstock Avenue with the exception of fine dining restaurants, ice cream, tea, coffee, cheese, pastry and bakery shops, with retail sales and consumption on premises;

(2) Churches, non-profit organizations' halls/lodges, and schools 5,000 square feet or larger in size. (See parking requirements for limitations).

(3) Buildings with a third floor and up to forty (40) feet in height, which requires the affirmative votes of four (4) city commissioners to be approved as a conditional use;

(4) Retail stores in excess of 6,000 square feet per floor;

(5) Drive-in business components limited to the locations to properties on Morse Boulevard, west of Virginia Avenue and limited to non-retail use.

(6) Buildings over 10,000 square feet, any addition over 500 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

SECTION 2. SEVERABILITY AND CONFLICTS. 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. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4 - 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 ______________, 2012.

__________________________________________  Mayor

ATTEST:

__________________________________________  City Clerk
CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION

Staff Report
July 10, 2012


On the weekend before the second reading by the City Commission (June 11th) of the single family “glitch” ordinance, the staff received a request from a resident, Mr. Robert Poynter for a setback accommodation for architectural setback flexibility for new homes on small lots. This would only apply if built with garages in the rear. The City Commission was interested in this change but wanted a recommendation from P&Z before proceeding.

What this ordinance does (only on small lots 60 feet or less and only if the garage is located in the rear) is to remove the wedding cake setback on one side of the lot (greater setbacks for the second floor). It increases the setback from six (6) feet to eight (8) feet on the non-driveway side while allowing the setback on the driveway side to be ten (10) feet versus the current requirement for an eleven (11) foot setback on both floors. It basically averages the side setbacks on the interior side from 6 feet - first floor and 10 feet – second floor to a consistent 8 feet. Under the current rules, if you do not want the wedding cake then both floors would be built a ten (10) foot setback. So the change is for two (2) feet greater on one side at the first floor and one foot less on the driveway side on both floors.

This change would accommodate certain architectural styles such as a Colonial or Italian Renaissance style of architecture, and the resident advocating this change is planning to construct a Charleston style home with a second floor porch on the second floor along the driveway side.

Therefore, I request that you consider endorsing this minor change.

George Wiggins,
Director of Bldg/Code Enforcement
Robert & Ginger Poynter  
1309 Alberta Drive  
Winter Park, Florida 32789

June 5, 2012

Mr. George Wiggins  
City of Winter Park

Re: “Glitch Fix Ordinance”

Dear Sir,

We own a 50’ lot at 1540 Grove Terrace. We would like to build a Charleston Side Porch style home (photos attached). This style cannot have a second floor setback and remain true to the design. We are content with all the other regulations but feel the side setback requirement is a hardship on those whose design is ruined by such a setback.

Accordingly, we respectfully request your consideration in adding the following language to the proposed ordinance. This is in the spirit of the language inserted at the end of number 8 regarding roof articulation.

Requested language to be inserted at the end of Section 1, 6-g.

“An alternative second floor side setback requirement of 8 feet instead of 10 feet that is deemed critical to maintain the architectural style of the home is permitted. The driveway side setback would be 10 feet”.

Your consideration would be greatly appreciated.

Sincerely,

[Signature]

Robert Poynter
CHARLESTON SIDE PORCH HOME

1355 PALM AVENUE
ORDINANCE NO. _______

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE III, “ZONING REGULATIONS” SECTION 58-65 “R-1AAA LAKEFRONT DISTRICT,” AND SECTION 58-66 “R-1AA AND R-1A DISTRICTS,” BY ADDING A SPECIAL SIDE SETBACK OPTION FOR NARROW LOTS PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

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 modified by amending Section 58-65 “Lakefront (R-1AAA) District” Subsection (f)(6)(g) to read as follows:

Sec. 58-65. R-1AAA lakefront district.

(6) Side yard setbacks

g. Special side setback option for narrow lots (65 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of 6 feet on the other side with a side wall height limit of 11 feet measured from existing grade to the top of the roof sheathing and provide a second floor setback of 10 feet; or as an alternate for lots 60 feet wide or less provide a minimum setback of 8 feet to both floor walls on one side and a minimum setback of 10 feet to both floor walls on the other (driveway) side. The driveway may utilize a side setback of one foot subject to not diverting drainage onto the neighboring property. The maximum allowed floor area ratio is permitted when using this option.

SECTION 2. That Chapter 58 “Land Development Code”, Article III “Zoning” of the Code of Ordinances is hereby amended and modified by amending Section 58-66 “R-1AA and R-1A districts” Subsection (f)(6)(g) to read as follows:

Sec. 58-66. R-1AA and R-1A districts.

(6) Side yard setbacks
g. Special side setback option for narrow lots (65 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of 6 feet on the other side with a side wall height limit of 11 feet measured from existing grade to the top of the roof sheathing and provide a second floor setback of 10 feet; or as an alternate for lots 60 feet wide or less provide a minimum setback of 8 feet to both floor walls on one side and a minimum setback of 10 feet to both floor walls on the other (driveway) side. The driveway may utilize a side setback of one foot subject to not diverting drainage onto the neighboring property. The maximum allowed floor area ratio is permitted when using this option.

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 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 __________, 2012.

______________________________________________
Mayor Kenneth W. Bradley

ATTEST:

______________________________________________
City Clerk Cynthia S. Bonham