



city commission agenda item

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| item type | NON-ACTION ITEM | meeting date | March 22, 2010 |
| prepared by department division | Jeff Briggs Planning Department | approved by | <input type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N A |
| board approval | <input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N A | | final vote |

Potential 2010 Comprehensive Plan Changes:

The City Commission requested that staff and city attorney review the Comprehensive Plan and recommend potential changes to address concerns and issues that have been raised. This agenda item is just to introduce the topics. At the next April 12th City Commission meeting, this will be on the agenda as an action item. The suggested modifications fall into three categories; 1) those to adjust policies that may negatively effect property values; 2) those that 'prohibit' asking for a comp. plan amendment or subdivision approval; and 3) those needed to clarify the intent of a policy.

Potential Adverse Effect on Property Values:

1. The residential density permitted in the Central Business District future land use category (17 units per acre) has been questioned due to concerns about decreasing property values and creating non-conforming structures since there are several existing buildings designated CBD with densities significantly in excess of that number. These include the 362 S. Penn. building, the 433 and 444 W. New England Avenue buildings and the Landmark Condominium at 140 E. Morse Blvd.

The previous 1991 Comprehensive Plan and the previous C-2 zoning did not have any maximum residential density limitation. Density was only controlled by the maximum FAR, height limits and parking. The City's Comprehensive Plan version adopted in 2007, had no maximum units per acre density limitation in the CBD category and this was specifically identified by Florida DCA as a reason for the initial finding of non-compliance. DCA specifically directed the City to "designate a density standard, in terms of maximum residential units allowed, for the Central Business District and Urban Use categories". (see attached – item V) Staff then recommended a maximum density of 25 units/acre, which P&Z amended to 17 units/acre and that was subsequently approved by the City Commission.

The primary interest of the City is regulating the size and scale of buildings in the CBD. The 200% FAR limitation, coupled with the existing height limits, setbacks, parking requirements, etc., accomplishes that. If future buildings are properly sized (within the 200% FAR) it should not matter how many residential units are in the interior of the building. Thus, staff would recommend that the Comp. Plan be amended to a higher maximum residential density. If we do make that change, the city attorney would also like to edit that Table 3 on page 1-8 for some of the notes that accompany the table.

2. Historically small lots, zoned R-3, have been used for one story duplexes or two story townhouses. In the 1990's, in order to increase the square footage yield and given the 35 foot height limit in R-3, the city has seen several three story, flat roofed townhouses that are architecturally incompatible with their neighborhood and have generated citizen complaints. The Comprehensive Plan now includes a policy to limit R-3 development to two stories, except in the CBD geographic area. The property value concern raised is related to the loss of potential square footage and that this issue should be decided case by case, not by a blanket prohibition. Staff suggests the following change:

Policy 1-3.8.6: Promote Appropriate Scale and Height for Medium Density Multi-Family Development. Except within the Central Business District geographical area, multi-family residential development on properties less than 15,000 square feet in size within areas designated medium density residential (R-3) shall not exceed two stories in height unless approved by the City Commission.

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Remove "Prohibits" from Comp. Plan Text Policies:

1. The City Attorney is concerned that certain Comprehensive Plan policies that "prohibit" a property owner from applying for a comp. plan amendment are unenforceable. The City adopted these "prohibits" in order to protect certain specific residential areas from being rezoned to commercial or office because the City has repeatedly denied such changes for decades. The city attorney advises that the city can still use strong language such as "in conflict with the goals of the Comp. Plan" or "not deemed appropriate"; it is just that we cannot, as a practical matter, prohibit applications for such comp. plan amendments. However, not every prohibit needs to come out. The City can, by policy, prohibit certain building types or businesses such as tattoo parlors or pawn shops but the city cannot prohibit applications for a comp. plan amendment/rezoning even if it has zero chance of success. Thus, the city attorney recommends the following changes:

Policy 1-3.8.4: Encourage Single-Family Detached Homes. The City shall encourage single detached homes as opposed to apartments and condominiums by discouraging Future Land Use Map amendments from Single-Family Residential or Low-Density Residential to Medium or High-Density Residential.

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Policy 1-4.1.A.3: Comprehensive Plan Amendments from Residential to Office/Professional. Comprehensive plan amendments from residential to office/professional on the south side of Howell Branch Road from the Maitland city limits to Temple Drive shall be deemed to be in conflict with the goals of this Comprehensive Plan.

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Policy 1-4.1.B.14: Maintain Residential Zoning in Certain Areas along Edwin Boulevard and Lakemont Avenue. Comprehensive plan amendments from residential to office/professional or commercial shall be deemed to be in conflict with the goals of this Comprehensive Plan, north of Edwin Boulevard along Lakemont Avenue or on properties fronting on Edwin Boulevard.

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Policy 1-4.1.H.3: Restrictions on Multifamily Development. The City shall discourage Comprehensive Plan Amendments from Low-Density to Medium-Density or High-Density Multifamily Future Land Use Map designations.

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Policy 1-4.1.H.7: Non-Residential Use on Certain Segments of New England Avenue and Symonds Avenue. Non-residential land uses and zoning on New England Avenue between Denning Drive and Pennsylvania Avenue and on Symonds Avenue between Capen Avenue and Pennsylvania Avenues shall be deemed to be in conflict with the goals of this Comprehensive Plan.

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Policy 1-4.1.H.8: Commercial, Office, or Non-residential Development on the East Side of Denning Drive or Webster Avenue. The conversion or redevelopment of any existing residential property fronting on the east side of Denning Drive or on Webster Avenue for commercial, office or other non-residential development shall be deemed to be in conflict with the Comprehensive Plan.

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Policy 1-4.1.J.3: Protect Low-Density Residential Use West of Schultz Avenue within Lawndale, Discourage Non-Residential Encroachment and Maintain the Low-Density Future Land Use Map Designation. The City shall preserve and protect the low-density residential land use west of Schultz Avenue, within Lawndale, in this planning area, from commercial and office encroachment. The Future Land Use Map shall maintain the Low-Density Residential designation and map amendments to non-residential or Mixed Use shall be deemed to be in conflict with the goals of this Comprehensive Plan, within 200 feet of Shultz Avenue.

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2. The City Attorney is also concerned that certain Comprehensive Plan policies “prohibit” a property owner from applying for a subdivision or lot split. This is unenforceable. The City adopted these “prohibits” in order to protect the scale and character of residential neighborhoods and the lakefronts. The city attorney advises that the city can still use strong language such as “in conflict with the goals of the Comp. Plan” or “not deemed appropriate”; it is just that we cannot prohibit applications for such subdivisions of lot splits.

Policy 1-3.6.7: Subdivision of Lot Splits of Single Family Estate Properties. Historically, Winter Park is a distinct residential community in part because of the existence of large estate properties. These existing estates, many with historical or architectural significance, provide a character that in turn creates value throughout the surrounding neighborhoods and the community. Thus, their preservation maintains the attractive character of Winter Park that helps to set it apart from other cities in Florida. The existence of large estate properties dispersed throughout Winter Park adds great attractiveness, appeal and value to residents and potential buyers as contrasted with newer more uniform homogenous subdivisions. In order to protect these features and values and preserve neighborhood character, the City shall strongly discourage any subdivisions or lot splits of estate lots (one acre or greater) within areas designated single family residential.

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Policy 1-3.7.1: Preserve Lakefront Estates. It is a policy of the City and of this Comprehensive Plan to maintain the diversity of sizes of lakefront properties and estates and to strongly discourage the subdivision or split such properties. The City shall preserve low densities along the City’s lakefront property, including larger lakefront estates in order to perpetuate the unique character of Winter Park that sets it apart from other cities throughout Florida.

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Staff Administrative Policy Clarifications:

There are a few Comp. Plan text policies where the wording could be clarified to eliminate confusion about the clear intent of the policy. As long as the City is making other changes, the staff would recommend these text cleanups and clarifications as follows:

1. As we corrected in the Zoning Code, concern has been raised about the unfettered discretion that one sentence in Policy 1-2.1.6 provides to the City Commission to limit and restrict floor area ratio on any project for any reason. That sentence is "The City in the review and approval of specific projects may limit and restrict the achievable floor area ratios." This is certainly not the intended as meant to apply to "any" project, as if the Commission could pick any house or any building and decide to restrict the floor area ratio. It is only in the review of projects via conditional use and subject to those conditional use standards and criteria that the City Commission has such authority. The clean-up is shown below.

Policy 1-2.1.6: Floor Area Ratio Limitations. The floor area ratios detailed in this Comprehensive Plan are the maximum density and intensity parameters potentially permitted in each respective future land use designation. These maximum floor area ratios are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to parking, setbacks, lot coverage and design standards. The City in the review and approval of conditional uses for specific projects may limit and restrict the achievable floor area ratios.

2. The issue and confusion about what is in the Central Business District (as a geographical area), what can be zoned Central Business District (C-2) has plagued staff all through the Comp. Plan and LDC adoption process. Hopefully, the new text added to Policy 1-3.8.11, shown below improves the text and remedies the misunderstandings.

Policy 1-3.8.11: Restriction on the Use of (C-2) Zoning The City shall not permit the use of the C-2 zoning on any property outside of the Central Business District geographical area depicted in the CBD Map located within the definitions sections of this Comprehensive Plan, the area generally described as west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of and including the New York Avenue Corridor, C-2 zoning shall also be permitted on properties abutting Morse Blvd between Capen and Virginia Avenues, abutting New England Avenue between Pennsylvania and New York Avenues, abutting Pennsylvania Avenue between Garfield and Lyman Avenues, or abutting Hannibal Square, East. Central Business District future land use designations or C-2 zoning shall not be permitted by the City for any property outside these designated areas. Properties within the designated areas are not deemed entitled to Central Business District future land use or to C-2 zoning nor should any property owner have any reasonable expectation that CBD FLU/C-2 zoning will be allowed. These are simply the area locations where properties may be candidates for C-2 which may or may not be granted by the City Commission on a case by case basis.

There also is confusion about the policy below from Planning Area G: Downtown/Rollins College. It doesn't mention the properties in the Hannibal Square neighborhood as also

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being eligible for CBD land use or C-2 zoning because those properties are outside of this study area. Yet some are reading this policy such that it is internally inconsistent and in conflict with the policy above. So it appears that the City needs to make both policies read exactly the same as shown below.

Policy 1-4.1.G.15: Limit Use of CBD Future Land Use Designation. The City shall restrict the use of the Central Business District future land use designations and C-2 zoning district to those properties depicted in the CBD Map located within the definitions section of this Comprehensive Plan, generally described as west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of Virginia Avenue. CBD/C-2 shall also be permitted on properties abutting Morse Blvd. between Capen and Virginia Avenues, abutting New England Avenue between Pennsylvania and New York Avenues, abutting Pennsylvania Avenue between Garfield and Lyman Avenues or abutting Hannibal Square, East. Properties with CBD future land use and C-2 zoning outside this geographic area in effect upon adoption of the Comprehensive Plan shall be entitled to utilize the uses and densities permitted.

3. Just as we had with the Zoning Code there is confusion about CBD Map on page D-4 in the definitions section. This CBD Map does not conflict with the policies above. It is only a map of the areas within the CBD that can be zoned C-2, not every area in the City that can be zoned C-2. However, since it is not clear then the City needs to eliminate the confusing text as shown below.

There is also a map issues involving the six properties on the south end of Park Avenue that are zoned C-2 which are not on the map. Those should be added.

There also is a request to include that portion of Morse Boulevard between New York and Virginia Avenues, where the Douglas Grande, Smith Barney and Park West Condos are located, as potential C-2 locations. That is a policy issue for the City Commission to decide.

Central Business District vs. Commercial (C-2) Zoning Map.

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Deleted: Central Business District Future Land Use Designated Area and Commercial C-2 District Zoning Map means the Central Business District Future Land Use Designated Area is shown within the green outlined areas and is the only areas designated with the potential for CBD Future Land Use and associated C-2 zoning within the Central Business District. The red outlined area depicts the Winter Park Central Business District Boundary.

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