



Planning and Zoning Board Minutes

July 9, 2019 at 6:00 p.m.

City Hall, Commission Chambers
Regular Meeting

Call to Order:

Vice-Chairman Ray Waugh called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall. Present: Ray Waugh, Laura Turner, Laura Walda, Christian Swann, Chuck Bell, Adam Bert and Owen Beitsch (Mr. Beitsch arrived at (6:04 p.m.)). Absent: Ross Johnston. Also Present: City Attorney Dan Langley. Staff: Planning Director, Bronce Stephenson; Planning Manager, Jeff Briggs; Recording Secretary, Kim Breland and Planning Intern, Nicholas Lewis.

Approval of Minutes:

Motion made by Chuck Bell, seconded by Laura Turner, to approve the June 4, 2019 meeting minutes. Motion carried unanimously with a 6-0 vote (Mr. Beitsch was not present for this vote)

Public Hearings:

SPR #19-08 REQUEST OF SHANE AND MICHELLE MCGUINNESS FOR: APPROVAL OF TO CONSTRUCT A ONE STORY, 1,209 SQUARE FOOT ADDITION AND NEW POOL/DECK TO THE SINGLE-FAMILY HOME LOCATED AT 2040 VENETIOAN WAY ON LAKE VIRGINIA, ZONED R-1AAA.

Planning Manager Jeff Briggs presented the staff report by stating that the request was to construct a 1200 square foot addition to the western side of the existing home located at 2040 Venetian Way. There are two cypress trees that will need to be removed; one tree is located in front of the proposed addition and the other is in poor health and located on the property line. The Urban Forestry manager has approved removal of the trees. Mr. Briggs presented slides showing elevations of the home. He discussed issues related to views from the lake, views of neighbors and storm water retention.

Mr. Briggs summarized by stating that **STAFF RECOMMENDATION IS FOR APPROVAL.**

Applicant/Owner Shane McGuinness, 2040 Venetian Way, Winter Park, FL, addressed the Board. He stated that he is very excited to move into the home located on Lake Maitland and thanked the Board for its consideration with request.

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

Mr. Briggs responded to questions from the Board regarding input from the neighbors. He stated that Staff received a letter of support from one of the neighbors. Staff did not receive any other input from neighbors in support or against the request.

The Board discussed and agreed with Staff recommendation.

Motion made by Laura Walda, seconded by Laura Turner, for approval to construct a one story, 1,209 square foot addition and new pool/deck to the single-family home located at 2040 Venetian Way on Lake Virginia, zoned R-1AAA.

Motion carried unanimously with a 7-0 vote.

SPR #19-09 REQUEST OF DANIEL COHEN AND ESTHER KOVACS FOR: APPROVAL TO CONSTRUCT A TWO-STORY, 1,448 SQUARE FOOT ADDITION THE SINGLE-FAMILY HOME LOCATED AT 2104 VENETIAN WAY ON LAKE VIRGINIA, ZONED R-1AAA.

Mr. Briggs presented the staff report. He stated the request was to build a 1500 square foot addition on the existing single-family home located at 2104 Venetian Way on Lake Maitland. The property has a unique history as it used to be on the FEMA maps as what is called a "floodway". Mr. Briggs explained that in the past when the area experienced hurricanes and the lake overflowed, the lake would overflow onto this lot as well as the lot adjacent to it on the west side. He stated that there was an extensive permitting process the applicant had to go through to allow the home to be built on the lot and as a result, the lot has a permanent retention area, which provides retention as well as compensating storage. Mr. Briggs noted that there is a limited amount of land within the buildable area of the lot that can be used for additions such as homes, swimming pools, etc. In terms of the addition, it is only going closer to the lake at approximately 16 feet, which is not significant and is in the area of the lot, which has been previously filled. No trees or views of neighbors would be affected with this addition.

Staff expressed concerns to the owners regarding the pool that was originally proposed with the plans which would go into the slope of the retention pond, may be problematic in the future. Therefore, Staff has added a condition of approval that requires that applicant bring any future plans for a swimming pool/deck before the Board for review and approval. Lastly, Mr. Briggs stated that he spoke with the neighbors at 2112 Venetian Way who were in support of the request. He summarized stating that STAFF RECOMMENDATION IS FOR APPROVAL of the proposed addition with one condition:

- 1. That due to the FEMA floodway status of the property, potential changing of grades, construction within the down slope area of the lot and storm water issues on this site, that any future plans for a swimming pool/deck must be brought back to the Planning and Zoning Board for approval.**

Mr. Briggs answered questions from the Board regarding lakefront setbacks and retention swell requirements.

Applicant, Esther Kovacs 2219 Venetian Way, Winter Park, FL, addressed the Board, she stated that she thanked the Board for their consideration of the request.

Architect, John Hackler, 28 W Central Blvd, Orlando, FL, addressed the Board; he discussed issues related to compensating storage.

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

The Board discussed and agreed with the Staff recommendation.

Motion made by Christian Swann, seconded by Chuck Bell, for approval to construct a two-story, 1,448 square foot addition to the single-family home located at 2104 Venetian Way on Lake Virginia, zoned R-1AAA.

The motion carried unanimously with a 7-0 vote.

SPR #19-07 REQUEST OF PATRICK FINNERTY FOR: APPROVAL TO CONSTRUCT A NEW, TWO-STORY, 4,595 SQUARE FOOT SINGLE-FAMILY HOME LOCATED AT 616 COUNTRY CLUB DRIVE ON LAKE KILLARNEY, ZONED R-2.

Board Member Laura Walda recused herself from this item due to a colleague from her law firm representing the applicant.

Planning Manager Jeff Briggs presented the staff report. He stated that the request was to build a new two-story, 4600 square foot, single-family home at 616 Country Club Drive, zoned (R-2) on Lake Killarney. Slides were presented showing the lot location (also known as Lot 3 of the Lake Killarney replat) where 30 new single-family homes are being located. Mr. Briggs stated that the application for

this request meets all of the criteria with some explanation. He stated that as Staff went through the process of approval of these particular lots, there was an issue of how close the new homes would be in proximity to the lake. There was extensive discussion and debate during the planning process and because of that debate, a condition was placed upon this lot, that in this rare circumstance, the Planning and Zoning Board would make a recommendation, not a decision, for this item to move on to the City Commission for final approval.

Mr. Briggs stated that there was a meeting with the applicant and adjacent property owners where a final agreed upon setback of 70-feet for houses and 50 feet for swimming pools from the lake were determined. In addition, with the 70-foot setback there was the potential to allow front setback variances in order to keep the home further from the lake, thus less obtrusive to the adjacent neighbor. Mr. Briggs stated that the applicant is requesting a five-foot front setback variance for a side entry garage, which will place the garage 20 feet from the road in lieu of the required 25 feet as well as a five-foot front setback variance for the two-story portion above the garage, which places a portion of the home 25 feet from the road in lieu of the required 30 feet. Mr. Briggs noted that he was in contact with the adjacent neighbors who are in support of the request.

Mr. Briggs summarized by stating the application meets the lakefront criteria defined in the code.

STAFF RECOMMENDATION WAS FOR APPROVAL.

Attorney Tara Tedrow of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N Eola Dr., Orlando, FL, represented the applicant. She reiterated that the applicant is requesting the five-foot setback variance on the front because of the side loaded garage. She stated that some P&Z board members, who went through many of the hearings for the Lake Killarney subdivision approvals, might recall that one of the conditions was for the community to have architectural diversity, which includes having front, and side loaded garages on the different properties. In addition, Mrs. Tedrow reminded the board of a letter of agreement from one of the neighbors in the agenda packet in which the applicant addresses the neighbor's setback concerns.

There were no questions for the applicant.

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

Mr. Briggs answered questions from the Board regarding side setback requirements.

The Board reviewed the request and agreed with Staff recommendations.

Motion made by Adam Bert, seconded by Laura Turner, for recommendation for approval to construct a new, two-story, 4,959 square foot single-family home located at 616 Country Club Drive on Lake Killarney, zoned R-2.

The motion carried unanimously with a 6-0 vote.

SPR #19-10 REQUEST OF CLASSIC HOMES FOR: APPROVAL TO CONSTRUCT A NEW 4,473 SQUARE FOOT SINGLE-FAMILY HOME LOCATED AT 570 COUNTRY CLUB DRIVE ON LAKE KILLARNEY, ZONED R-2.

Board Member Laura Walda recused herself from this item due to a colleague from her law firm representing the applicant.

Planning Manager Jeff Briggs presented the staff report. He explained that the request was for site plan approval to construct a 4500 square foot single-family home at 570 Country Club Drive located on Lake Killarney. He provided slides showing the design of the home with a front entry garage. It was noted that the home is at the 25-foot setback with the garage setback at another 10 feet at 35 feet so that there is no straight flat wall at the front, which is more attractive architecturally. He

stated that this home, with the front entry does not require any variances. The plans meet code setbacks as well as the agreed upon setback of 70-feet for houses and 50 feet for swimming pools from the lake. He stated that there were no issues related to tree preservation, views of neighbors, views from the lake or stormwater retention.

STAFF RECOMMENDATION WAS FOR APPROVAL.

Attorney Tara Tedrow of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N Eola Dr., Orlando, FL, represented the applicant. She stated that she was happy to answer questions from the Board and reiterated that the applicant has met all requirements under code as well as the letter of agreement with the neighboring property owner.

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

The Board agreed with the Staff recommendation.

Motion made by Adam Bert, seconded by Christian Swann, for recommendation of approval to construct a new 4,473 square foot single-family home located at 570 Country Club Drive, zoned R-2.

The motion carried unanimously with a 6-0 vote.

SUB #19-04 REQUEST OF GULFSTREAM RESIDENTIAL LLC FOR: SUBDIVISION OR LOT SPLIT APPROVAL TO DIVIDE THE PROPERTY AT 1691 CHESTNUT AVENUE, ZONED R-1A, INTO TWO LOTS WITH 50 FEET OF FRONTAGE ON THE STREET AND 9,074 SQUARE FEET OF LAND AREA FOR EACH LOT. VARIANCES ARE REQUESTED FOR THE PROPOSED 50 FEET OF LOT WIDTH IN LIEU OF THE MINIMUM 75 FEET OF LOT WIDTH REQUIRED IN THE R-1A ZONING DISTRICT.

Planning Manager Jeff Briggs presented the staff report. He explained that the request is for approval to divide the property at 1691 Chestnut Avenue, zoned R-1A into two lots. He provided slides showing the location of the property and general area Staff used as part of the comparison study, which reviews the home sizes within a 500-foot radius of the property requesting the lot split. He remarked that this property is unique because at one time Phelps Avenue is a vacated right-of-way located between the existing home and the adjacent home's side yard. The City vacated the roadway back in the 1970s. Mr. Briggs explained that during that time, it was often the practice of the City Commission, that when right-of-ways were vacated and given to the adjacent owners, for the City Commission to reserve a utility easement over the vacated area to ensure the area would not be built upon or further subdivided.

Mr. Briggs noted that the proposed lots did not meet the minimum 75-foot frontage requirement of R-1A zoning. He explained the City's review process for subdivision and lot split requests. There are two criteria reviewed, the Zoning Test and the Comprehensive Plan Test.

He provided an explanation of the Zoning Test criteria used for this request by stating that the existing property has 100 feet of frontage at the street, which does not compare favorably with the neighborhood. The proposed subdivided lots would have 50 feet of frontage. R-1A zoning requires a minimum of 75 feet of frontage, which requires the need for variances for this request.

Mr. Briggs discussed the Comprehensive Plan Test process. He explained that there are 101 homes in the neighborhood with the same R-1A zoning and reviewed the average and median lot widths for the area. It was stated that the average lot area from this home survey was 10,036 square feet with a median lot area of 10,193 square feet. By those results, the proposed lot widths of 50 feet are 23-25 feet shorter than the neighborhood average. That makes the proposed lot areas approximately 1,000

square feet less than the existing average. It was mentioned that of the 101 lots in the neighborhood only 29% of the lots have 50 feet of frontage and 71% of the lots have 60-75 feet or greater frontage as the code requires. Mr. Briggs continued by discussing the code standards and negative impacts to the adjacent neighbors and he also discussed impact changes to the side setbacks.

STAFF RECOMMENDATION WAS FOR DENIAL

Mr. Briggs answered questions from the Board regarding impacts to tree preservation, FAR and setback calculations, City code as it relates to FAR in R-1A zoning and comparable standards.

Ryan Renardo, Civil Engineer for Gulfstream Residential, 10150 Highland Manor Drive, Tampa, FL, represented the applicant. Mr. Renardo began by providing the total property area of 18,148 square feet and then described the eastern thirty-feet as a right-of-way that was vacated in 1978. Mr. Renardo stated that the city retained a utility easement on the thirty-foot right-of-way. Mr. Renardo then spoke about the history of the platted neighborhood in which the property lies, stating that it is predominately made up of fifty-foot wide lots. Mr. Renardo then went on to describe the applicant's plan to decrease the easement from thirty feet to five or ten feet depending on where the easement lies on the property.

Mr. Renardo then described the future land use data of the property including the future land use of single-family residential and the permitted use of detached single-family housing. He then described that the proposed density is 4.8 dwelling units per acre and that the maximum density is five dwelling units per acre. He then described that the proposed maximum floor-area-ratio is equal to that of the current maximum floor-area-ratio.

Mr. Renardo then provided that the area was zoned R-1A and that the proposed lot area is 500 square feet more than the minimum lot area. He also stated that the proposed frontage at the building line would be 54.8 feet, which is twenty feet less than the minimum frontage of 75 feet. Mr. Renardo then stated the applicant's request for a variance for frontage width reduction.

Mr. Renardo described the Comprehensive Plan Test and explained that the proposed lots are located in the top northeast corner of the platted subdivision. Therefore, it would bring the percentage total of fifty-foot lots to thirty percent of the lots in the 500-foot radius of the lot. Mr. Renardo then presented areas of the comprehensive plan that show the city's desire to keep the existing character. He then described that on Chestnut Avenue, 52% of the lots along Chestnut have fifty-foot frontage.

Mr. Renardo then began talking about the impacts on the surrounding neighbors. He stated that the house to the west was built right at the setback line and is a 4,108 square foot home. He then stated that there is a companion request to vacate the easement, where all utility providers have signed off (though easement vacation has never been approved by the Commission). Mr. Renardo then stated that the applicant does not see anything from the Commission for the easement that shows that there was no intention for development on the easement.

In summary, Mr. Renardo stated that the applicant believes that splitting the lot would be compatible with the surrounding neighborhood and the houses located on Chestnut Avenue. The applicant feels that the project also meets the intent of the comprehensive plan. Mr. Renardo stated that there was no opposition from the neighbors. Mr. Renardo then stated that he was available for questions from the Planning and Zoning Board.

Board member Laura Turner asked Mr. Renardo what the width of the remaining easement would be. Mr. Renard responded that it would be five feet on the property and a total of ten feet where the city storm pipe is located.

Vice-Chair Ray Waugh then asked Mr. Renardo to verify if the angled lots along Phelps Avenue were to be the dividing line between the fifty-foot lots and the larger lots to the east. Mr. Waugh states that because the lot is encroaching on the larger lots, that staff's analysis would be correct. Mr. Renardo responded by stating that if the developers of the original plat knew that Phelps Avenue would not have been extended, then the intent would have been changed to include the larger lots in the original plat as fifty-foot lots.

Mrs. Turner then informed Mr. Renardo that the board received an email from a neighbor of the project opposing the project. The opposing letter stated two reasons for its opposition. The first being that there is not enough precedent of fifty-foot lots along Chestnut Avenue and the second reason is that there is no reason to vacate the thirty-foot easement.

Board member Owen Beitsch asked Mr. Renardo to show the house directly to the west of the lot again.

The Board heard public comment from:

Drew Krecicki, 1711 Chestnut Avenue, Winter Park, FL. Mr. Krecicki stated that he was the neighbor directly to the east of the property and also is the author of the opposition letter received by the board. Mr. Krecicki then stated that he used to sit on the Planning and Zoning Board. He then presented his findings that are congruent with those in the staff report.

Jane Krecicki, 1711 Chestnut Avenue, Winter Park, FL. Mrs. Krecicki stated that she is opposed to the lot split and wanted to give the rest of her time to her husband. Mr. Krecicki then continued by stating that he is opposed to the companion easement because when the property was originally handed over by the city, it was stated that it was to be used for yard purposes only.

John Hughes, 1723 Chestnut Avenue, Winter Park, FL. Mr. Hughes stated that he is a resident in the neighborhood and that he and his wife wanted to let it be known that they would not like the lot to be subdivided.

In addition, the Board heard public comment from Jim Esch, representing Todd and Sandal Scarborough, owners of the property at 1691 Chestnut Avenue. He stated that the owners are in favor of the lot split and unsure of the reasoning behind the hesitancy to build on the easement as it was vacated in the late 1970s.

Motion made by Laura Turner, seconded by Owen Beitsch, to deny the request of Gulfstream Residential LLC for lot split division of the property at 1691 Chestnut Avenue, zoned R-1A, into two lots with 50 feet of frontage on the street and 9,074 square feet of land area for each lot with variances requested for the proposed 50 feet of lot width in lieu of the minimum 75 feet of lot width required in the R-1A zoning district.

The motion carried with a 7-0 vote.

CU# 19-08 REQUEST OF THE MAYFLOWER RETIREMENT COMMUNITY TO: AMEND THEIR PRELIMINARY CONDITIONAL USE APPROVAL AND PROVIDE FOR FINAL CONDITIONAL USE APPROVAL FOR EXPANSIONS TO THE FACILITIES OF THE MAYFLOWER RETIREMENT COMMUNITY TO INCLUDE A 4-STORY RESIDENT CARE BUILDING TO INCLUDE SKILLED NURSING/ASSISTED LIVING/MEMORY CARE; A 1-STORY 9,496 SQUARE FOOT CLUBHOUSE AND 50 NEW VILLA UNITS IN FIVE SEPARATE 3-STORY BUILDINGS OF 24,584 SQUARE FEET IN SIZE ON THE COMBINED 17.5 ACRES OF VACANT PROPERTY AT 1620 MAYFLOWER COURT AND 2141 OAKHURST AVENUE.

Planning Manager Jeff Briggs presented the staff report. He stated that this request is for the Mayflower Retirement Community. The applicant is asking to modify the approvals that were granted in January of 2018. In January of 2018 the Mayflower acquired a property at 2104 Oakhurst which the applicant added to their campus and wanted to expand from the current layout into the wetland area to the west as well as the Oakhurst parcel further to the west. The applicant received approval to make the expansion, which included a new three-story health center building, a one-story memory care building, new clubhouse and four residential villas with ten units each within them.

Mr. Briggs stated that the applicant would like to modify the layout and would like to address the conditions of approval from the original approval received in January of 2018. At that time, the original approval contained four conditions:

1. That the applicant explore options for a bike path connector, per recommendation of the Transportation Advisory Board.
2. That the applicant return to the Planning and Zoning for subsequent review and approval for a fence and landscape buffer plan for the neighbors to the west as well as the Gallery Condos.
3. Hours of construction
4. That the applicant return to the Planning and Zoning board for final approval of the stormwater plan.

Mr. Briggs noted that in August of 2018, the applicant presented their stormwater plans, landscape buffering/privacy fence plans to the P&Z board for final approval.

Mr. Briggs explained that since the original approval the applicant has decided to combine their healthcare facilities into one building. This would combine the three-story health care building and one-story memory care building to construct a single four-story building for the residents all in one facility. He stated that the property is zoned R-4 which allows buildings up to 55 feet which is smaller than the existing Mayflower building. Additionally, the applicant would like to build one additional residential building that would contain 10 extra units, in addition to the 40 units approved in the original application for a total of 50 units.

Mr. Briggs stated that other aspects of the plans have remained the same. There is still a ring road around the project that will provide ample parking for the employees of the healthcare building and other residents in that area. Mr. Briggs showed elevations for the proposed four-story healthcare and as well as elevations for the three-story villas which will be in the area of the property that is zoned R-3, both of which meet code requirements with no variances needed. He pointed out that some of the villas will have garage space for the residents and provided images of the proposed one-story clubhouse. He presented overhead views of the overall proposed project and noted that the four-story building is closest to the existing Mayflower and furthest away from both the residential properties to the east in the single-family neighborhoods as well as the Gallery Condos to the south.

Mr. Briggs briefly discussed traffic generation and remarked that even with adding another ten residential units; any traffic increase would not be significant.

Mr. Briggs went on to show the board the site plan of the overall project, which includes all of the property to the north, which was formerly a wetland area. He noted that the applicant went through an extensive permitting process for the development, which included the applicant purchasing mitigation land to compensate for the wetlands. He briefly discussed water features related to stormwater retention.

Mr. Briggs briefly discussed the landscape buffer for the neighbors, as it is a part of the conditional of approval. He showed views of the intended landscape and privacy buffer. He stated that there will be a metal picket fence around the perimeter of the property for security and on the inside of the fence

there will be a combination of shade trees for the entire length of the western border up against the adjacent neighborhood and the area where it abuts the road, will require a hedge screen. He noted that at the southern portion of the site, the applicant would place a thick bamboo screen to accommodate privacy needs of the neighbors and Mayflower residents.

Mr. Briggs discussed a letter received from the Gallery Condos that expressed concerns regarding the irrigation for the plants in the landscape buffer. He noted that the Mayflower is in agreement with the Gallery Condos to work on a solution to keep the landscape buffer irrigated.

Mr. Briggs stated that the Mayflower has fulfilled the requests of staff related to the stormwater retention and landscape buffering plans. He stated that the only condition left to address was the potential of a new easement. It was noted that a new path is being built that will connect Cady Way Park to St. Andrews. There was discussion regarding how bike riders and pedestrians would safely get across Aloma Avenue and Lakemont Avenue. One of the solutions proposed during those discussions included a condition to the original approval requiring the Mayflower to explore options to create a northeast connector trail on the Mayflower Retirement Center property of 12 feet wide with a three-foot buffer on each side, consistent with the proposed St. Andrews Trail. He stated that the Mayflower agreed to grant that easement.

Planning Director Bronce Stephenson further addressed the Board to discuss the proposed pedestrian/bike easement. Mr. Stephenson stated that one of Staff's initiatives is to uphold the goals of the Comprehensive Plan. He stated that there are a number of areas in the Comprehensive Plan that reference connectivity and adding of greenspace. He stated that whenever possible, staff makes an effort to gain easements for bike paths in the City, noting that after properties are developed, the possibility to improve connectivity is lost. He gave a presentation showing views of the original 2010 proposed bike/pedestrian access plan that coincided with the original Mayflower application. He noted that the original plan did not come to fruition, but instead, was modified to request a small easement at Taylor Avenue up to Suffield Drive. He stated that this easement was proposed to provide a safe connection for pedestrians and bike riders to avoid having to use Aloma and Lakemont (which do not have safe or adequate pedestrian or bicycle facilities) to travel through the safer neighborhood street and sidewalk and allow for the safe crossing across Lakemont Ave to the Lakemont Elementary school, the YMCA and Palmer Avenue (where the only bicycle facilities in the area currently exist). He showed a map outlining the area where the requested easement and connectors would be and stated that in the original proposal, a connector is located on the far side of a drainage ditch in the very southwest portion of the Mayflower property, and this location would not negatively affect the property. Additionally, staff added an easement request for a bike connection at Suffield Drive and Halifax Avenue that could run behind the properties (within an unused 50-foot buffer area) and potentially have a connection to Palmer Avenue, which is an actual bike facility within the City. He noted recent Conditional Use application approvals where similar bike path easements were requested in an effort to bring more connectivity to Winter Park. He reiterated that the Mayflower is in agreement to grant the City Easement #1 in red, but staff feels that adding the additional easement for future connection to Palmer Avenue would allow the City to uphold recommendations suggested in the Comprehensive Plan and allow for multi-modal facilities throughout Winter Park.

STAFF RECOMMENDATION WAS FOR APPROVAL WITH TWO CONDITIONS:

1. Provide irrigation pursuant to the request of the Gallery Condos and provide that the perimeter trees be split equally between Live Oaks and Magnolias with Crepe Myrtles (different colors) as the understory plantings.
2. That in order to be consistent with the City's Comprehensive Plan goals to increase connectivity, the Mayflower grant the city two 15-foot wide easements for potential future bike/pedestrian paths as shown in the attached exhibit "Easement Request".

In-depth discussion ensued between Staff and the Board regarding goals of the 2010 bike/ped plan, the Comprehensive Plan, the recommendation of the Transportation Advisory Board to make the easement request a condition of the Mayflower Conditional Use application, location of the easement areas, potential buffers along the property lines at Suffield Drive and Taylor Avenue, alternative routes/locations and correspondence from neighbors in support of or against the easement.

The public comment period was opened:

Attorney for the Applicant, Andrew Roy, 329 Park Avenue N., Winter Park, FL 32789, addressed the board on behalf of Applicant, The Mayflower Retirement Community, 1620 Mayflower Court, Winter Park, FL 32789. He presented that the Mayflower's additional property was not obtained until after the Planning and Zoning Board granted the preliminary conditional use and that the Mayflower has satisfied all conditions of the original conditional use. As so, he stated that in the preliminary conditional use, the city rejected the inclusion of a bike path and that the current plan is essentially the same expansion plan as when the Planning & Zoning Board first approved the preliminary conditional use.

Attorney for the Applicant then stated that applicant has not formally agreed or consented to Easement #1 (in red) at the southwest corner of their property. However, he also stated that the applicant was willing to provide Easement #1, possibly by deed, to the city if and only if Easement #2 (in blue) at the northwest corner of their property was rejected.

Attorney for the Applicant then listed the concerns of applicant written in their refusal letter. These concerns included security concerns for memory care patients and people coming on and off the campus; that the Mayflower was never consulted on the bike path plan; that the bike path will limit the desirability of the Mayflower's "oasis" feel; that the Mayflower believes the city has no clear plan for the bike path; that other neighbors should have been consulted such as Interlachen; environmental issues; that easements create a liability for the Mayflower with or without an indemnity; and that the Mayflower believes there is no nexus between the bike path and their expansion plan.

The Board then opened up questions for Attorney for the Applicant, Andrew Roy. Board member Laura Turner asked to verify that Easement #1 was what the applicant would allow and that they were entirely against Easement #2. Attorney for the Applicant affirmed. Board member Chuck Bell asked for the rationale behind not wanting Easement #2. The response was that neither easement was a condition in the original plan and therefore, applicant thought the issue was resolved. Since both easements are new conditions, applicant is willing to provide Easement #1 in order to act as a "good neighbor". Vice-Chair, Ray Waugh asked Attorney for the Applicant would affirm that at the time of the project's design, why was there no attitude towards what to do with the bike plan. Attorney for the Applicant responded that both easements were not an original condition and the applicant simply did not know about the bike plan. Ray Waugh then asked staff to explain why the Applicant did not know. Mr. Briggs responded that the bike plan was not an adopted part of the comprehensive plan and therefore, did not require a public hearing process. A final question from board member Adam Bert was if the Mayflower was okay with the other condition related to irrigation. Attorney for the Applicant stated
yes.

The Engineer for the Mayflower project, Joe Kolb, 225 E. Robinson Street, Winter Park, FL 32789, then addressed the board. Mr. Kolb stated that the stormwater issues facing the site would be problematic for the city and that the plan from 2008 (phase 1 of the Mayflower that did not include this area where the easements are requested) made no mention of a bike path through the site. Board member Chuck Bell then asked for an affirmation of city utilities located as the site as well. Mr. Kolb affirmed.

The Board heard public comment from: John Goggin, 2110 Suffield Drive, Winter Park, FL; Bob Maraio, 1545 Mayflower Court, Winter Park, FL; Jesse Harris, 2130 Suffield Drive, Winter Park, FL; Burk and Lindsay Hedrick, 1811 Yorkshire Drive, Winter Park, FL; Christa Caldwell, 1808 Yorkshire Drive, Winter Park, FL; William Preddy, 1800 Yorkshire Drive, Winter Park, FL; Lawrie Platt Hall, 1620 Mayflower Court, Winter Park, FL; Stacie Johnson, 766 Halifax Avenue, Winter Park, FL; Walter Johnson, 766 Halifax Avenue, Winter Park, FL; Jami Hams, 2130 Suffield Drive, Winter Park, FL; Sally O'Brien, 2145 Suffield Drive, Winter Park, FL; John O'Brien, 2145 Suffield Drive, Winter Park, FL; John McKenzie, 2114 Oakhurst Avenue, Winter Park, FL; 2114 Oakhurst Avenue, Winter Park, FL; Rita Bornstein, Mayflower Court, Winter Park, FL and Lori Preddy, 1800 Yorkshire Drive, Winter Park, FL.

The residents expressed their opposition of the City's easement request as it pertains to the Conditional Use application. Concerns regarding the easement request and future bike path proposed by City of Winter Park included issues related to potential increased criminal activity, trespassing, danger to pedestrians, privacy issues and safety of Mayflower Retirement Community residents. In addition, Mr. Johnson of 766 Halifax Avenue, Winter Park, FL, provided a petition with 26 resident signatures opposing the northeast connector.

In addition, the Board heard public comment in favor of the easement request as it pertains to the Conditional Use request application from: Lisa Portelli, 1421 Magnolia Avenue, Winter Park, FL; Jill Hamilton Buss, 1935 Oakhurst Avenue, Winter Park, FL. They expressed that bike/pedestrian connectors and paths are needed and essential for residents who use biking as their primary mode of transportation. They stated that bike paths are safer for active cyclists, casual bike riders and children riding bikes to and from school. They stated that if this connector was not provided, there would be no safe alternative routes that could be achieved.

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

The board began an extensive discussion regarding neighbor concerns related to the proposed future path. The Board agreed that a connector is a necessity, but felt a more extensive review of the Comprehensive Plan needed to take place. Mr. Briggs addressed the Board and noted that at this time the City Commission has not decided to build a bike path in easement area #1 in red or easement area #2 in blue, which is why neighbors had not heard about the bike path thus far. He explained that the focus of the public hearing for this item was to request the easement so that the City could take the next step, which would be to have public hearings with the neighborhood about connection possibilities. There was further discussion surrounding the Comprehensive Plan and neighbor concerns resulting in the Board deciding to remove staff's requested condition #2 which included both easement requests from the applicant's Conditional Use request.

Motion made by Laura Turner, seconded by Adam Bert, to amend the preliminary Conditional Use approval and provide for final Conditional use approval for expansions to the facilities of the Mayflower Retirement Community to include a 4-story Resident Care building to include skilled nursing/assisted living/memory care; a 1-story 9,496 square foot clubhouse and 50 new villa units in five separate 3-story buildings of 25,584 square feet in sized on the combined 17.5 acres of vacant property at 1620 Mayflower Court and 2140 Oakhurst Avenue. With the following condition:

1. Provide irrigation pursuant to the request of the Gallery Condos and provide that the perimeter trees be split equally between Live Oakes and Magnolias with Crepe Myrtles (different colors) as the understory plantings.

Motion carried unanimously with a 7-0 vote.

AP #19-01 REQUEST TO APPEAL THE INTERPRETATION AND DETERMINATION OF THE BUILDING AND ZONING OFFICIAL: REGARDING THE INTERPRETATION AND DETERMINATION THAT NONCONFORMING ACCESSORY STRUCTURES ARE TO BE UTILIZED IN DETERMINING THE AVERAGE LAKEFRONT

SETBACK (SEC. 58-87) AS PART OF THE CONSIDERATIONS BY THE PLANNING AND ZONING BOARD IN LAKEFRONT PLAN REVIEWS, PARTICULARLY AS APPLIED TO THE JUNE 4, 2019 APPROVAL AT 1204 N. PARK AVENUE.

Board Member Laura Walda recused herself from this item.

Planning Manager Jeff Briggs addressed the board stating that an appeal of staff's interpretation occurs when someone disagrees with the city's interpretation of a section of the city code. Mr. Briggs also advised that if either party is unhappy with the decision rendered by the Planning and Zoning Board, they may appeal up to the City Commission. Mr. Briggs advised that typically, the aim is to stay focused only in the interpretation question as to whether non-conforming structures are used when calculating averages for lakefront setbacks.

The City Attorney, Dan Langley, then addressed the board stating that the decision of the Planning and Zoning Board during the previous meeting was final and that the focus of the appeal was strictly on the interpretation of using non-conforming use structures when calculating setbacks. Mr. Langley then went over the provisions at issue and stated that the appeal was requested to go to the commission but the process for the appeal means that any appeals of their decisions returns to the Planning and Zoning Board first.

Mr. Langley then discussed with the board the Zoning Official, George Wiggins' interpretation letter providing that the setbacks provision established that non-conforming structures are to be used when calculating setback averages. The ultimate goal of this provision is to avoid creating additional non-conforming use structures.

Board member Owen Beitsch then asked Mr. Langley to affirm that if the board decided that the staff interpretation was incorrect, then the previous decision could not be changed. Mr. Langley stated that he was of the opinion that if that were to be the case, there would be no legal impact of the Planning and Zoning Board's previous decision.

Attorney for the Applicant, Rebecca Wilson of Lownses, Drosdick, Doster, Kantor, & Reed, P.A., 215 N. Eola Drive, Orlando, FL 32801, addressed the board on behalf of the Applicants, Paul M. Missigman and Layne M. Missigman. Mrs. Wilson began by stating that if the Planning and Zoning Board changed the interpretation today, then the interpretation should change going forward. Then she stated that she agrees with staff on the duties of the Planning and Zoning Board to move forward or backward setbacks from staff recommendations as relates to setbacks.

Mrs. Wilson then stated that Article III: Zoning is to be read together under the city's Land Development Code and therefore the conclusion would be that non-conforming structures cannot be used when developing conforming structures.

Mrs. Wilson then stated that her other issue with the code is that there is no listed definition of average. She calculated her average as the mean divided by the sum of all of the terms. By calculating the average of all of the structures on each lot, she reached the conclusion that the setback should be much larger than the staff recommendation.

Mrs. Wilson then stated her formal request of the Planning and Zoning Board, to not allow a non-conforming use when determining the addition of waterfront structures and if so, then when determining setbacks, staff should use the average for all structures on each lot in their determination. Discussion then ensued between Mrs. Wilson and board member Owen Beitsch over her proposed calculations stating that they are in fact the weighted average instead of a straight average.

Discussion between sitting Chair Ray Waugh and Mrs. Wilson ensued about using non-conforming structures when calculating the average. Mr. Waugh and Mrs. Wilson disagreed that non-conforming

structures are to be used whether they are houses or accessory structures. Mr. Waugh stated that he agreed completely with Mr. Wiggin's interpretation letter and Mrs. Wilson stated that she would like the Board to take into consideration how this will set precedent for future properties being developed on lakefront lots.

Board member Adam Bert then asked Mrs. Wilson what the point of using any structures to begin with why not just use the fifty-foot setback minimum for every new development. Mrs. Wilson responded by stating that the city wrote it to make sure that homes are set back at a rhythm that is visually pleasing.

Mr. Langley then asked Mrs. Wilson if she would use the accessory structures in the front yard in her calculation. She answered no. Then Mr. Bell asked Mrs. Wilson to affirm that the word she had issue with in the code is the word "properties". Mrs. Wilson affirmed stating that the term "property" is vague. Mr. Bell then asked Mrs. Wilson if everyone would want to build at the fifty-foot minimum. Mrs. Wilson responded that that is the reason why there should be an average calculated for every structure facing the lakefront for each lot.

The Board heard public comment from:

Cecelia Bonifay, Akerman, LLC, 420 S. Orange Avenue, Orlando, FL, addressed the board on behalf of original applicants Alan Cohen of 1204 N. Park Avenue and Z Properties, Inc., 271 N. Pennsylvania, Winter Park, FL 32789. Mrs. Bonifay stated that she found it interesting of Mrs. Wilson to try to twist the interpretation of using non-conforming structures for the placing of a house that would clearly be a conforming structure. Mrs. Bonifay went on to state that she believes the goal of the government is to allow non-conforming structures to exist, but not to expand upon them or add new non-conforming structures. Mrs. Bonifay believed that having staff's recommendations, the city attorney's interpretation, and the Zoning Official interpretation letter is more than enough to prove that the applicant's interpretation has no material facts to upend the prior determination made by the Planning and Zoning Board.

The original applicant, Alan Cohen, 1204 N. Park Avenue, Winter Park, FL 32789, addressed the board. Dr. Cohen stated that when planning his house, he, his wife, and his builder made every attempt to build the house the right way without a single variance. Dr. Cohen went on to state that the house next door, which he built, is a grand house that sits eight feet higher than the houses around it and that he is available to answer any questions. Dr. Cohen finally wanted to clarify that the previous plan from a different buyer fell through only when that buyer backed out after it was approved by the Planning and Zoning Board.

Bill Roll, 1194 N. Park Avenue, Winter Park, FL 32789, a neighbor of the two properties, addressed the board. Mr. Rolls stated that he had previously served on the Planning and Zoning Board and remembers that during his time, he had never seen a non-conforming structure be used in any lakefront setback determinations. Mr. Rolls also stated that he believes that this should not be allowed to continue.

George Wiggins, Director of Building, addressed the board in reference to his written interpretation letter. Mr. Wiggins stated that there would be no purpose in placing the minimum setback of fifty feet if there were no non-conforming structures around the lake. Mr. Wiggins further stated that the minimum is meant to be a catchall for averages that may come to less than fifty feet using non-conforming structures.

Mick Knight, 1564 Dale Avenue, Winter Park, FL 32789, is the real estate agent for the two properties at issue. Mr. Knight stated that the non-conforming structure provides benefit for the applicant's property but the applicant's request makes it so that it does not benefit surrounding properties. Mr. Knight further stated that this is a very unusual situation and if the applicant has the right to block the neighboring views, then it is reasonable to use the twelve-foot setback used by staff in their recommendation.

Charlie Clayton, 1230, N. Park Avenue, Winter Park, FL 32789, lives two doors down from the applicant's property. Mr. Clayton asked that following this decision, if it is subjective for the Planning and Zoning Board to determine that the twelve-foot setback would be used in determining future redevelopment for other neighboring properties. Mr. Waugh answered that it is subjective and Mr. Bell stated that the only thing that is given is the fifty-foot minimum protection and that the average is calculated using every property within 200 feet.

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

The board asked for clarification from the City Attorney as to whether they need to make a motion or not. Mr. Langley affirmed.

Motion made by Owen Beitsch, seconded by Laura Turner to uphold the interpretation as set forth by Zoning Official George Wiggins' interpretation letter contained in the agenda package and to reject the appeal that was filed by Attorney Rebecca Wilson on behalf of her clients Mr. and Mrs. Missigman.

Motion carried unanimously with a 6-0 vote.

Planning Director's Report:

Planning Director Bronze Stephenson stated that Staff will be presenting the following topics/items to the Board at the next work session being held on July 23, 2019:

- Hotel Policy and Comp Plan amendments
- An Annexation Request from the single-family home neighborhood in West Killarney area
- Planning Dept. staff changes including the addition of a Senior Transportation Planner
- Orange Avenue Overlay Steering Committee update from board member Laura Turner

Meeting adjourned at 10:00 p.m.

Respectfully,

Kim Breland, Recording Secretary