

**CITY OF WINTER PARK  
CITY COMMISSION MEETING  
July 28, 2003**

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth "Kip" Marchman at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was offered by Pastor Charles Bargaineer, New Fellowship Church of God, followed by the Pledge of Allegiance.

PRESENT: Mayor Kenneth "Kip" Marchman, Commissioners Douglas Storer, John Eckbert, Doug Metcalf (via telephone) and Barbara DeVane; City Attorney C. Brent McCaghren; City Manager James Williams and City Clerk Cynthia Bonham.

**MAYOR'S REPORT:**

Mayor Marchman nominated Daniel Hunter (New York Avenue business owner), William McCormick (New York Avenue business owner), a member of the St. Margaret Mary Catholic Church Building Committee (to be selected by the church) and a member of the Planning and Zoning Commission (to be selected by the P&Z) and Mayor Marchman as additions to the Central Business District Parking Task Force. Seconded by Commissioner Storer and carried unanimously with a 5-0 vote.

**CITIZEN'S BUDGET COMMENTS:**

Nancy Shutts, 2010 Brandywine Drive, asked the Commission to reconsider the millage rate and increase it to cover capital projects needing attention. She also asked not to brick the Lake Sue to Glenridge Way section and to redirect the \$200,000 in some other way for traffic calming.

No other citizen budget comments were made.

**CITY ATTORNEY'S REPORT:**

- a) RESOLUTION NO. 1838-03: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, ESTABLISHING AND DESIGNATING THE COLLEGE QUARTER NEIGHBORHOOD AS A HISTORIC DISTRICT IN THE WINTER PARK REGISTER OF HISTORIC PLACES.

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

**Motion made by Commissioner DeVane to adopt the resolution, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

- b) RESOLUTION NO. 1839-03: A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE EAST MORSE BOULEVARD FACADE OF THE STRUCTURE FORMERLY KNOWN AS THE LINCOLN APARTMENTS, LOCATED AT 189 EAST MORSE BOULEVARD, WINTER PARK, FLORIDA AS A HISTORIC RESOURCE IN THE WINTER PARK REGISTER OF HISTORIC PLACES.

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

**Motion made by Commissioner Storer to adopt the resolution, seconded by Commissioner DeVane. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Metcalf, Eckbert**

**and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

c) Status report on the review of the Charter regarding single member districts.

Attorney McCaghren stated that staff was asked to bring a status report back to this meeting regarding a possible charter amendment for single member districts. He stated that the Florida League of Cities is currently data gathering on this same topic on every city in the state. He stated we would like to dovetail with their work and bring back the full report to have the benefit of their study as well. Commissioner Storer stated the importance of also knowing how the district lines would be drawn and whether they would be appropriated to an even population.

Nancy Shutts, 2010 Brandywine Drive, speaking for her husband, stated he is opposed to this because of the problems that come with this and trying to divide lines and find people who want to run that are qualified in smaller cities. She expressed concerns with continuing with the quality we expect to have on the Commission if it is limited by division. She asked that other cities not be considered because of Winter Park's uniqueness and to continue how it is currently done.

Frank Baker, 650 Northwood Circle and representing the Bridgebuilder's, stated they strongly support single member districts and encouraged staff and the Attorney to continue with their fact finding.

George Jahn, 160 Overlook Road, spoke strongly against single member districts because of the possible problems that can occur with the representation not encompassing the entire City.

**PUBLIC HEARINGS:**

a) Timberlane Shores neighborhood meeting regarding the extension of General Rees.

City Engineer Troy Attaway summarized the two neighborhood meetings held with the Timberlane Shores neighborhood regarding the extension of General Rees. He displayed a second iteration of the modifications made as a result of the meetings and with utilizing the previous plan. He also provided written results from a survey taken by the neighborhood which was provided to him this morning and represented 43% of the neighborhood, regarding the following issues: 1) naming of the new 2-lane street (60% were in favor of Timberlane Drive); whether to accept the 5-foot sidewalk (74% were in favor); how to treat Blue Ridge Road (60% wanted to keep it open); should there be a right turn lane at the Glenridge light if Blue Ridge is closed (89% stated yes); should there be a right turn lane at the Glenridge light if Blue Ridge is open (60% stated no); regarding the Blue Ridge and extension intersection (64% preferred a 4-way stop); regarding Timberlane Shores sign replacement (60% voted for Glenridge); and the type of sign (45% wanted the median).

Mr. Attaway stated they have addressed the issues raised to them and that they have a plan that would allow the continuance of the construction of the road, realizing that they can work out future issues that arise after the road is constructed. He stated this is a proposed road plan that has consensus with the neighborhood. Various questions were brought forward by the Commission.

Dylan Thomas, 790 E. Lake Sue Avenue, spoke in favor of the plan as brought forward. He addressed that the results of the survey taken were reflective of what the neighbors wanted and that the City is on the right track. He stated he believed there was enough consensus in the

neighborhood to move ahead with the entry road and sidewalk installation. He also stated that staff has been responsive to their concerns and that they believe the process was fair and sufficient for the Commission to take action at this time.

Barbie Worswick, 1881 Blue Ridge Road, stated this issue has been adequately addressed. She asked how they will be informed of future issues such as the future of Blue Ridge. Mayor Marchman stated that staff would be directed to involve the citizens as potential changes or modifications are made. She asked if there are other changes that the neighbors can expect to see and when. Mr. Attaway stated they are not proposing that anything be done to Blue Ridge and that it will remain open at this time. He stated that other changes such as the property being redeveloped is up to the School Board.

Tom Alday, 651 E. Lake Sue Avenue, stated they are pleased with the meetings held and asked that they be made a part of the discussions regarding the redevelopment of Glenridge in the future. He asked that a task force be set up to address how this will be redeveloped. He also asked if funds are available with the settlement of Baldwin Park to help pay for new signage at that location.

No other public comments were made.

**Motion made by Commissioner Storer to move forward with this plan for the extension of Arjay as shown here and that the neighborhood come back if they feel that other modifications to Blue Ridge in the future might be necessary, seconded by Commissioner DeVane and carried unanimously.**

- b) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK, FLORIDA, BY ADDING ARTICLE VII, TO BE ENTITLED "RIGHT-OF-WAY UTILIZATION"; PROVIDING FOR RULES AND REGULATIONS FOR THE PLACEMENT AND MAINTENANCE OF VEGETATION AND IMPROVEMENTS ON, OVER, AND UNDER THE PUBLIC RIGHT-OF-WAY, PUBLIC WAY, AND PUBLIC PROPERTY; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. First Reading

Attorney McCaghren read the ordinance by title. The following public comments were made:

Jackie Sward, 292 Sylvan Boulevard, spoke in favor of the ordinance because of her desire to keep the streets beautiful.

Terry Roen, 1620 Elm Avenue, spoke in favor of the ordinance because of not wanting unsightly mailboxes on the streets.

Rod Sward, spoke in favor of the ordinance because of opposing mailboxes being erected in bicycle lanes and routes causing potential hazards.

Mayor Marchman commented about the homes recently annexed into the City located north of Howell Branch Road and west of Lakemont that have been attempting to obtain a 32789 zip code. He stated the neighbors have agreed to curbside mailboxes in exchange for the Post Office giving them the 32789 zip code. He stated that this area would not fit with the terms of the proposed ordinance and that modifications to the ordinance may be necessary before the second reading to give them an exception only for their mailboxes.

Attorney McCaghren commented that the entire neighborhood could apply for a mailbox permit and if it is determined that it does not create a safety issue, they could be granted the permit or could carve out the exception that the ordinance will not apply to any mailbox placed in the right-of-way in this particular area if done by a certain time. Mayor Marchman stated he believed this is the only neighborhood in the City where this would apply. He clarified that there were enough residences that agreed to curbside delivery that convinced the post office to change the zip code. He stated that the residents that would not agree to curbside service will keep their doorstep service. Commissioner DeVane suggested that they follow the procedures outlined in the ordinance to obtain permission from the City to allow them to have a curbside mailbox. She stated the City would also have some specifications as to the aesthetics of the mailboxes being installed instead of the post office installing standard ones.

**Motion made by Commissioner Eckbert to accept the ordinance on first reading, seconded by Commissioner Storer. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

- c) AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO BOATING AND WATER SAFETY; PROHIBITING WAKEBOARDING ON LAKE MIZELL; PROVIDING AN EFFECTIVE DATE. First Reading

City Manager Williams spoke about the ordinance dealing with the problem of wakeboarding causing erosion. Attorney McCaghren read the ordinance by title.

Virgil Sanchez, 1200 Osceola Avenue, spoke in favor of the ordinance because of their sensitivity to the environmental issues that evolves from this activity. He also stated that they want to allow skiing and tubing on the lake. No other public comments were made.

Upon comments and questions by the Commission, a **motion was made by Commissioner Eckbert to accept the ordinance on first reading, seconded by Commissioner Storer. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

- d) Appeal by MB Partners LTD of a determination by the Building and Zoning Official that land zoned Parking Lot (PL) to be used as parking or storm water retention for a commercial development cannot be used in the calculation of available land toward the floor area of an adjacent single family house.

Planner Jeff Briggs stated that the applicant is contesting staff's interpretation and application of the zoning code. He stated this is related to the lots on Carolina Avenue and the rezoning of the rear 36' of four of those lots to a parking lot district so they could be used for parking or stormwater retention. He presented a map showing a possible future development of a bank on Morse Boulevard and how the 36' could be used for stormwater retention. He addressed the remaining 50' x 110' lot when the 36' is subtracted and the four new homes that are supposed to fit into the City's rules for that lot that is left over after the south 36' is used for stormwater retention for the commercial project.

He stated the first home is almost completed and the applicant has brought in the plans for the second home which exceeded the floor area ratio by about 150 square feet which made it too large for the 50' x 110' lot left over. He stated the applicant responded that they would keep ownership of the 36' and give an easement to the bank so they can use it for stormwater retention but as long as they still own it, they would use the 36' towards the floor area ratio and at the same time use the same 36' towards the stormwater retention for the bank. Mr. Briggs stated they explained that this is not how the code works and explained the definition of floor area ratio within the code. He stated that if you are using the land in connection with the commercial building as stormwater retention, it is not being used in connection with a single family house. He stated the only land being used in connection with the single family house is the 50' x 110' lot which has to fit within the floor area ratio rules for that amount of space. He stated this is what Mr. Bellows is contesting.

He stated that the Planning and Zoning Commission denied the appeal and agreed with staff and the City Attorney interpretation. He stated one of the reasons this developed because the City tightened up its code a few months ago when the R-2 zoning district changes were made. He stated under the previous code, the 150 square feet potentially would have been permitted. He stated the P&Z offered to the applicant to amend the existing development agreement that the applicant build a house over 150 square feet on one lot but to build the next house 150 square feet under as long as they both averaged over the 2 or 3 lots to meet within the code. Mr. Briggs explained the difference between the old and new code. There were questions and comments asked and given by the Commission.

Dan Bellows, 533 W. New England Avenue, addressed the developer's agreement and the first house being up. He stated the next house is what they consider a true market rate house for the street and will set a nice tone for what they are trying to accomplish. He stated when they designed the house, it was permitted at the time. He commented that he tried to make the point to the P&Z that they can use the property as a parking lot or stormwater with the zoning right now and that he is willing to give up the parking lot use and only use the stormwater component. He stated that they feel there should be some latitude with allowing the stormwater to be put in and to take advantage of the floor area ratio because of building the single family home which met the code as they went through the process. He stated the stormwater will be toward the rear of the property and will be receiving the benefit of the project on Morse Boulevard. He also spoke about the Morse Boulevard and New England Avenue facade guidelines that were adopted and the Hannibal Square design guidelines that were never adopted that he believed had been. He did not agree with minimizing

the other homes to be built as suggested by the P&Z. He concluded by stating they did not design the house and try to enlarge it 150' after the fact. He stated they are not going to turn the attic into a bedroom. There was further discussion regarding the proposed location of the stormwater retention and the importance of following the code.

John Gigliotti, Liberty Development USA, speaking for Mr. Bellows, addressed the issue of the height of the outside wall where the mechanical equipment is stored in the upstairs portion of the house being more than 12' tall. He stated they are willing to sign a deed restriction stating this will not be used as a bedroom. He addressed the frustration of having to go back and redesign the house to fit on the lot.

Lurline Fletcher, 790 Lyman Avenue, spoke against the construction of two story houses on the Westside.

Frank Baker, 450 Northwood Circle, spoke against the appeal in that the code should be followed and that the houses should be one story.

Mayor Marchman asked if this could be handled as a variance in lieu of an appeal. Building Official George Wiggins stated that the Board of Adjustment would find it difficult to grant a variance because of the lack of criteria with it being a new house on a vacant lot unless the P&Z or Commission ascribed unique criteria to that block of the City that would give the Board of Adjustment grounds for granting a variance.

Discussion ensued regarding the grandfathering of projects that meet the code before the code was amended. Mr. Briggs stated you technically are not grandfathered in until you have your permit but that they try to work with applicants. Mr. Briggs addressed the zoning being changed in February 2002 and that the code did not change until 3-4 months ago which gave the applicant 18 months to permit the house before the code was changed.

Mr. Wiggins displayed the area of the house on the second floor that exceeds the FAR. He stated that this area can be occupied and is usable floor area. He stated that under the previous provision this room could be occupied, regardless of the recent code change, even if this was applied for a year ago. He stated the appeal being heard today has some merit but does not apply to this situation because there is an extra area that exceeds the floor area ratio based on the size of the lot. He added that you cannot count property off of this lot towards the floor area ratio. He stated he would have denied this request months ago if they requested this because it is a second floor room.

Mr. Gigliotti commented that if the ceiling is 7' that this would have been a permissible structure and that the ceiling in the mechanical room is lower for duct work, etc. Mr. Wiggins responded that this is an interpretive issue which is reviewed at plan review. He stated the 7' rule is not in the code and is an issue of consideration on whether this is an unhabitable space. Mr. Wiggins agreed that under the previous code there was a judgment call that may have allowed the applicant to build this house and still be in code which explains the P&Z offer to amend the developer's agreement.

**Motion by Commissioner DeVane to deny the applicant's appeal on the building official's determination, seconded by Commissioner Storer. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

e) Request of Darryl Straughter:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58 LAKE DEVELOPMENT CODE, ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF GENERAL COMMERCIAL (C-3) DISTRICT TO CENTRAL BUSINESS (C-2) DISTRICT ON THE PROPERTY LOCATED AT 470 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney McCaghren read the ordinance by title. Planner Jeff Briggs addressed the location and small size of the vacant lot which is one of the original commercial lots in Hannibal Square before the CRA. He stated Mr. Straughter wants to build a commercial building on this property and that it will contain two apartments on the upper floor. He addressed the Planning and Zoning Commission recommendation of approval to rezone from C-3 to C-2 and that they tabled the building approval until more detailed plans are provided. The representative for the request was not present.

The following public comments were made:

Lurline Fletcher, 790 Lyman Avenue, spoke against large buildings on the Westside.

Jesse Fitzgerald, 691 Symonds Avenue, stated this is a nice building for the area and will enhance the community.

**Motion made by Commissioner Metcalf to accept the ordinance on first reading, seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

f) Request of Jeff Hamilton for final subdivision plat approval for the Hamilton Place subdivision of 17 single family lots to construct new custom single family homes on 3.3889 acres located south of Beloit Avenue and east of Denning Drive.

Planner Jeff Briggs explained that Special Counsel Scott Glass would be presiding for this hearing because of the previous conflict with the Morse Foundation being the previous owner of the property. He summarized that while the final plat was in substantial conformance to the preliminary plat, there were some modifications. He explained the change in density of the project from 12 lots, each one holding a two unit townhouse (24 units) to 17 single family R-2 lots. He also addressed the proposed asphalt paving of the road and the gaps left on Beloit that would not be paved to eliminate Beloit from becoming a cut through street. He stated that staff believes that the gaps in the road will require paving in the near future and disagreed that this is the proper traffic calming measure for this road. He stated that Public Works is insisting that the entire road be paved.

He addressed the park being provided as part of this development, the remedy of the garage doors that were facing north towards Beloit (Mr. Kimble's concern) that he will now see a park and fence, a change in the retention area to a 6' deep concrete lined walled retention facility, the 4' aluminum picket fence around the retention pond as well as irrigated landscaping and hedging on the exterior sides, the planting of cypress trees in the pond area, and the use of keystone block for a retaining wall. He stated that the perimeter fencing/walling for the development needs to be discussed which

is now planned for the rear of lots 1-6 to have a uniform, maintainable fence along the park.

He stated a resolution is also required as to what to do at the end of the cul-de-sac where the 25' of the Capen Avenue right-of-way exists. He stated it was always agreed that a solid fence/wall barrier was needed at the end of the cul-de-sac to block vehicle headlights from going into the rear of the homes on Northwood Circle. He addressed the staff and the P&Z recommendation to construct a block/brick wall on the east side of the 25' right-of-way on the rear of the Northwood Circle homes. He stated there is also a developer's agreement included in this request which will have to be amended to include the conditions the Commission adopts and any representations that the applicant makes that are not part of the exhibits. He stated that staff believes the plat can be approved but suggested the five conditions included in the staff report which he explained, except for the homeowner's association to be responsible for the maintenance of the stormwater, the public park, and the unimproved right-of-way.

Commissioner DeVane asked why this did not go back to the Planning & Zoning Commission because a different plan is being submitted to the Commission. Mr. Briggs responded that the applicant believed this is in substantial conformance with the preliminary plat because of the layout of the streets and lots are the same and other reasons they may add to that. He stated this is a judgment call of the Commission.

Attorney Susan Johnson-Velez, representing the applicant, addressed their submittal of the revised plat in response to comments and concerns of the Commission on May 27. She commented that the changes were a result of trying to satisfy the park requirement which was a significant concern. She stated the single family residences are in keeping with what currently exists on the property and consistent with the neighbor's wishes and resulting in a reduction in density. She addressed a neighborhood meeting held on June 28, 2003, to reach a consensus with the issues of concern. She summarized the items noted in the denial in May as made part of the packet and dated June 27, 2003, concerning building elevations and a materials list, traffic concerns for the intersection of Denning and Beloit, the Northwood wall issue being resolved, the screening of the rear drives of the lots on the north side of the street within Hamilton Place from Mr. Kimble's property, and the lack of dedicated park space and how they resolved those concerns.

Engineer Hugh Lokey, 641 W. Michigan Street, Orlando, explained the retention area and the split block around the retention area.

Traffic Consultant Bill Tipton, Jr., Tipton Associates Incorporated, 760 Maguire Boulevard, Orlando, explained the daily and p.m. peak-hour trip generation calculations they accomplished using the ITE Trip Generation, 6<sup>th</sup> Edition. Mr. Tipton provided documentation reflecting these results. How the calculations were accomplished and other issues such as potential cut through traffic were commented on.

Mr. Lokey stated they submitted plans to pave the entire road from Denning to Oaks Boulevard. Commissioner DeVane asked what happened to the issue of bricking the road. Mr. Lokey responded because they scaled down the project, they did not believe it was financially viable but would be willing to brick the road if the City paid the differential in cost from asphalt to brick.

Landscape Architect August Schwartz summarized the landscaping plan, including the number of trees and the type of landscaping proposed for the project.

Attorney Johnson-Velez responded to the question as to why this request was not sent back to the P&Z. She stated that this resulted from the neighborhood meeting and trying to address the Commission concerns and at this point there is nothing for the P&Z to consider. She stated that these are final construction drawings and the P&Z would just send this right back to the City Commission. She asked for approval of the plan. She submitted that this project exceeds the code requirements and substantially conforms with the preliminary plat that was previously approved which staff has testified consistently with. She asked for guidance from the Commission as to what they want to happen on Beloit Avenue and Capen Avenue and to allow them to move forward in redeveloping this property. She asked to be allowed time for a rebuttal after the public comments.

Applicant Jeff Hamilton stated that they worked hard to accommodate the City and the neighbors and have made a lot of progress. He spoke about the neighbors at the meeting being very positive.

A recess was taken from 5:55-6:05 p.m.

The following public comments were made:

Dr. Bette Tallen, 1120 Kenwood Avenue, spoke in favor of the project but had concerns with paving all of Beloit Avenue because of the trees that would have to be taken down on the right-of-way that would change the character of the neighborhood. She asked that only the certain portions be bricked. She expressed concerns with the installation of a fence on the side of Northwood being connected to the other fence which will deny access to the rails to trails program. She expressed concerns with the many months the process has taken which she believed to be too long.

Francesca Moore, 1207 Kenwood Avenue, opposed the project because of the number of homes being proposed and because it did not go back through the Planning and Zoning Commission.

Shay Silver, 735 Pansy Avenue, spoke against the project not going back through the P&Z. She asked that deed restrictions control clear cutting of the trees and any building materials that may follow; that the wall be constructed on the west side; that the retention be put underground; that a real traffic study be performed; and that 10 homes be built, not 17.

Steven Moore, 1207 Kenwood Avenue, expressed concerns with paving the section of Beloit because it would generate more traffic on Kenwood. He stated that Beloit should be bricked. He expressed concerns with a fence on Capen Avenue and the retention wall.

Thomas Kimble, 1070/1090 Oaks Boulevard, spoke in favor of the single family homes and what is being presented.

Michelle Rodriguez, 1667 N. Park Avenue, addressed her problem with the type of retention being proposed. She asked it be underground or reduce the number of lots to help make the pond a dry one.

Kevin Barry, 1200 Kenwood Avenue, spoke in favor of bricking Beloit Avenue all the way down, including the cul-de-sac. He had concerns with the retention pond because of the safety of children.

Joan Scott, 1109 Oaks Boulevard, spoke in favor of the development but addressed concerns with the possible cut through traffic with the paving of the road because of Oaks Boulevard being a

narrow street. She asked that the number of homes be decreased and that the landscaper consider the birds and include landscaping with berries.

Attorney Johnson-Velez stated that there were no comments made from the residents suggesting that they have not met the code or are not in conformance with the preliminary plat. She rebutted some of the comments made regarding the detail being submitted at this time for the project and the traffic study that was submitted.

Mr. Lokey addressed the issues brought forward regarding the retention pond. He addressed the type and size of the proposed retention pond. He stated the pond will be dry 99% of the time during the heaviest rainy season and will not be a wet bottom pond. He stated that the wall will be reinforced on a concrete footing, the bottom of the pond is dirt, and they have built in the maintenance aspects of the pond/pit.

No further public comments were made.

Commissioner DeVane asked Mr. Hamilton to work with staff regarding the cost differential to brick the road from Oaks to the Denning intersection. She expressed concerns with the problems at this intersection which needs to be discussed at a staff level, especially if modifications are made to Lee Road. She stated her preference that any wall be constructed adjacent to the west side or up against the Hamilton Place development and not along Northwood Circle. She asked if the zoning will be R-1A in this area and asked that a condition of this development be that it is zoned for single family. Jeff Briggs stated that you can rezone it to single family but cannot take away the development potential with the square footage of the homes because you would be devaluing the value of these lots. He stated that this can be another tool to make it clear that even though it is zoned R-2, that a single family home is all you can get. Special Counsel Glass suggested to reflect single family within the developer's agreement. She also asked if the retention could be made smaller. Mr. Lokey responded that regulations require it to be this size. She asked if there could be another retention area at Lot 7. Mr. Lokey responded that there would be no benefit on Lot 7 because it is the highest place on the site.

Commissioner Storer thanked the neighbors and Mr. Hamilton for their patience. He concurred with staff's analysis not to send this request back to the P&Z. He suggested to take the funds that would have been used for the entire length of road and brick between Kenwood and Oaks which would reduce cut through traffic. He stated he would rather see a permanent wall on the west side of the property. He spoke about the lack of architectural guidelines and design controls in the City.

Commissioner Eckbert spoke about his support of the staff recommendations for the project and how far the project has come since the first proposal of 44 homes for the property. He commended the neighbors and Mr. Hamilton for their efforts. He spoke about his willingness to be flexible if an agreement can be reached between the applicant and staff concerning bricking all of Beloit.

Concerns with the construction of the wall were discussed. Commissioner DeVane suggested to drop the requirement of a wall/fence along lots 1-6 and not require the fence on either side, east or west and if the homeowner's of lots 6-7 decide to put up a fence that would be agreeable. She suggested to only require the fence as the buffer from the trains between lots 7-17 and the retention area.

Commissioner Storer asked Mr. Hamilton if he would be willing to brick Beloit Avenue to Oaks Boulevard if he did not have to build the stucco wall around the development. Mr. Hamilton responded in the affirmative and stated he would be willing to do this as a compromise.

Commissioner Metcalf expressed concerns with having a 4' high aluminum fence blocking a 6' drop because of the possibility of children playing on the fence and having a 10' drop. Mr. Lokey stated the top of the wall that drops into the retention area is set 5'-6' from the property line and you could put the fence on the property line so that you have a 5'-6' space between the fence and the wall and could plant shrubbery interior to the fence. Commissioner DeVane suggested to install a 6' fence and asked that staff resolve this issue.

**Motion made by Commissioner Eckbert to approve the final plat as submitted this evening with the conditions/changes that there be no fencing required on the Capen Avenue side from lots 2-7; that staff's recommendations be included so that the homeowner's association maintains the park, the retention pond, and the non-vacated right-of-way areas; that all of Beloit be bricked from Denning Avenue to the east right-of-way line of Oaks Boulevard; that a black aluminum picket fence be erected on the property line around the retention area with the height to be determined between 4 and 6 feet so there is landscaping outside the fence and within the pond as suggested by staff; that access to Beloit from Lot 1 be deeded; that the cul-de-sac be landscaped appropriately to shield Northwood Circle from intrusion of headlights; and that a developer's agreement be recorded reciting these conditions and limiting the use to a single family subdivision. Seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Metcalf, Eckbert and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

Commissioner Storer disclosed his meeting with Mr. Hamilton after the first denial.

g) Request of Taurus Management Services:

Conditional Use request to allow for a fitness facility or health club to be located within the basement floor space of the existing office building at 1560 Orange Avenue, zoned O-1.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO AMEND SUBSECTION 58-71 "OFFICE (O-1) DISTRICT" TO PROVIDE FOR FITNESS FACILITIES OR HEALTH CLUBS AS A CONDITIONAL USE AND TO AMEND SUBSECTION 58-91 "DEFINITIONS" TO PROVIDE A DEFINITION FOR FITNESS FACILITIES OR HEALTH CLUBS. Second Reading

Planner Jeffrey Briggs summarized the agreements made at the last meeting. He addressed the ten (10) new Orwin Manner conditions that were submitted which incorporates those recommended by the Planning and Zoning Commission and which are in 99% agreement with the applicant. He asked for approval of these 10 conditions as follows:

1. If a lack of parking exists and spill over parking occurs on neighborhood streets, the City of Winter Park shall require the health club facility to make changes and adjustments to programs and use policies to eliminate the problems.
2. The hours for the facility should be limited to 5:30 a.m. to 9:00 p.m., Monday through Saturday, including holidays.

3. Health club membership is to be capped at 1,100 memberships and the applicant has the option to return to the Planning/City Commission to demonstrate that there is sufficient parking on-site that can handle an increase in membership.
4. Security lighting at the health club entrance and Vivian Avenue parking lot shall not be a nuisance due to intensity or glare to neighboring homes.
5. The health club staff must be required to park in the Harmon Avenue parking lot, Monday-Friday from 8:00 a.m. to 5:00 p.m.
6. All health club members and users are to be made aware of the Harmon Avenue parking lot through maps, signs and printed material.
7. Taurus Management Services shall install bicycle racks for a minimum of 12 bicycles within close proximity of the health club entrance. This will encourage neighbors to use the facility and reduce automobile traffic.
8. Taurus Management Services shall install additional concrete sidewalks from the Harmon lot to the proposed health club entrance using the most aesthetic, safe and direct route possible.
9. Taurus Management Services shall complete the sidewalks at the Westchester Avenue and railroad track intersection to encourage pedestrian use by neighbors.
10. This approval is limited to Winter Park Health and Fitness LLC. Any transfer or sale of ownership will require the approval of the City as regards changes to operations, programs, parking, etc.

Attorney McCaghren read the ordinance by title. Albert Livingston, of Taurus Management Services and representing the property owners, addressed concerns with conditions #5 and #10. Condition #5 was changed as shown above to reflect the days and time of the week. Condition #10 was clarified and remained as reflected.

Damien Madsen, 1025 Wilkinson Street, spoke in favor of the project. No further public comments were made.

**Motion made by Commissioner Eckbert to adopt the ordinance, seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Storer, Eckbert, Metcalf and DeVane voted yes. The motion carried unanimously with a 5-0 vote.**

**Motion made by Commissioner Eckbert to approve the conditional use request, with the adjustment to Condition #5 as included above and the interpretation concerning Condition #10 that if the owner sells or transfer his business and the new purchaser agrees to take the business under the same requirements that are currently in place that they do not have to receive approval by the Commission. Seconded by Commissioner Storer and carried unanimously with a 5-0 vote.**

**CITY MANAGER'S REPORT:**

- a) Revised proposal for the joint softball facility to be built at Lake Island Park with Rollins College

Assistant Parks Director Cory Clarke, addressed this item. He stated that this is a revised proposal for the joint softball facility to be built at Lake Island Park. He stated the scope and project changed enough to take it back to the Parks and Recreation Commission. He commented that the project will have to be phased but that the board was still in favor of it. He stated that staff's recommendation is in favor of this proposal.

George Herbst, Vice President/Treasurer, Rollins College, pointed out the difference in the scope of the project. He stated they have received contributions of about \$300,000 toward this project and some of these funds were contingent on the field being playable for the fall season. He further summarized their plans for the field. He stated that Rollins is willing to front the City portion of the funding, with no interest, and a 3 year payoff time period. He stated they will be accommodating to the City on this basis.

**Motion made by Commissioner DeVane to approve the revised proposal, subject to the City's first installment to be made during the 2004/2005 fiscal budget year, seconded by Commissioner Storer and carried unanimously.** Mr. Herbst agreed that the first payment in the 2004/2005 budget year would be acceptable. Commissioner DeVane suggested that Orange County be approached for a Field of Dreams grant to help fund this since this is a softball field.

Commissioner Storer disclosed that he met with Mr. Herbst regarding this issue and is very happy with the City's relationship with Rollins.

- b) Economic Development Advisory Board recommendation to support Enzian Theater's desire to create a three-screen theater in Winter Park.

Economic Development Director Chip Weston addressed the large amount of time and effort made by the advisory board to try and enhance commerce in Winter Park. He introduced Mr. Barnes from the board who presented this request.

Jim Barnes, Chairman of the Economic Development Advisory Board, spoke about the opportunity to bring Enzian to the City to create a three-screen theater in Winter Park.

Sigrid Tieke, on behalf of Enzian, spoke about their desire to bring this opportunity to the City.

The City Commissioners spoke favorably regarding this issue. Commissioner DeVane disclosed that she met with Enzian and Rollins concerning this several times. She addressed the benefits of being in the City.

**Motion made by Commissioner DeVane to support the Economic Development Advisory Board recommendation to actively and enthusiastically support Enzian's desire to create a three-screen theater in Winter Park. The City should consider offering property, through a long-term lease, as an incentive to bring Enzian to Winter Park. Direct staff to immediately begin working with Enzian to find a suitable theater location within the Central Business District. Seconded by Commissioner Eckbert and carried unanimously.**

Staff will provide an update in 30 days.

- c) Tentative Millage Cap.

City Manager Williams stated the staff recommendation is to set the operating millage at 3.654 mills, which maintains the total millage at the FY 2003 level of 4.134 mills.

No public comments were made.

**Motion made by Commissioner Eckbert to set the tentative millage cap for the operating millage at 3.654 mills, seconded by Commissioner Storer and carried unanimously.**

Commissioner DeVane asked that a work session first be scheduled next year to discuss the budget and then decide at the following meeting about the millage cap. There was consensus to hold the first millage and budget public hearing on September 8, 2003, at 5:00 p.m.

d) Temporary lease of space to the Historical Association.

City Manager Williams commented that the Historical Association asked the City to provide temporary space for them at the old police station until Casa Feliz is ready to move into.

**Motion made by Commissioner Storer to authorize the City Attorney to draft and the Mayor to execute a lease agreement with the Winter Park Historical Association for temporary space in the old police station until their new space at Casa Feliz is ready for them to utilize, with the following conditions that they accept the facility "as is"; that they provide proof of general liability insurance naming the city as additional insured with coverage acceptable to the City; and that the term of the lease not extend past April 30, 2004, without additional approval by the City Commission. Seconded by Commissioner Eckbert and carried unanimously.**

Commissioner Storer addressed concerns with the pace the plans for a new City Hall is moving and suggested that if another cultural user exists for the second floor that could provide the same assurances, that they also be offered space under the same circumstances.

The Commission meeting adjourned at 7:40 p.m. to conduct the CRA Agency meeting and reconvened at 7:42 p.m. to complete the Commission meeting.

**CONSENT AGENDA:**

- a) Approve minutes of 7/14/03.
- b) Budget adjustments:
  - 11) Transfer \$74,420 in contractual services to road materials in the Sidewalk, Bikepath & Curb Division and 17,979 to the Stormwater Utility Fund for road materials (\$4,071) and drainage repairs (\$13,908).
  - 12) Formally appropriate a \$129,970 grant received from Orange County for restroom and boat dock improvements at Dinky Dock.
  - 13) Transfer \$2,487 from the Landscaping Division to the Central Park Rose Garden project to purchase additional plant materials.
  - 14) Transfer \$2,400 from the Water & Sewer Fund to the ITS Internal Service Fund to purchase software to troubleshoot water plant operations.
- c) Approve bids, purchases and change orders:
  - 1) WP-5-2003, Purchase of Photographic Film Supplies and Photographic Film Developing: Photographic Film Lot 1 (Polaroid/Kodak film) to B&H Photo; Photographic Film Lot 2 (AGFA/Fuji film) to J&L Photo; Photographic Film Developing to Harmon Photo (Budget: Using Departments)
  - 2) WP-6-2003, Pavement Marking/Street Striping to Fausnight Stripe & Line, Inc. with prices, terms and conditions remaining the same as the original award. (Budget: Public Works/Streets)

- 3) Extension of Bid WP-13-2001, Auxiliary Generator Service, with Industrial Power Services, Inc. with prices, terms and conditions remaining the same as the original award. (Budget: Utilities Maintenance)
  - 4) Extension of WP-14-2001, Lot Cleaning Services for Code Enforcement/Trimming of headstone areas at Palm and Pineywood Cemeteries, with Big Dog's LawnCare with prices, terms and conditions remaining the same as the original award. (Budget: Code Enforcement/Cemeteries)
  - 5) Award for the installation of the lighting for Lake Island soccer fields to Florida Industrial Electric, Inc., \$36,369.00. (Budget: Orange County Grant Funds)
- d) Review calendar and update with upcoming events.

No public comments were made.

**Motion made by Commissioner Metcalf to approve the Consent Agenda, seconded by Commissioner Eckbert, and carried unanimously.**

**NEW BUSINESS:**

1. Mayor Marchman addressed the development of the City Hall property. He stated that St. Joe Commercial provided their understanding in writing about a go forward basis regarding the guiding principles for the City Hall property re-development. Copies were distributed and comments were provided regarding this document. There was consensus to consider this at the September 22, 2003, meeting.
2. Mayor Marchman stated he received a call from a concerned citizen asking if the water restrictions were still in effect and if they were being enforced. City Manager Williams stated that Code Enforcement educates citizens and are cited if they continue to disregard the restrictions. He stated the City will put out an article reminding the public that this is still in effect.
3. Commissioner Storer stated that Upper Park Boulevard was connected to Glenridge today. He asked what type of barrier will be put there until the east/west road is connected. City Manager Williams responded as to his recollection of the agreement.

Mayor Marchman adjourned the meeting at 8:03 p.m.

\_\_\_\_\_  
Mayor Kenneth R. Marchman

ATTEST:

\_\_\_\_\_  
City Clerk