



Planning & Zoning Board Regular Meeting Minutes

August 6, 2024 at 6:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

Alex Stringfellow, David Bornstein, Michael Spencer, Warren Lindsey, Jim Fitch, Bill Segal, Jason Johnson

Absent

None

Staff Present

Director of Planning and Zoning Allison McGillis, Planning Consultant Jeff Briggs, Senior Planner/Zoning Official John Harbilas, Planner II Nicholas Lewis, Administrative Coordinator Mary Bush

1. Call to Order

Chairman Bornstein called the meeting to order at 6:00 p.m.

2. Consent Agenda

- a. Approve the minutes of July 2, 2024.

Motion made by Warren Lindsey, seconded by Michael Spencer, to approve the July 2, 2024 meeting minutes.

The motion carried unanimously by a 7-0 vote.

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

No one 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. ZTA #24-05 Request of the City of Winter Park for:
 - An Ordinance to amend Article V, Divisions 6 and 8 of Chapter 58 of the Land Development Code concerning

Tree Preservation and Protection and Landscape
Regulations.

Mrs. McGillis provided a summary of the item. She noted that staff had made the changes to the ordinance that were requested by the Board at the June work session and July regular meeting. She then reviewed the changes that were made to the ordinance. She explained that residential was clarified to refer to single-family and duplex developments and non-residential was clarified to refer to office; commercial; industrial; Orange Avenue Overlay (OAO); and Public, Quasi Public (PQP) zoning. She also indicated that the language regarding the process of appeals was clarified by adding a detailed timeline of the process and a list of the documents necessary to make an appeal.

Staff recommendation was for approval.

A brief discussion ensued regarding when a penalty would be assessed, how the penalty amount would be determined, how the irrevocable fee of \$5,000 would be applied, and when the penalties would become enforceable. City Attorney Langley noted that the penalties are cited in the Statutes regarding code enforcement and are determined by the city's Code Compliance Board. Discussion then continued regarding the inclusion of language identifying who is able to waive or reduce the penalties and whether the stated 12% accrued interest for nonpayment of a penalty can be reduced.

City Attorney Langley was asked by the Board to assist with a recommended motion. Attorney Langley indicated that the Board could recommend approval of the ordinance subject to the changes clarifying the code enforcement penalty section to clarify that the \$250 penalty is for a first-time violation and the \$500 per day penalty is for a repeat violation; and changing the interest accrued to track Florida Statute Chapter 55, Section 03 regarding interest for post-judgments, where interest varies on an annual basis.

A brief discussion ensued regarding the section of the ordinance that references replacement of protected trees with three-inch trees and whether a citizen has a duty to physically provide the city with a letter from a landscape architect or arborist certified by the International Society of Arboriculture (ISA) if it is not directly requested by the city.

The Board heard public comment from the following residents:

Did not confirm opposition or favor of the request:
Gigi Papa of 1440 Hibiscus Avenue, Winter Park, FL 32789

Opposed:
Stephanie Breske of 640 Berwick Drive, Winter Park, FL 32789

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

A brief discussion ensued about whether fines could be reduced before being imposed during the code enforcement process. The Board then expressed a desire to include language in the ordinance regarding the ability of the Code Enforcement Board to waive or reduce the fines.

Motion made by Warren Lindsey, seconded by Bill Segal for approval of an Ordinance to amend Article V, Divisions 6 and 8 of Chapter 58 of the Land Development Code concerning Tree Preservation and Protection and Landscape Regulations, inclusive of the recommendations made by staff, the Board, and the revisions as recommended by the city's attorney.

The motion carried by a 6-1 vote. (In Favor: David Bornstein, Alex Stringfellow, Michael Spencer, Warren Lindsey, Bill Segal, and Jason Johnson. Opposed: Jim Fitch)

- b. CU #24-08. Request of Rollins College for Conditional Use and Special Permit approval to build a 45,842 square foot Rollins Faculty & Staff housing building of 30 units that is a combination of two and three stories.

Mr. Briggs provided a summary of the item. He noted that the item was a continuation of the request that was heard and tabled at the June 11, 2024 regular meeting. He indicated that the applicant had provided two site plan options and option #2 was preferred by staff due to it having a parking layout consistent with the needs of the project as well as improved articulation and setbacks. Mr. Briggs then noted that at the June 11, 2024 meeting, the Board requested that the applicant have a community meeting, submit a community benefit agreement with the conditions of approval that were discussed, and for the applicant to consider a fee in lieu if they were to seek a waiver of their ad valorem taxes. He added that the applicant had complied with the community meeting and the community benefit agreement but needed to further discuss the fee in lieu with the Board. He then advised the Board that they could not table the item any further.

Staff recommendation was for approval of site plan Option #2 with the following conditions:

- Rollins shall provide a 5-foot easement along the West Welbourne Ave for City to install on-street parking and street trees in bump-outs
- Approval shall prohibit undergrad and grad housing and no classroom instruction space
- Property to remain subject to ad valorem taxes unless otherwise permitted by FL statutes

- Landscape plan approved by city staff with no drainage swales along the Welbourne Avenue frontage to inhibit the landscape design
- Construction plans to indicate laydown area during construction
- Lease of units by Rollins College shall be a minimum of 6 months; only plants and patio furniture on patios and balconies
- Solar on roof (specs TBD)
- Rollins and City to coordinate on undergrounding of powerlines

The Board inquired about who conducted the community meeting and its results. Mr. Briggs noted that the agenda and minutes from the community meeting were included in the Board's meeting agenda packet. The Board also expressed a desire to know if the applicant would agree to pay at least 29% of what would normally be assessed for ad valorem taxes on the property, what aspect of the project staff considered a community benefit, and what part of the community benefit agreement indicates that the rents to be charged for the apartments will comply with attainable housing standards.

The applicant's attorney, Becky Wilson at 215 N. Eola Drive, Orlando, FL 32801 addressed the Board. Attorney Wilson spoke about the changes that were made since the first hearing on the item. She noted that the applicant was proposing to tear down 14 existing units and build a total of 30 units. She also noted that the applicant was willing to agree to 61 parking spaces to accommodate a pocket park. She then indicated that the Board had asked the applicant to include a restriction in the community benefit agreement that Rollins College would own the property for 30 years and not sell it, which the applicant agreed to. She then went on to explain that the applicant intended for the units to be workforce and attainable housing for faculty and staff of the college but was not willing to agree to any specific ranges of Area Median Income (AMI). Attorney Wilson further indicated that the applicant had agreed not to use or allow the use of the units for undergraduate or graduate housing, classroom instruction, or transient housing. She added that the applicant had also agreed to an additional landscape plan, a method of transportation and construction plan, the placement of solar panels on the roof, relocating the existing power lines along Welbourne Avenue, and a five-foot easement that would include a bumpout. She then noted that the applicant was not willing to pay a fee in lieu if they are granted a waiver of ad valorem taxes.

She also expressed that Rollins College is one of the largest taxpayers in the city and consistently partners with its police, fire, and rescue services.

Discussion then ensued about the extra parking spaces the applicant was willing to agree to, using AMI as the maximum rent for the units, removing the applicant's ability to amend the community benefit agreement, why the community meeting minutes were not signed, and a concern regarding the preliminary drainage analysis. Attorney Wilson indicated that the applicant was not willing to agree with removing their ability

to amend the community benefit agreement.

The Board heard public comment from the following residents:

Did not confirm opposition or favor of the request:

Robert Higgins of 100 S. Virginia Avenue, Winter Park, FL 32789; Jim Constantine of 430 W. New England Avenue, Winter Park, FL 32789

In favor:

Donald Davison of 1000 Holt Avenue, Winter Park, FL 32789; Carroll Coggin of 3774 Kinsley Place, Winter Park, FL 32789; Forest Michael of 358 W. Comstock Avenue, Winter Park, FL 32789

Opposed:

Dykes Everett of 216 Park South, Winter Park, FL 32789; Michael Dick of 100 S. Virginia Avenue, Winter Park, FL 32789; Denise Gillespie of 1608 Hibiscus Avenue, Winter Park, FL 32789; Gigi Papa of 1440 Hibiscus Avenue, Winter Park, FL 32789; Roda Ward Carter of 840 W. Canton Avenue, Winter Park, FL 32789; Stephanie Breske of 640 Berwick Drive, Winter Park, FL 32789; Mark Gillespie of 1608 Hibiscus Avenue, Winter Park, FL 32789

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

Attorney Wilson addressed the Board and noted that the zoning for the property is R-3 and commercial use is not allowed. She also noted that the applicant would not be seeking any Live Local preemption or project. She then recommended that the city attorney work with her to create a clause in the community benefit agreement that would require any amendment to the agreement to be noticed in the same manner that a conditional use is noticed and then required to be heard by the Planning & Zoning Board for approval.

A brief discussion ensued regarding whether the applicant would agree to an amendment clause in the community benefit agreement that would prohibit an amendment to allow students to live in the apartments. City Attorney Langley then clarified how the applicant would be able to amend the conditions of approval of the conditional use permit.

The Board shared their thoughts on the request and had varied opinions on several key aspects of the project.

Motion made by Warren Lindsey, seconded by Michael Spencer for Conditional Use and Special Permit approval to build a 45,842 square foot Rollins Faculty & Staff housing building of 30 units that is a combination of two and three stories, with the following conditions:

- **Approval is for Site Plan Option #2 with 60 parking spaces**
- **Approval is subject to the proposed Community Benefit Agreement incorporating conditions and commitments and with amendments to it,**

such that:

- (a) There will be no opportunity to alter the prohibition of undergraduate and graduate housing and no classroom instruction space and that Rollins College would not be permitted during the agreement's 30-year term to be able to change that provision;**
- (b) That Rollins College would not be allowed to request any changes to the Agreement for a minimum of five years;**
- (c) That if, subsequently, Rollins College were to request an amendment to the Agreement, that it be advertised and noticed for public hearing by the Planning & Zoning Board and City Commission;**
- (d) That in the event that Rollins College obtains an exemption from ad valorem taxes, such action would trigger a binding pilot payment in lieu of taxes agreement that would require Rollins College to pay the equivalent amount of City millage and ad valorem taxes for the categories of City of Winter Park taxes, City of Winter Park debt amount, and City of Winter Park storm water agreements.**

The motion carried unanimously by a 7-0 vote.

Chairman Bornstein called for a recess at 8:15 p.m. The meeting reconvened at 8:21 p.m.

- c. CU #24-10. Request of DI Partners LLLP for: Conditional Use approval to construct 26,210 square feet of one-story retail and restaurant space with approximately 106 parking spaces on the properties at 805, 801, 771 W. Fairbanks Avenue and 555 S. Capen Avenue, with vested Commercial (C-3) zoning together with a Community Benefit Agreement that includes transportation, storm water retention and flood control improvements.

Mr. Briggs provided a summary of the item. He noted that the properties on the north side of Fairbanks Avenue need redevelopment. He also noted that the applicant's property is of very shallow depth and, in the rear, abuts residential properties. He added that the applicant's request was for a one-story commercial retail and restaurant space with parking that meets code. He then indicated that there would be one exit from the property along Fairbanks Avenue and an entry to the property on Capen Avenue as well as Denning Drive. He then noted the applicant was requesting only two variances that were a result of requests by the city. He explained that the city had asked the applicant to donate ten feet of the property along Fairbanks Avenue to create a left- hand turn lane at Denning Avenue, two feet along Fairbanks Avenue to increase the traffic lanes from nine feet to ten feet, and to allow a joint stormwater flood control facility to be placed on the applicant's vacant property at the corner of Comstock Avenue and Denning Drive, to which the applicant agreed. He added that in return for the donations, the applicant requested a credit for the Transportation Impact Fees and

to revert to C-3 zoning for the property. Mr. Briggs explained that the Orange Avenue Overlay (OAO), within which the applicant's property is located, has a code provision that allows property owners to ask the City Commission to be vested under the previous C-3 zoning. He indicated that at the July 10, 2024, City Commission meeting staff's request to allow the applicant vesting under the C-3 zoning and a community benefit agreement that includes the agreed upon land donations for the project was approved.

Staff recommendation was for approval subject to the Community Benefit Agreement with the following condition:

- That the applicant will landscape and maintain the 10-foot land donation on the north side of Fairbanks Avenue until such time as the turn lane traffic improvement project can be implemented.

The Board inquired about the following:

- how many inches of water the proposed onsite retention pond would be able to accommodate,
- concerns about traffic transitioning from lane to lane after the creation of the proposed turning lane,
- whether the retention pond would be required to permanently stay a retention pond,
- if there had been any concerns about sinkholes in the area reopening,
- what would be in the seven-foot setback of the proposed building at build out,
- if the request was required to be reviewed by an architectural design committee,
- how the location for the dumpsters was determined,
- if the retention pond would include any improvements,
- and if there would be a six-foot privacy wall installed along the northern edge of the parking lot adjacent to the residential properties and along the eastern edge of the retention pond area.

The applicant's representative, Bob Ziegenfuss of Z Development Services at 1201 E. Robinson Street, Orlando, FL 32801 addressed the Board. Mr. Ziegenfuss noted that the dumpster location had been determined by the proximity of the parking spaces to the back entry of the building, and the applicant had committed to installing a masonry wall adjacent to the neighboring residential properties. He also noted that the proposed building was designed to mimic adaptive reuse and that there would be additional use capacity of the retention pond that would be available for city use in the future.

The Board heard public comment from the following residents:

Did not confirm opposition or favor of the request:

Forest Michael of 358 W. Comstock Avenue, Winter Park, FL 32789

In favor:

Frank Hamner of 1011 N. Wymore Road, Winter Park, FL 32789

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

The Board shared their thoughts on the item and were overall in favor of the request.

Motion made by Bill Segal, seconded by Michael Spencer for Conditional Use approval to construct 26,210 square feet of one-story retail and restaurant space with approximately 106 parking spaces on the properties at 805, 801, 771 W. Fairbanks Avenue and 555 S. Capen Avenue, with vested Commercial (C-3) zoning together with a Community Benefit Agreement that includes transportation, storm water retention and flood control improvements, with the following condition:

- **That the applicant will landscape and maintain the 10-foot land donation on the north side of Fairbanks Avenue until such time as the turn lane traffic improvement project can be implemented.**

The motion carried unanimously by a 7-0 vote.

d. RZ #24-04/ZTA #24-06. Request of the City of Winter Park for:

- An Ordinance to amend the existing Multi-family (high density R-4) District zoning to Public, Quasi-Public (PQP) District zoning on the former Winter Park Library property at 460 E. New England Avenue in conformance with the existing Comprehensive Plan Future Land Use designation of Institutional.
- An Ordinance amending the Public, Quasi-Public (PQP) zoning district to establish a new Permitted Use for “performance art venues together with ancillary gallery, educational, rehearsal, recording studios and offices to support the like, within a city-owned building”.

Mrs. McGillis provided a summary of the item. She noted that the City Commission had approved an agreement to lease the former Winter Park Library property at 460 E. New England Avenue to the Blue Bamboo Center for the Arts. She explained that currently, the property is designated as Institutional on the Comprehensive Plan future land use map, while its zoning classification is Multi-family (R-4) district. She further explained that for Blue Bamboo to utilize the property and building as outlined in the lease agreement, the existing R-4 zoning—designated for residential use—must be changed, as it does not permit the intended use either by right or through a conditional use permit. Mrs. McGillis then noted that during the second reading of the lease agreement, city staff engaged in a discussion with the Commission to determine the best path forward for the necessary zoning changes. She indicated that the Commission directed staff to rezone the property to Public and Quasi-Public (PQP) zoning, aligning it with the future land use designation and establishing a new permitted use category that accommodates Blue Bamboo’s

proposed activities. She explained that the new permitted use will encompass "performance art venues, along with ancillary gallery space, educational facilities, rehearsal and recording studios, and offices to support these functions within a city-owned building." She then added that the rezoning Ordinance contains a reverter clause so that if the Blue Bamboo lease ends and there is no assignment of the lease or new lease to another similar third-party user, then the zoning will revert to the R-4 designation.

Staff recommendation was for approval.

The Board inquired about the length of the lease agreement and Mrs. McGillis confirmed that it is a 20-year lease.

The Board heard public comment from the following resident:

Opposed:

Jess Bailes of 201 Chase Avenue, Winter Park, FL 32789

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

Discussion ensued about the Board's purview regarding the request.

Motion made Jason Johnson, seconded by Alex Stringfellow for approval of an Ordinance to amend the existing Multi-family (high density R-4) District zoning to Public, Quasi-Public (PQP) District zoning on the former Winter Park Library property at 460 E. New England Avenue in conformance with the existing Comprehensive Plan Future Land Use designation of Institutional and an Ordinance amending the Public, Quasi-Public (PQP) zoning district to establish a new Permitted Use for "performance art venues together with ancillary gallery, educational, rehearsal, recording studios and offices to support the like, within a city-owned building".

The motion carried by a 6-1 vote. (In Favor: Jason Johnson, Warren Lindsey, Alex Stringfellow, Michael Spencer, David Bornstein, and Jim Fitch. Opposed: Bill Segal)

5. Action Items

6. Non-Action Items

7. Staff Updates

Mrs. McGillis noted that it is crucial to have all Board members attend the next work session on August 27, 2024 due to ordinance and code changes that will be on the agenda to discuss.

8. Board Comments

9. Upcoming Agenda Items

10. Adjournment

The meeting adjourned at 9:08 p.m.

Minutes approved by the Board on September 3, 2024.

ATTEST:

/s/ Mary Bush, Recording Secretary