



**CITY OF WINTER PARK
Planning & Zoning Board**

**Regular Meeting
City Hall, Commission Chambers**

**September 2, 2014
6:00 p.m.**

MINUTES

Chairman James Johnston called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Chairman, Peter Gottfried, Shelia De Ciccio, Tom Sacha, Randall Slocum and Ross Johnston. Absent: Robert Hahn and Peter Weldon. Also Present: City Attorney Catherine Reischmann. Staff: Planning Manager, Jeff Briggs and Recording Secretary Lisa Smith.

Approval of minutes – August 5, 2014

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the August 5, 2014, meeting minutes. Motion carried unanimously with a 6-0 vote.

PUBLIC HEARINGS

REQUEST OF MR. JOSEPH PASSALACQUA FOR: AN AFTER-THE-FACT SUBDIVISION OR LOT SPLIT APPROVAL SO THAT 1252 LAKEVIEW DRIVE, ZONED R-1AAA, WILL BE DETERMINED TO BE A BUILDABLE LOT. THE PROPOSED LOT WOULD HAVE 52.2 FEET OF FRONTAGE ON LAKEVIEW DRIVE; 70 FEET OF FRONTAGE ON LAKE VIRGINIA AND HAVE 9,858 SQUARE FEET OF LOT AREA. VARIANCES ARE REQUESTED FOR THESE LOT DIMENSIONS IN LIEU OF THE MINIMUM REQUIREMENTS FOR LOT SIZES WITHIN THIS R-1AAA ZONING OF 150 FEET OF FRONTAGE ON THE STREET AND LAKE AND 25,000 SQUARE FEET OF LOT AREA.

Mr. Briggs noted that City Attorney Catherine Reischmann was present for this public hearing to respond to any legal issues that may arise. Planning Manager Jeffrey Briggs explained that the applicant, Joseph Passalacqua, is requesting approval of an after-the-fact subdivision or lot split so that the property at 1252 Lakeview Drive will be determined to be a buildable lot. He stated that the applicant is voluntarily offering a condition of approval that the resultant single family home will be no larger than 3,000 square feet. Further, there are variances necessary as the proposed lot does not meet the minimum dimensions of the R-1AAA district. Mr. Briggs provided the Board members with a detailed historical chronology of the subject property from 1973 up to the present. He said that currently 1252 Lakeview Drive is not a buildable lot, but it is not without value to the owner. He said that the property holds a boathouse built by Mr. Passalacqua which provides access to the Chain of Lakes and contributes value to the property across the street at 1251 Lakeview Drive which is in the same ownership as 1252 Lakeview. This connection of ownership is not unlike others along Lakeview Drive that have their lakefront access and boathouse across the street from the home-site. These two properties are not legally tied to each other, so any other person wishing to gain lakefront access to the Chain of lakes could purchase 1252 Lakeview Drive.

Mr. Briggs provided details of the legal status of this request. He said that the applicant has wanted to revisit the denials from 1978 and 1990 for some time but the City has not permitted a re-application. He explained that it is based on the legal principal, as staff understands, of "res judicata". He touched on a memo from the City Attorney that provided further insight to the Board with regard to the principal in question. Mr. Briggs discussed the pros/cons of what constitutes a substantial change, the subdivision variances, conformance to the comprehensive plan policies, the proposed redevelopment plans. He summarized by stating that the Planning & Zoning Board

planning staff recommendation in 1990 was for denial and to the planning staff today in 2014. He stated that he feels that the request still contains the same elements cited for the 1990 recommendation for denial which are the substantial variances from the R-1AAA zoning standards and the inconsistency with the neighborhood standards per the Comprehensive Plan. Also, staff is uncomfortable with the legal argument that this is a “substantially changed” application. He said that if this request is denied, then can they apply again next year offering only a 2,500 square foot home and then apply again the year after offering only a 1,500 square foot home. Staff recommended denial of the request. Mr. Briggs responded to Board member questions and concerns.

Rebecca Wilson with the Lowndes Law firm represented the applicant. She introduced the members of the redevelopment team. She used a power point presentation to present the facts of their request. She indicated that the property has a curb cut for lot that was put in when rebricking, undergrounding of power and new lighting installed that anticipates a home in the future. She noted that the applicant paid his proportionate share for the costs of those improvements. She showed pictures of the current conditions of the property. She noted that what is different today is that the applicant has committed to the voluntarily submitted a size restriction of 3,000 feet (proposed garage will be included in square footage). She said that the limitation in square footage is in an effort to fit in with the existing neighborhood and has submitted a site plan that demonstrates all setbacks being met. Development would be limited to the proposed site plan. It also shows that home can be sited without impacting lot 5 (to the south) and lot 3 (to the north) views of the lake. She indicated that they are not asking for variances for side, front or rear setbacks or for impervious coverage. With regard to Comprehensive Plan test, the property is located within a special planning area on the current comprehensive plan that is colored yellow for single family use. The applicant has been paying taxes on the property as a single family lot for 40+ years. The current configuration maintains the Virginia Heights 1922 plat between Oxford down to Sterling (eight lots and what would be eight homes). Letters were provided to city staff from previous city officials that the subject property was a buildable lot if it were created as 50 feet wide throughout its length and they are only a small dimension less than that. She requested that the Board grant the after-the-fact subdivision and requested variances. Mrs. Wilson responded to Board member questions and concerns. Also submitted was a petition with over 100 signatures in favor of the request.

John Bill, attorney, represented the neighboring property owners, the Foleys, who live at 1270 Lakeview Drive. He stated that the Foley’s still object to the application has been heard twice by City and denied both times. He indicated that there has been prior litigation concerning the subject property and the denials were upheld in court. He stressed that there have been no changes since the 1990 denial. The request is still to construct a home on subject property and the size of that home is irrelevant. The current request does not comply with Subdivision Code, Section 58-376, by demonstrating the conditions necessary for the variances. They do feel that res judicata applies to this request. They did not feel that the applicant has proven a hardship. There have been no subdivision requests approved on any lakefront property. Street bricking does not warrant a change in character to the neighborhood. Tone, character and feel of neighborhood has not changed. Mr. Bill requested denial consistent with the 1990 decision and responded to Board member questions and concerns.

Grant Downing, attorney, spoke concerning the request to further support the Foley’s position.

Adaire Fluno, adjacent neighbor at 1234 Lakeview Drive, spoke in opposition to the request and stated she felt the issue had been decided back in 1990.

Bill Sullivan, 1362 Richmond Road, spoke in opposition to the request. He read his letter of opposition into the record.

No one else wished to speak concerning the request. Public Hearing closed.

City Attorney Katie Reischmann, provided the Board members with an extensive overview of administrative res judicata. She explained what constitutes a “substantial change”, i.e. the passage of 24 years, and whether the 1990 and 1979 defects have been addressed by the new application. She noted that another issue for the Board to consider is whether the lot split is appropriate due to the fact that it is after-the-fact. She noted that this is the only after the fact subdivision request presented to the Board. Further does it meet the land

development code standards Sec. 58-377 (lot split as defined by staff) and Sec. 58-376 (variance standards as defined by staff).

Mr. J. Johnston stated that he feels that the time of 24 years since the request was last reviewed is sufficient for him to feel the application should move forward and be judged on its merits. Additionally, they are now bringing something specific and different in this application (i.e. a site plan and a binding commitment to limit the size of the home). He said that he feels that is enough to overcome res judicata. He said that he does not feel that what the applicant is proposing is out of character with the surrounding neighborhood. He said that he feels that it is more of a fairness issue.

Mrs. De Ciccio agreed with Mr. J. Johnston concerning res judicata. She said that she supports the request.

Mr. Sacha stated that he does not feel that significant changes have occurred to warrant any change.

Mr. R. Johnston stated fundamentally the current request does not have his support due to the significant size of the variances requested in lot size from the R-1AAA zoning standards and the .

Mr. Gottfried stated he did not feel as if anything since 1990 has changed. He noted that he voted for denial of the request in 1990 when he was a city commissioner. He did not support creating a 53-foot lot on lakefront property. He said that he feels that the climate in the city is changing and there are strong concerns with regard redevelopment in the City.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to deny the after-the-fact subdivision request for 1252 Lakeview Drive. Motion carried with a vote of 4-2. (Gottfried, Sacha, Slocum, and R. Johnston voted in favor of the motion for denial. (J. Johnston and De Ciccio voted against the motion for denial.)

REQUEST OF THE SYDGAN CORP. FOR: AN ORDINANCE AMENDING CHAPTER 58 'LAND DEVELOPMENT CODE', ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY TO LOW DENSITY RESIDENTIAL FUTURE LAND USE ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE.

REQUEST OF THE SYDGAN CORP. FOR: AN ORDINANCE AMENDING CHAPTER 58 'LAND DEVELOPMENT CODE', ARTICLE I, ZONING AND THE OFFICIAL ZONING MAP SO AS TO CHANGE SINGLE FAMILY RESIDENTIAL (R-1A) ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE.

REQUEST OF THE SYDGAN CORP. FOR: A LOT CONSOLIDATION AND RESUBDIVISION SO AS TO COMBINE THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE CONSOLIDATED PARCEL AND THEN SUBDIVIDE INTO FOUR SINGLE FAMILY LOTS, THREE DUPLEX LOTS AND TWO TRIPLEX LOTS FOR A UNIFIED RESIDENTIAL DEVELOPMENT, SUBJECT TO CONDITIONAL USE SITE PLAN APPROVAL BY THE CITY.

REQUEST OF THE SYDGAN CORP. FOR: CONDITIONAL USE APPROVAL UNDER THE CLUSTER HOUSING PROVISIONS OF R-2 ZONING TO REDEVELOP THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE CONSOLIDATED PARCEL FOR A RESIDENTIAL DEVELOPMENT OF 16, TWO STORY TOWNHOUSE RESIDENTIAL UNITS CONSISTING OF FOUR SINGLE FAMILY BUILDINGS, THREE DUPLEX TOWNHOME BUILDINGS AND TWO TRIPLEX TOWNHOME BUILDINGS WITH A TOTAL PROJECT SIZE OF APPROXIMATELY 41,334 SQUARE FEET.

Planning Manager Jeffrey Briggs gave the staff report and explained that this request is a continuation of the requests made by the Sydgan Corp. that were on the April 8th agenda and tabled, withdrawn and re-application. He noted that the applicant seeks three approvals from the City as follows:

1. Change the existing Single Family Residential future land use designation in the Comp. Plan and Single Family (R-1A) zoning to Low Density Residential future land use and Low Density Residential (R-2) zoning on the properties at 755/781/783/785/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue in order to use these properties per the "lot plan" attached.
2. Consolidate all of these ten (10) individual properties into one unified development site, and Subdivide the combined Property into four (4) single family lots, three (3) duplex lots and two (2) triplex lots.
3. Approve a Conditional Use in the R-2 zoning for the proposed residential townhouse project of 16 units in two story buildings with an aggregate project size of approximately 41,334 square feet.

Mr. Briggs reviewed the site and context of the request, the conditional use request, the lot consolidation and subdivision request, the comprehensive plan policies relevant to this project. Staff recommendation is for Approval of the FLU/Rezoning and Lot Consolidation requests for 831/835/781/783/785 W. Canton to R-2 and for 437/439/441 North Capen Avenue; approval of the Lot Consolidation and Subdivision requests subject to the Conditional Use application and the terms of the voluntary Development Agreement; approval of the Conditional Use application subject to the terms of the voluntary Development Agreement. Mr. Briggs responded to Board member questions and concerns.

Dan Bellows, the applicant, 558 West New England Avenue, was present to address concerns of the Board and the community. He said they have taken into consideration comments and concerns raised and that the project has gone back to the drawing board twice to make site plan adjustments and density reductions. He said that he agrees with that staff that the block is a transitional block. He pointed out that he received data from both Orange County and City of Winter Park utilities verifying that 12 occupied units existed on the 10 parcels. He discussed the dynamics of the surrounding neighborhood. He requested that the Board make a ruling on the subject request at tonight's meeting.

Kevin Kramer, represented David Weekly Homes, explained that the new site plan represents a compromise from the input received from the neighborhood meetings. He said that home elevations have been submitted with the craftsman style architecture. He said that he feels that this product will fit in with the surrounding neighborhood. They responded to Board member questions and concerns.

Several residents from the surrounding neighborhood were present in the audience and expressed their opposition to the request. The residents of the community came together and designated the following to speak on their behalf as a spokes committee: Marketa Hollingsworth, 646 West Comstock Avenue; Tony Robinson, 810 West Canton Avenue, Bob Cambric, 1614 McKinley Street, Hollywood, FL, John Bolden, 541 North Capen Avenue, and Mary Daniels, 650 Canton Avenue. The members of the committee spoke and expressed opposition to the type of development proposed and massing, rezoning to R-2 versus remaining R-1A, no further encroachment beyond the senior housing development into the residential neighborhood, comprehensive plan and land development code regulations, architectural design and compatibility with the surrounding neighborhood. They maintained the desire to construct detached single-family homes in compliance with the R-1A zoning regulations. They also expressed concern that the applicant was not present at the community meetings.

The Board also heard from Mary Randall, 1000 South Kentucky Avenue; Jim Moreland, 1618 Viola Trail; Judy Maynard, 1531 Berkshire; Gary Barker, 1029 McKean Circle; Jennifer Anderson, 1621 Roundelay Lane; Kent Kersten, 654 West Canton Avenue; Martha Bryant-Hall, 331 West Lyman Avenue; Maria Bryant, 450 South Virginia Avenue; Marty Sullivan, 901 Georgia Avenue; Joan Cason, 1915 Woodcrest Drive; John Schofield, 358 Vittoria Avenue; Pandora Taylor, 839 and 841 West Canton Avenue; Lurline Fletcher, 811 English Court; Lee Maynard, 1531 Berkshire Avenue, Claudia Carrilo, 438 North Capen Avenue; Sally Flynn 1400 Highland Road, Thad Seymour, 1804 Summerfield Road; Linda Walker-Chappelle, 794 Comstock Avenue; Marcia Jackson-Lynn, family owns 785 West Canton Avenue, read a letter of support into the record.

No one else wished to speak concerning this request. Public Hearing closed.

Mr. Gottfried said that he feels that this is a very sensitive situation on a tough block due to the surrounding redevelopment. He spoke concerning changes in the West Side. Some of them are for the better. He stated that he is very sensitive to the rezoning issue, to the concerns of the residents, and to the current no more density issue. Mr. Slocum feels that this particular development could work for this area. He said that he likes that the density has been reduced in the area of the parking garage. He said that the lots in that area are deep and that it's good to see single-family structures on Capen Avenue. Also, he did not have an issue with duplex buildings on Canton Avenue. Mr. Sacha stated that he is thankful for all of the comments heard tonight and agrees with Mr. Gottfried that this is a very sensitive issue. He said that he is hopeful that the vision process work and is hopeful that it will help in bringing compromise to situations like this. Mrs. De Ciccio agrees with Mr. Sacha. She agrees that there have been a lot of positive changes, but is also very sensitive to the concerns of the neighborhood. She questioned when is it enough and when has it gone too far. She stated that she supports the visioning process as there are many different sides to this issue. Mr. R. Johnston felt that the adjustment from R-4 to R-2 is an acceptable compromise. He said that he feels that lot depths are able to accommodate that. He added that he feels that David Weekly Homes builds quality projects, but if not David Weekly Homes, then it will be another developer. He does not feel that this creates a wall of houses and feels that it will be appropriate for the area. Mr. J. Johnston said that he feels that the current proposal is much improved from the previous request, but due to overwhelming neighborhood opposition he could not support.

Motion made by Mr. Sacha, seconded by Mr. R. Johnston to approve the request to amend "Comprehensive Plan" so as to change the future land use designation of Single Family to Low Density Residential future land use on the properties at 755/781/783/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue. Motion failed with a 4-2 vote. (P. Gottfried, T. Sacha, S. De Ciccio and J. Johnston voted against the motion to approve. R. Slocum and R. Johnston voted in favor of the motion to approve.)

Motion made by Mr. Gottfried, seconded by Mr. Sacha to deny the requests to:

- 1. Change the existing zoning from R-1A to R-2 on the properties at 755/781/783/785/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue in order to use these properties per the "lot plan" provided by the applicant.**
- 2. Consolidate all of these ten (10) individual properties into one unified development site, and Subdivide the combined property into four (4) single family lots, three (3) duplex lots and two (2) triplex lots.**
- 3. Approve a Conditional Use in the R-2 zoning for the proposed residential townhouse project of 16 units in two story buildings with an aggregate project size of approximately 41,334 square feet.**

Motion carried with a 4-2 vote. (P. Gottfried, T. Sacha, S. De Ciccio and J. Johnston voted in favor of the motion to deny. R. Slocum and R. Johnston voted against the motion to deny.)

REQUEST OF UP FIELDGATE US INVESTMENTS – WINTER PARK LLC FOR: FINAL CONDITIONAL USE APPROVAL TO REDEVELOP THE FORMER CORPORATE SQUARE AND WINTER PARK DODGE PROPERTIES WITH A 40,000 SQUARE FOOT WHOLE FOODS GROCERY AND A 36,000 SQUARE FOOT RETAIL BUILDING WITH THREE OUTPARCEL DEVELOPMENT SITES ON THE PROPERTIES AT 1000/1050 N. ORLANDO AVENUE, 1160 GALLOWAY DRIVE AND 967 CHEROKEE AVENUE.

Mr. Johnston explained that his firm has done work for the applicant and that he will not be participating in the discussion or voting on this item.

Planning Manager Jeffrey Briggs presented the staff report and explained that the applicant, UP Fieldgate US Investments, is requesting "final" conditional use approval for their Whole Foods project pursuant to the "preliminary" conditional use approved by the Planning Board on June 3, 2014 and by the City Commission on June 23, 2014, on the properties at properties at 1000/1050 N. Orlando Avenue and 1160 Galloway Drive and 967 Cherokee Avenue, zoned C-3. He noted that the City Commission approved the "preliminary" conditional use with basically the same conditions as recommended by P&Z and the staff report addressed how those had been

accomplished. The “final” CU approval per code is the action to review compliance with the conditions of approval and to review the final civil, landscaping, drainage and lighting details.

He explained that the “final” conditional use provides new plan details for review and discussed those matters. Also, there needs to be a Development Agreement prepared and executed (following approval by the City Attorney) to incorporate the approvals granted, the conditions of approval, and enforcement methods for those conditions as outlined. Staff recommended approval of the “final” conditional use pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) as discussed and subject to the conditions as outlined below:

1. That the site plan be modified to remove the parking spaces for added buffer for the live oak trees to be preserved.
2. That the Development Agreement incorporate the conditions, as discussed regarding project signage, architectural conformity, architectural review of the future buildings, contribution to the smart signal technology and noise control.
3. That this final Conditional use approval does not grant any approval or consent from the City for the use of the Orlando Avenue median other than exclusively for the left hand storage for the Lee Road traffic light and the City shall partner with this developer, the developer of Ravaudage and FDOT to strive for a solution that meets the traffic safety and turning movement needs of both projects.

Mr. Briggs responded to Board member questions and concerns.

J.J. Johnson, Johnson Real Estate Law, 3660 Maguire Boulevard, Orlando, represented the applicant, UP Development. He said that they feel the project is consistent with the comprehensive plan, that it meets/exceeds all requirements of the land development code, and is compatible with surrounding development patterns. They have complied with all conditions set forth by both the P&Z and City Commission. They agreed with the contents of the staff report. He introduced the members of the development team.

Mr. Bob Cambric, 1614 McKinley Street, Hollywood, Florida, spoke concerning 4 of the 5 residential homes. He explained that the owners had concerns with how and when the process of the applicant working with them will take place. They are very concerned that their concerns will not be addressed until after-the fact. He stated their concerns with regard to noise, safety, how their power is provided, how water and sewer are provided (they are on septic). Please ensure that those particular conditions are addressed prior to final approval.

Karl Ambrose, 4115 Conley Place Circle, Orlando, owner of the duplex on Cherokee expressed concern that he has not heard from anyone on the development team. He feels that the proposed development will cause hardship for the residential property owners due to noise, traffic, etc.

Isaac Jenkins, 116 Mulberry Street, Eatonville, owner of one of the residential properties on Cherokee, stated he is concerned with noise, lights, traffic. He wanted to know how they will be protected from the major commercial development.

Lurline Fletcher, 811 English Court, spoke in opposition to the request for reasons of traffic and ingress/egress and the negative impact on the remaining residential properties.

Linda Walker-Chappelle, 794 Comstock Avenue, spoke in opposition to the request because she feels that a project is being approved without first having protections set in place for the remaining residential properties.

J.J. Johnson in response explained that they have reached out to these owners but some of these details were not known because the design was not complete. He also explained that a realtor was hired to personally speak with the property owners to make an effort to acquire properties, but no agreements were made in that regard. He reiterated the conditions from the preliminary approval to provide protections for these five properties that include an eight foot privacy wall will be erected to screen the houses from noise, that all trees will be remain behind the existing homes to help with noise, the existing buffer was expanded to 20 feet and the conditions regarding AC/mechanical equipment noise. They are committed to working with the City and

the residential property owners. He also stated that they will sit down with the residential property owners in an effort to address their concerns.

No one else wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Sacha, seconded by Mrs. De Ciccio FOR APPROVAL OF THE “FINAL” CONDITIONAL USE pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) to incorporate the approvals granted, the variances permitted, the conditions of approval and enforcement methods for those conditions as outlined below:

- 1. That the site plan be modified to remove the parking spaces for added buffer for the live oak trees to be preserved.**
- 2. That the Development Agreement incorporate the conditions, as discussed regarding project signage, architectural conformity, architectural review of the future buildings, contribution to the smart signal technology and noise control.**
- 3. That this final Conditional use approval does not grant any approval or consent from the City for the use of the Orlando Avenue median other than exclusively for the left hand storage for the Lee Road traffic light and the City shall partner with this developer, the developer of Ravaudage and FDOT to strive for a solution that meets the traffic safety and turning movement needs of both projects.**
- 4. With the assistance of the City of Winter Park, the applicant and the five residential property owners located on Cherokee Avenue shall come together to have discussions to ensure that the impacts from this project are minimized.**

Motion carried unanimously with a 5-0 vote. Mr. J. Johnston abstained.

REQUEST OF MR. DREW HILL FOR: CONDITIONAL USE APPROVAL TO DEVELOP A FOUR UNIT, TWO STORY TOWNHOUSE PROJECT ON THE PROPERTY AT 1003 AND 1009 S. PENNSYLVANIA AVENUE, ZONED R-3.

Mr. Slocum explained that his firm has done work for the applicant and that he will not be participating in the discussion or voting on this item.

Planning Manager Jeffrey Briggs presented the staff report and explained that the applicant, Mr. Drew Hill, is the recent purchaser of the vacant property at 1003 & 1009 S. Pennsylvania Avenue, which is the southwest corner of Pennsylvania and Minnesota Avenues. This request is for Conditional Use approval to develop a four unit townhouse project on this property zoned R-3. This is a Conditional use because the building size exceeds 10,000 square feet. Mr. Briggs reviewed the site and zoning parameters, the proposed project in detail, storm water retention, the comprehensive plan policies regarding the neighborhood. He noted that while other recent projects, such as the 400 West project on West Swoope Avenue have built a third floor within the roof slope, this project conforms to the two story Comprehensive Plan policy parameters. However, that is why there is the minor variance for the extra 156 sq. ft. of building lot coverage. Mr. Briggs summarized by stating that the request appears to meet all the Comprehensive Plan and Zoning Code requirements except for the minor variance for lot coverage. It is an attractive architectural appearance with garages/cars screened from view. Staff recommended approval of the request. Mr. Briggs responded to Board member questions and concerns.

Turner Beggs, 401 East Robinson Street, represented Slocum Platts Architects. He stated they were in agreement with the staff report. He responded to Board member questions and concerns.

Linda Walker-Chappelle, spoke in support of the project as it required no variances and staying in scale with the zoning requirements.

Gary Gorman, 630 Minnesota Avenue, explained that he is the neighboring property owner. He expressed concern with parking for the proposed project. He noted that the area was designated as a Gateway Bicycle Trail for the City of Winter Park.

Mr. Briggs noted that setbacks requirements were met for this project and also that privacy screening of either a finished block wall or vinyl fence is required along the driveway.

No one else wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the conditional use request to develop a four-unit, two-story townhouse project on property located at 1003 and 1009 S. Pennsylvania Avenue. Motion carried unanimously with a 5-0 vote. Mr. Slocum abstained.

REQUEST OF LAKESIDE WINTER PARK LLC TO: AMEND THE CONDITIONAL USE SITE PLAN APPROVAL AND DEVELOPMENT AGREEMENT FOR THE LAKESIDE WINTER PARK PROJECT AT 111 N. ORLANDO AVENUE TO SUBSTITUTE THE OFF-SITE EMPLOYEE PARKING FROM THE LOCATION PREVIOUSLY APPROVED AT 271 S. ORLANDO TO A NEW LOCATION ON THE PROPERTY AT 110 N. ORLANDO AVENUE.

Both Chairman Johnston and Mr. Slocum announced that their firms have done work for the applicant and will not participate in the discussion or vote on this item.

Planning Manager Jeffrey Briggs presented the staff report and explained that at the March 24, 2014, City Commission meeting, the request for the Blue Cross/Blue Shield medical building at the Lakeside (Trader Joe's) project with off-site parking at 271 S. Orlando Avenue was approved with the condition that the City Commission approve the off-site parking lot plan which was done on April 14, 2014. He explained that UniCorp did not complete the purchase of the Sweet Lodge property at 271 S. Orlando Avenue; therefore, approval is needed for a new off-site location for the 21 parking spaces required for the Blue Cross/Blue Shield business. He referenced a letter submitted by the applicant that outlines their proposal which is to provide those spaces within the redevelopment proposed for the Mt. Vernon Inn. Those spaces will be employee parking spaces which the City believes will work as in reality, employees of Trader Joe's are parking at the Civic Center and also parking at the WP Village and at the K-Mart Shopping Center and walking to work. He explained that the issue is that UniCorp does not own the Mt. Vernon property at this time, but it is under contract with planned closing in November. Both UniCorp and Blue Cross/Blue Shield know that they will not be able to occupy the medical building without this off-site parking. They also know that they will not be able to open for business until such time as the off-site parking is available to be used for their needs. There is still a distance variance but staff believes this location is close enough to be usable by employees. The Development Agreement executed for this project will need to be amended (pending approval by the City Attorney) to incorporate the approvals granted and the variance as well as any new conditions of approval such as a binding lot agreement so this off-site property may not be subsequently conveyed without the approval of the City. That work will result from the decision on this request. Staff recommended approval. Mr. Briggs responded to Board member questions and concerns.

Chuck Whittall, Unicorp National Developments, was present to address concerns of the Board. He said that he feels that their request is within code and closer to what was previously proposed. He said that he also has in place a signed agreement with Hillstone Restaurant to use their overflow parking lot if necessary. He said that whenever Blue Cross/Blue Shield opens, Unicorp will be the official owner of the Mt. Vernon Inn property. He responded to Board member questions and concerns.

Betty Gorenflo, 571 Lakefront Boulevard, spoke concerning parking for Trader Joe's. She said that she feels that having to cross 17-92 to get to parking is a liability. She expressed concern that Trader Joe's shopping carts are littering up the area across the street behind the Mt. Vernon.

Kenneth Murrah, 1601 Legion Drive, spoke in opposition to the current proposal. He said that he feels that Unicorp should be made to honor the commitment to provide the 21 parking spaces now versus later.

Mr. Whittall readdressed the Board. He explained that everything is contingent upon closing on the subject property. Further, in the redevelopment plan there are traffic calming measures that are being proposed to make the intersection more pedestrian friendly. He said that Unicorp will honor everything they agreed to but it will be in a more convenient location.

No one else wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the request to amend the conditional use site plan approval and development agreement for the Lakeside Winter Park project at 111 North Orlando Avenue to substitute the off-site employee parking needed for the Blue Cross/Blue Shield medical office from the previously approved at 271 S. Orlando Avenue to a new location on the property located at 110 N. Orlando Avenue. Motion carried unanimously with a 4-0 vote. (J. Johnston and R. Slocum abstained.)

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING" SECTIONS 58-68; 58-69; 58-72; 58-75; 58-76 AND 58-79 AS WELL AS WITHIN ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS", SECTION 58-214 SO AS TO REMOVE THE REQUIREMENT FOR SUPERMAJORITY VOTES FOR THE APPROVAL OF CERTAIN CONDITIONAL USES.

Planning Manager Jeffrey Briggs presented the staff report and explained that on July 14, 2014, following review by the Florida Dept. of Economic Opportunity, the City Commission adopted Comprehensive Plan policy amendments to remove three Policies in the Comprehensive Plan which impose the supermajority requirement for the approval of certain Conditional Uses. He said that this Zoning Code amendment seeks to implement these Comp. Plan policy changes by modifying the Zoning Code to remove the instances where Conditional Uses require a supermajority to be approved. He said that the City Attorney, Larry Brown, has previously prepared a legal opinion indicating that the City Charter sets forth that all Ordinances are adopted by the affirmative vote of a majority of the City Commission. As such, the Code sections that required a supermajority of the City Commission to adopt an "Ordinance" were changed in April, 2013. At that time it was made clear that this conflict with City Charter only related to the adoption of Ordinances. There are other Policies of our Comprehensive Plan that require a supermajority for the adoption of certain types of conditional uses. The intent of the Comprehensive Plan amendments and this Ordinance is to achieve consistency of majority rule by also changing the rules which require supermajorities for the approval of certain Conditional Uses. There are two types of Conditional Uses which require a supermajority vote for approval that are being amended:

1. Construction of three story buildings within the Central Business District. This supermajority requirement is listed in all the applicable zoning districts applicable to the CBD so this Ordinance amends that requirement in the R-3, R-4, O-1, C-2, C-3 and PQP zoning districts.
2. Construction within the stream floodways and floodplains of the City. This relates to the two stream floodplain areas between Lake Sue and Lake Virginia and the north of Lake Maitland. It is being amended with Article V of the Land Development Code.

Staff recommended approval in order to be consistent with Comprehensive Plan policies, as recently amended and to achieve consistency in land development approvals. Mr. Briggs responded to Board member questions and concerns.

No one wished to speak concerning this item. Public Hearing closed.

Motion made by Mr. Sacha, seconded Mr. Gottfried to approve the proposed ordinance to remove the requirement for supermajority votes. Motion carried unanimously with a 6-0 vote.

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE RELATING TO MEDICAL MARIJUANA TREATMENT CENTERS, AMENDING SECTION 58-78, LIMITED

INDUSTRIAL AND WAREHOUSE (I-1) DISTRICT, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING TO ALLOW "MEDICAL MARIJUANA TREATMENT CENTERS" AS A PERMITTED USE BY SETTING FORTH SITING STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA TREATMENT CENTERS.

Planning Manager Jeffrey Briggs gave the staff report and explained that the City Commission has requested the opportunity to review an Ordinance to establish regulations for the location and operation of medical marijuana treatment centers within the City. The proposed regulations are patterned after and are similar to the regulations adopted in 2012 for pain management clinics. He explained that the reason this is on a Planning Board agenda is that this proposed Ordinance establishes (again similar to pain management clinics) that they are permitted uses only within the I-1 zoning district, subject to separation distances. He noted that only those Sections 3 and 4 of the Ordinance are relevant to P&Z and the only sections of the Ordinance requiring P&Z recommendation. Any amendment to the Zoning Code requires a P&Z recommendation.

The area properly zoned I-1 with sufficient separations from residential and potentially open for these businesses would be the area along Solana Avenue between Denning Drive and Orlando Avenue. There must be an area where such businesses can be located within the City, the Ordinance would not be valid. Mr. Briggs explained that no one knows if the Constitutional Amendment will pass and if it does how it will be implemented by the Florida Legislature. Some states have successfully implemented the availability of medical marijuana without impact on the character and quality of business districts and other states have not done so. So to be prudent at this time, the potential locations are limited pending the outcome of implementation by the State of Florida. If later these businesses are more like "professional clinic" than retail stores then the zoning locations can be re-examined. Staff recommended approval. Mr. Briggs responded to Board member questions and concerns.

The following residents spoke and expressed opposition to the request:

Betti Gorenflo, 571 Lakefront Boulevard, stated that she feels that the proposed ordinance does not represent the character of City and further that the issue needs more research.

Lurline Fletcher, 811 English Court and Linda Walker-Chappelle, 794 Comstock Avenue objected to the locations so close to the Hannibal Square neighborhood.

No one else wished to speak concerning item. Public Hearing closed.

There was considerable discussion by the P&Z Board on the need for this Ordinance given that the Constitutional Amendment has yet to pass and the Legislature has yet to establish administrative or legislative rules for the implementation. Other members expressed interest in being proactive on this topic and that the ordinance could always be amended to open up additional locations if the nature of such businesses was consistent with the city's character.

Motion made by Mr. Sacha, seconded by Mr. J. Johnston to approve the proposed ordinance regulating medical marijuana facilities. Motion carried with a vote of 4-2. R. Johnston and S. De Ciccio voted against the motion.

NEW BUSINESS:

There were no items of new business.

Date of Next Regular Meeting: Tuesday, September 2, 2014 @ 6:00 p.m.
Date of Next Work Session Meeting: Tuesday, 26, 2014 at 12:00 Noon.

There was no further business. Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Lisa M. Smith
Recording Secretary