



city commission public hearing

item type	Public Hearing	meeting date	May 13, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

Subject: Ordinance to Revise the Definitions for Restaurants Permitted along Park Avenue and New England Avenue within the C-2 zoning district.

On November 26, 2012 the City Commission tabled the Ordinance that involved amending the C-2 commercial zoning rules along Park Avenue for the one block south of Comstock Avenue.

Part of that Ordinance was a definition change to tighten up the Code for what constitutes a fine dining restaurant as a permitted use along Park Avenue and New England Avenue in C-2 zoning. Staff feels that this definition change alone needs action by the City Commission so that staff can better regulate new restaurant development in the downtown core.

P&Z Board Recommendation:

On November 6, 2012, Motion was made by Mr. Johnston, seconded by Mr. Gottfried to approve the proposed ordinance as presented in the staff report to revise the definitions for restaurants. Mrs. Whiting noted the approval is only for restaurants not salons. Motion carried unanimously with a 7-0 vote.

Summary:

The City's C-2 zoning code, in effect along Park Avenue and New England Avenue, makes "fine dining" restaurants a permitted use. Other restaurants (not meeting that definition) are conditional uses which require the provision of parking in order to create a new restaurant location. In effect, "fine dining" restaurants are given a 'free pass' or parking variance if they meet that definition. The intent was to allow, as has occurred, for new restaurants such as Luma, Prato, Paris Bistro, Cucina 214 and Nelore Steakhouse to start up on Park Avenue without having to provide parking.

Unfortunately the only differentiator for "fine dining" versus other restaurants is table service versus counter service. Burger King or McDonald's could come to Park Avenue if they offered table service.

The proposed definition change tightens the rules to accomplish the original intent as well as clarify what is meant by table service. Not the option for table service to be available but the requirement for it in all instances. The proposed definition change is also patterned after Worth Avenue in Palm Beach that prohibits "formula restaurants" with more than three locations in the nation, which in our case will be more than three in the Orlando Metro area.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, TO AMEND CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SECTION 58-75 "COMMERCIAL (C-2) DISTRICT", TO REVISE THE PERMITTED USES ALONG PARK AVENUE, SOUTH OF COMSTOCK AVENUE AND AMENDING SECTION 58-95 "DEFINITIONS" TO PROVIDE DEFINITIONS FOR FAST CASUAL AND FINE DINING RESTAURANTS, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board of the City of Winter Park has recommended approval of revised definitions for this fine dining and other types of restaurants within the C-2 zoning code at its November 6, 2012 meeting; and

WHEREAS, the City Commission of the City of Winter Park held duly noticed public hearings on the proposed zoning change set forth hereunder and considered advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park's Comprehensive Plan.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code", Article III "Zoning" is hereby amended and modified by amending Section 58-95 "Definitions", by revising the definition for "fine dining restaurant" to read as follows:

Sec. 58-95. Definitions.

Fine dining restaurant means any establishment which is devoted to the retailing and on-premise consumption of meals and food where more than fifty (50%) percent of the gross revenue is derived from food sales versus sales of alcoholic beverages and where food service is provided via table service by waiters/waitresses and where the menu shall consist of fine dining cuisine with a range of appetizers, entrees and desserts. Fine dining restaurants shall not include establishments where ordering or payment is done at a counter/cashier and then brought to the table or customer by restaurant staff or any type of fast food business. Fine dining restaurants may provide for ordering and payment at a counter/cashier only and exclusively to accommodate take-out orders but if such food or meals is intended for on-site consumption then such food or meals orders, service and payment must be done for customers at their tables by waiter/waitresses and full table service by waiter/waitresses must be available at all times. Fine Dining does not include any restaurant with a fast casual operational format or any formula restaurant of name or brand or franchise with more than three (3) locations in the greater Orlando metropolitan area or whose most common business model for their restaurants includes a majority of locations with drive-thru or predominately take-out food service, unless approved by the City Commission as providing an economic enhancement to the city's central business district or hannibal square commercial district.

SECTION 21. That Chapter 58 "Land Development Code", Article III "Zoning" is hereby amended and modified by amending Section 58-75 "Commercial (C-2) District", subsection (b) (6) to read as follows:

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

(h) *Restaurants.* The following standards and criteria shall apply:

(4) In the review of these conditional uses, there are determined to be certain types of businesses where conditional use approval is not required. These include ~~One type is the~~ ice cream, frozen yogurt, Italian ice, cookie, coffee shop, tea room, bakery or other business selling solely coffee, teas, bakery goods, dessert items and other accompanying beverages. These businesses have been determined not to be destination oriented, such that they generate parking demand in the downtown during the peak lunch period. These such businesses may also sell a limited menu of breakfast and lunch items provided that the sale of such breakfast and lunch items are ancillary to the primary functions of the business type outlined above and that such items do not account for more than twenty-five (25%) percent of the revenue for such business.

SECTION 3. SEVERABILITY AND CONFLICTS. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4 - EFFECTIVE DATE. This ordinance shall become effective immediately upon its final passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

Existing C-2 code

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

(a) Purpose and intent.

(1) This commercial zoning district is limited to the commercial portion of the geographic downtown area known as the Central Business District and the similar commercial area of the city within the Hannibal Square Neighborhood Commercial District (HSNCD) of the City's Community Redevelopment Area (CRA). As detailed in the Comprehensive Plan, Commercial (C-2) district zoning is not permitted on any property except if it is within the Central Business District "potential C-2 zoning" area depicted in the CBD Map (D-2) in the definitions section, 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 or it is 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. No applications for C-2 zoning shall be accepted for any property outside these designated areas. Moreover, even properties within these designated areas shall have no vested right to C-2 zoning. This district has different requirements than other commercial areas especially pertaining to setbacks, parking requirements, height limitations and permitted land uses. This district is established to encourage the continuation of the present unique Park Avenue business district of the city and to provide for its use within certain other defined geographical areas as specified in the Comprehensive Plan.

(2) The regulations outlined in this district encourage the continuation of the present aesthetically pleasing central business district, provide areas for the concentration of compatible land uses, and provide for appropriate commercial, restaurant and residential uses which will strengthen the city's economic base.

(3) For purposes of this section, the Park Avenue Corridor is that area which encompasses those properties having frontage on Park Avenue or having frontage on the intersecting streets within 140 feet of Park Avenue.

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

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

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

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

(4) Residences located on any floor outside of the Park Avenue Corridor or above the ground floor within the Park Avenue Corridor.

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

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

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

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

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

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

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

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

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

(6) Buildings over 10,000 square feet, any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(d) *Minimum building lot size.* There shall be no minimum lot size in this district.

(e) *Development standards.*

(1) On all streets, buildings and structures shall be built to a zero foot building setback from the property line or such front setback as is established by the average front setback of the existing buildings on that block of street frontage, whichever is greater. However, canopies may extend over the sidewalks provided a clearance of nine feet zero inches is maintained from the sidewalk to the bottom portion of the canopy.