



Planning & Zoning Board Regular Meeting Minutes

October 3, 2023 at 6:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

David Bornstein, Melissa Vickers, Vashon Sarkisian, Warren Lindsey, and Michael Spencer. Also Present: City Attorney Dan Langley. Staff: Director of Planning & Zoning Jeff Briggs; Senior Planner & Zoning Official John Harbilas; Planner II Nicholas Lewis; Planner I Corinna Lundgren; and Recording Secretary Mary Bush.

Absent

Jim Fitch and Alex Stringfellow

1. Call to Order

Chairman David Bornstein called the meeting to order at 5:58 p.m.

2. Consent Agenda

- a. Approve the minutes of September 5, 2023.

Motion made by Melissa Vickers, seconded by Michael Spencer to approve the September 5, 2023 meeting minutes.

The motion carried unanimously by a 5-0 vote. (Jim Fitch and Alex Stringfellow were absent from the meeting.)

3. Public Comments (for items not on the agenda): Three minutes allowed for each speaker

The Board heard public comment from the following resident:

Budd Crossman of 625 S. Phelps Avenue, Winter Park, FL 32789 addressed the Board. Mr. Crossman spoke about concerns regarding more and more massive homes being built in the City. He urged the City to require the owners of homes being built to use metal roofs, closed cell foam insulation, and PV cells to reduce the increasing

demand for electricity that is creating higher electricity costs.

No one else from the public wished to speak. The public hearing was closed.

4. Public Hearings (Public participation and comment on these matters must be in person.)

a. SPR #23-10. Request of Michael Schaefer.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map, aerial, site plan, and proposed elevations for the property. He noted that the applicant was proposing a 2,248-square-foot home which equates to a Floor Area Ratio (FAR) of 22%, well under the 40% maximum code requirement. He also noted that the applicant's proposal included a four-foot encroachment into the front setback, putting the proposal roughly in line with the existing homes on either side. He added that it also included a slight encroachment into the lakefront setback and one additional request for a 38-foot sidewall segment in lieu of the maximum of 36-feet to make room for the side-entry, three-car garage. Mr. Lewis went on to express that the applicant was requesting to remove one of the nine cypress trees located in the rear of the property and would be required to fully mitigate the tree's removal via the City Tree Ordinance. He also expressed that staff had proposed, and the applicant had agreed to, a condition to add a vinyl fence with plantings facing the lakefront along the rear of the driveway to avoid any views of the driveway from the lakefront. He then noted that the applicants were proposing two swale retention areas on the property and a small berm located across the lakefront to help the eight remaining cypress trees with their natural retention to meet the required stormwater storage.

Staff recommendation was for approval with the following conditions:

- That the removal of the one cypress tree be fully mitigated through the City's Urban Forestry Department; and
- That a six foot tall privacy fence with hedges facing the lakefront side of the fence be placed so as the driveway cannot be viewed from the lakefront.

The Board inquired about whether the property was on a sewer system or septic system, if the utilities were underground, and if a condition was needed for the proposed swales.

The applicant, Michael Schaeffer of 2207 Kindle Avenue, Winter Park, FL 32789 addressed the Board. Mr. Schaeffer noted that he had spoken with both neighbors on each side of the property about the proposed project. He also expressed concerns

regarding the proposed measurements for the home's garage door.

The Board asked Mr. Schaeffer if he agreed with the proposed conditions presented by staff. Mr. Schaeffer indicated that he was fine with the condition as proposed. The Board also asked if Mr. Schaeffer had considered undergrounding the utilities on the property. Mr. Schaeffer expressed that if his utility provider, Duke Energy, allowed undergrounding, then he would prefer to underground the utilities.

No one from the public wished to speak. The public hearing was closed.

Motion made by Warren Lindsey, seconded by Michael Spencer, for approval to construct a new, two-story, 2,248 square-foot, single-family home located at 2207 Kindel Avenue on Lake Bell, zoned R-1A with the following conditions:

- **That the removal of the one cypress tree be fully mitigated through the City's Urban Forestry Department; and**
- **That a six foot tall privacy fence with hedges facing the lakefront side of the fence be placed so as the driveway cannot be viewed from the lakefront.**

The motion carried unanimously by a 5-0 vote. (Jim Fitch and Alex Stringfellow were absent from the meeting.)

b. SPR #23-11. Request of Charles Clayton.

Mr. Lewis presented an area map, an aerial, and elevations for the project. He noted that the proposed property meets the 35% FAR requirement, is below the 50% impervious coverage requirement, meets the lakefront setback average, and the pool setback meets the 50-foot minimum requirement. He then detailed the applicant's front setback requests and noted that due to the curvature of the lake the lot is much deeper on its western portion as compared to its eastern portion. He went on to present the applicant's landscape plan and noted that there are no trees to be removed, a nine-foot setback is required from all the cypress tree locations on the property, a small berm across the lakefront for retention is required, and there are proposed swale locations on both sides of the property. Mr. Lewis then reviewed the lakefront review criteria as it related to the request. He noted that no neighbor letters had been received in either favor or opposition of the request and that the request meets the requirements for stormwater retention.

Staff recommendation was for approval with the following condition:

- That the front yard landscape and hardscape calculations be broken down diagrammatically to ensure the 50% front yard landscape requirement is met.

The applicant, Charlie Clayton of 940 Old England Avenue, Winter Park, FL 32789 addressed the Board. Mr. Clayton noted that every tree on the lot would stay and that he had met with the HOA Board for the community, and they had no objections to the request.

No one from the public wished to speak. The public hearing was closed.

Motion made by Melissa Vickers, seconded by Vashon Sarkisian, for approval to construct a new, two-story, 6,433 square-foot, single-family home located at 1214 N. Park Avenue on Lake Maitland, zoned R-1AAA with the following condition:

- **That the front yard landscape and hardscape calculations be broken down diagrammatically to ensure the 50% front yard landscape requirement is met.**

The motion carried unanimously by a 5-0 vote. (Jim Fitch and Alex Stringfellow were absent for the meeting.)

c. Request of Metro Winter Park, LLC: for Conditional Use approval for a two-story, 53-unit multi-family project on the properties at 821 & 831 W. Swoope Ave. and 800, 810 & 830 W. Webster Ave.

Mr. Briggs provided the Board with a summary of the request. He noted that the request had been tabled at the August 1, 2023, Planning & Zoning Board meeting to address concerns raised during the meeting. He also noted that due to the time that had lapsed since the August 1st meeting, a public notice of the request was mailed to all the property owners within a 1,500-foot radius of the subject property. He then presented the applicant's original site plan as a frame of reference and as a reminder of the six duplexes that had been proposed along the frontage of Capen Avenue, which created concerns regarding compatibility with the adjacent neighborhood. Mr. Briggs noted that the applicant replaced the duplexes with seven single-family homes to try and resolve the concerns brought up at the August Planning & Zoning Board meeting. He went on to note that stormwater retention was also a concern that was brought up at the meeting. He indicated that the applicant had been able to increase the stormwater retention from a two-inch standard to a three-inch standard as requested by staff with the creation of two new surface retention swales. He also indicated that at the corner of Swoope and Capen Avenues there will be a retention area that will mostly stay dry and serve as green open space. He then noted that the applicant had been able to revise their plans to meet staff's requirement for a 20-foot clearance separation

for any improvements that would impact the root system and potentially cause harm to the three live Oak trees in the center of the property. He added that the applicant did this in part by reducing the footprint size of building 12.

Staff recommendation was for approval with the following conditions:

- That the six parcels be combined into one replat inclusive of utility easements necessary and that the single-family units be shown as individual lots, so that if there is a desire by current or future owners to sell those individually, it is platted for such.
- That there be no physical improvements within a 20-foot radius of the three existing live oak trees in the interior of the project. Initial pruning/limb removals shall be done under the supervision of the City's forestry staff.
- That the project shall use at least 4 architectural styles from the attached "Style Inspiration" front elevations on the 7 single unit buildings along the Capen Avenue frontage, repeating a style no more than twice. In the event that a style is repeated, it shall include a differentiating color pallet.
- That the landscape plans for both two new surface retention areas include new cypress trees and perimeter fakahatchee or muhly grass/hedging on the sides with vehicular frontage at the corner.

The Board inquired if other City departments had reviewed the stormwater concerns, if there was any opportunity for on-street parking along Capen Avenue, and if the single-family homes would have garages.

The applicant's attorney, Becky Wilson at 215 N. Eola Drive, Orlando, FL 32801 addressed the Board. Ms. Wilson noted that there was a total of 53 units proposed, each with a two-car garage. She also noted that there would be 29 additional visitor parking spaces onsite, and that on-street parking was currently allowed and occurs, but the right-of-way (ROW) just had not yet been completely built.

The Board heard public comment from the following residents in opposition to the request:

Mary Daniels of 650 W. Canton Avenue, Winter Park, FL 32789; Sheila Reid of 780 Carver Street, Winter Park, FL 32789; Bill Cole of 794 W. Swoope Avenue, Winter Park, FL 32789; LaWanda Thompson of 664 W. Lyman Avenue, Winter Park, FL 32789; Ruben Paige of 840 Carver Street, Winter Park, FL 32789; Charles Newton of 631 Swoope Avenue, Winter Park, FL 32789; and Terry Freeman of 663 Dunbar Street,

Winter Park, FL 32789.

No one else from the public wished to speak. The public hearing was closed.

Ms. Wilson addressed the Board. She noted that the property is currently zoned R-3 which allows 17 units per acre. She explained that the applicant's lot is five acres and therefore the applicant would be allowed to build about 84 units with a conditional use permit. She added that the applicant was not asking for any variances and had been willing to accommodate all of the requests of the City. Ms. Wilson then spoke about the surrounding buildings and how they compared to the proposed request. She explained that the applicant had to exceed the St. John's River Water Management Districts' standards, which the City's standards alone already exceed. She then added that she was not suggesting any on-street parking be removed to meet any required radius at the entrance from Swoope Avenue into the project.

The Board inquired about an ingress and egress off Dunbar Street, additional internal parking, the possible loss of parking on Webster Avenue to allow for a right turn only, if there would be sidewalks along Capen and Swoope Avenues, and clarification of the size of the garages for the homes. The Board also asked if a physical component of the existing church building could be saved for historical use before the church is torn down.

The Board then inquired why there was no neighborhood meeting held regarding the concerns of the neighborhood. Ms. Wilson explained that she never suggested it to the applicant since the applicant was not asking to change the future land use or zoning map and she had heard from the community at the August 1st Planning & Zoning Board meeting.

The Board provided their thoughts on the request. Some Board members shared mixed feelings and standing concerns regarding the request, while others felt the applicant had made reasonable adjustments to the request for approval.

The Board recommended that a policy be implemented to require a community meeting for similar requests moving forward and asked that the topic be discussed at future Planning & Zoning Board work sessions.

Motion made by Alex Stringfellow, seconded by Warren Lindsey, for Conditional Use approval for a two-story, 53-unit multi-family project on the properties at 821 & 831 W. Swoope Ave. and 800, 810 & 830 W. Webster Ave. with the following conditions:

- **That the six parcels be combined into one replat inclusive of utility easements necessary and that the single-family units be shown as**

individual lots, so that if there is a desire by current or future owners to sell those individually, it is platted for such.

- **That there be no physical improvements within a 20-foot radius of the three existing live oak trees in the interior of the project. Initial pruning/limb removals shall be done under the supervision of the City's forestry staff.**
- **That the project shall use at least 4 architectural styles from the attached "Style Inspiration" front elevations on the 7 single unit buildings along the Capen Avenue frontage, repeating a style no more than twice. In the event that a style is repeated, it shall include a differentiating color pallet.**
- **That the landscape plans for both two new surface retention areas include new cypress trees and perimeter fakahatchee or muhly grass/hedging on the sides with vehicular frontage at the corner.**

Motion carried by a 3-2 vote. (In Favor: David Bornstein, Warren Lindsey, and Michael Spencer. Opposed: Vashon Sarkisian and Melissa Vickers.)

d. 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 58-84 "General provisions for non-residential zoning districts", to provide definitions and submittal and reporting requirements and other provisions for certification and implementation of development pursuant to the Live Local Act of Florida Statutes.

Mr. Briggs provided a summary of the item. He explained that effective July 1, 2023, the Florida Legislature amended State Statutes to enact the Live Local Act in order to promote the construction of affordable housing. He further explained that there are some facets of the Act that are positive, including the express approval of inclusionary housing ordinances that can require affordable housing as a component of housing projects in certain circumstances. However, there are certain terms in the Act that are not defined as to their meaning as well as other local zoning over-rides that are of concern in the Act.

He noted in particular, the Act overrides local zoning regulations for any housing project, if that project includes a minimum of 40% of the units as affordable housing. In that case:

1. "A municipality must authorize multi-family and mixed-use residential as allowable uses in any area zoned for commercial, industrial or mixed use if at least 40% of the residential units are, for a period of 30 years, affordable as defined in S. 420.004.

2. A municipality may not require a zoning or land use change, special exception, conditional use or comprehensive plan amendment for the building height, zoning and densities authorized under this section.

3. "A municipality may not restrict the density authorized by this section below the highest density on any land in the municipality where residential development is allowed."

4. A municipality may not restrict the height below the highest currently allowed height for a commercial or residential development located within 1 mile of the proposed development or 3 stories."

5. "A proposed development must be administratively approved if the development satisfies the municipality's land development regulations for multi-family developments in areas zoned for such, with the exceptions of densities and height.

Mr. Briggs went on to express that the first purpose of the Ordinance is to provide definitions as to terms used in the Act that are otherwise not defined in order to avoid legal debates between developers and the City as to the meaning of such terms. He urged that the City needs to be proactive in defining such terms as the City understands their meaning to be. He then expressed that the second purpose of the Ordinance is to provide an application and certification process with submittal requirements in order to certify that the proposed housing development does provide such affordable housing as required, submits a commitment to doing such, and provides such information or reporting requirements during the operation of the housing development. He explained that otherwise, under the Act, one can declare that they are providing affordable housing but never demonstrate how they are doing such at any time during the initial approval process, during construction or operation for the 30 years required. He also added that there are no penalties within the Act for non-compliance.

Staff and City Attorney Langley recommended approval.

The Board inquired about how long a development would have to be affordable housing under the Act.

The Board requested to review the definitions, the submissions, reporting requirements, and penalties before deciding on the request.

Motion made by Warren Lindsey, seconded by Michael Spencer, to table the 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 58-84 "General provisions for non-residential zoning districts", to provide definitions and submittal and reporting requirements and other provisions for certification and implementation of development pursuant to the Live Local Act of Florida Statutes to the November 7, 2023 Planning & Zoning Board meeting.

The motion carried unanimously by a 5-0 vote. (Jim Fitch and Alex Stringfellow were absent for the meeting.)

e. Request of the City of Winter Park for: An ordinance of the City of Winter Park, Florida, amending the Comprehensive Plan and Chapter 58 "Land Development Code" Article I, "Comprehensive Plan" so as to adopt a new Comprehensive Plan, goals, objectives and policies document, substituting for the current 2017 Comprehensive Plan adopted on April 24, 2017 together with all subsequent amendments thereto; providing for transmittal; providing for codification, severability, conflicts and an effective date.

Mr. Briggs provided a summary of the request, noting that it had been briefly discussed at the September 24, 2023 Planning & Zoning Board work session. He reviewed the proposed changes which included implementing the City's charter provisions for when four votes are needed for future land use zoning, clarification on transferring development rights if half of a lot is zoned single-family and the other half is zoned R-2, requiring apartment and townhome projects to have a separation in the amount of units in a building, changing the density in R-4 districts from 25 to 17 units, clarifying how the City interprets zoning along Park Avenue, updating the FAR provision for rear parking lots, clarifying institutional future land use revocation, and implementing historical preservation provisions on lakefront lots. Mr. Briggs informed the Board that consultant Pat Tillman from Inspire Place Making Consulting was present for any questions on the current south of Fairbanks Avenue (SOFA) district study.

A brief discussion ensued with the Board about the proposed housing linkage fee and what other cities are doing regarding housing linkage fees.

Staff recommendation was for approval.

No one from the public wished to speak. The public hearing was closed.

Motion made by Melissa Vickers, seconded by Vashon Sarkisian, to approve an ordinance of the City of Winter Park, Florida, amending the Comprehensive Plan and Chapter 58 "Land Development Code" Article I, "Comprehensive Plan" so as to adopt a new Comprehensive Plan, goals,

objectives and policies document, substituting for the current 2017 Comprehensive Plan adopted on April 24, 2017 together with all subsequent amendments thereto; providing for transmittal; providing for codification, severability, conflicts and an effective date.

The motion carried unanimously by a 5-0 vote. (Jim Fitch and Alex Stringfellow were absent for the meeting.)

5. Action Items

6. Non-Action Items

7. Staff Updates

8. Board Comments

The Board reiterated their desire to consider instituting a mandatory or recommended policy for certain development applicants to have a community meeting.

Mr. Briggs noted that the topic would be placed on an upcoming work session agenda for the Board.

Chairman Bornstein expressed disappointment that not all Board members were able to attend the meeting, since the agenda included a significant action item for the City.

9. Upcoming Agenda Items

10. Adjournment

The meeting adjourned at 7:55 p.m.

Minutes approved by the Board on November 7, 2023.

ATTEST:

/s/ Recording Secretary Mary Bush