



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

**Regular Meeting
City Hall, Commission Chambers**

**October 4, 2016
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, Tom Sacha, Randall Slocum, Shelia De Ciccio, Peter Gottfried, Ross Johnston, Robert Hahn and Raymond Waugh. Also Present: City Attorney Dan Langley. Staff: Planning Manager Jeff Briggs, Planner Allison McGillis and Recording Secretary Lisa Smith.

Approval of minutes – September 6, 2016 Regular Meeting minutes

Motion made by Tom Sacha, seconded by Randall Slocum to approve the meeting minutes from the September 6, 2016, Regular Meeting. Motion carried unanimously.

PUBLIC HEARINGS:

REQUEST OF WINTER PARK ELDERLY SERVICES, LLC FOR: CONDITIONAL USE APPROVAL TO BUILD A 34,986-SQUARE FOOT, THREE-STORY, 24-UNIT/50 BED MEMORY CARE FACILITY AT 1298 HOWELL BRANCH ROAD, ZONED R-3, PROVIDING FOR CERTAIN EXCEPTIONS AND FOR A DEVELOPMENT AGREEMENT, IF REQUIRED.

City Attorney Dan Langley was present for the public hearing. He explained that decisions made by the Planning and Zoning Board are quasi-judicial and are based on evidence received into the record at the public hearing. He stated that all letters and e-mails both in support of and against the proposed project are made a part of the record. He stressed the importance of Board members disclosing ex-parte communication. He introduced into the record a disclosure of ex-parte communication email from Board member Peter Gottfried. He stated that a copy has been provided to the applicant's attorney. He explained that in light of this communication he recommended that Mr. Gottfried recuse himself from this public hearing. Mr. Gottfried agreed to recuse himself. He explained that he is working with a group of citizens that are actively scouting significant environmental properties in the Howell Creek basin for either parkland or conservation. He acknowledged that he has spoken with several neighbors concerning the proposed project. At the request of the City Attorney, the remaining Board members disclosed for the record their communications.

Planning Manager Jeffrey Briggs presented the staff report. He explained that the applicant Winter Park Elderly Services, LLC (contract purchaser) for Conditional Use approval to build a three-story, 34,986 square foot memory care/assisted living facility at 1298 Howell Branch Road, on property zoned R-3. This type of facility falls under the "adult congregate living facilities" or "assisted living facilities", conditional use provision in the R-3 zoning, as well as being a three story building over 10,000 square feet. He provided an overview of the project site, the proposed use of a memory care, comprehensive plan, zoning code exceptions and zoning code regulations, traffic mobility and parking, and tree preservation. He discussed the concerns that had been received from other city departments. He summarized by stating memory care facilities are a business but they also provide an important social benefit for the community. He discussed the requested variances. He

stated that while the type of use is appropriate, staff recommends that the developer considers a redesign to meet the 35' height requirement which would also alleviate the need for the lakefront lot variance. He discussed the policies in both the comprehensive plan and LDC regulations that discourage variances to lakefront development. Staff could recommend support of the use if there were no variances required that would impact the lakefront lot. Staff recommended denial of the project with the understanding that staff would be in favor subject to a site plan redesign to eliminate the lakefront setback encroachment.

Attorney Rebecca Wilson, 214 Eola Drive, represented the applicants. At the request of Board member Bob Hahn she provided a timeline of the project. She introduced the members of the development team. She used a Power Point presentation to provide details of the request and proposed project. She

Wayne D, Architect, Baker-Barrios, 189 South Orange Avenue, also responded to Board member questions and concerns regarding the project.

The Board received public comments from the following: Mark and Nancy Freeman, 1055 Tuscany Place (entered a petition into the record); Michael Canavan, 919 Poinciana Lane; Carol Traynor, 2009 Summerfield Road; Amy Perry, 1561 Palm Avenue; Charlotte Schmitt, 1124 Howell Branch Road; Amy O'Rourke, Community Advocate for the Elderly, Cameron Group, Maitland, FL; Kenneth Polsinelli, 1701 Spruce Avenue; Linda Warren, 678 Osceola Avenue, #678; Maxey Jay, 3056 Temple Trail; Haley Bonus (represented the Mayflower), 1311 Harmon Avenue; Lisa Coney, 2936 Sanbina Street; Paul Morgan, 1056 Tuscany Place; Robin, 207 Goldwater Place; David Greenberg, 2144 Venetian Way; Frances Leland, 3040 Temple Trail; James Kragh, 1024 Tuscany Place; Cheryl Malone, 2400 Temple Drive; Suzanne Musashi, 3000 Temple Trail; Dee Morgan, 1056 Tuscany Place; Edward Coutant, 1037 Tuscany Place.

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

Attorney Wilson was allowed an opportunity to rebut. She responded to the concerns raised whether the use is allowed in the comprehensive plan. She cited policy 3-1-4 of the Housing Element and read it into the record. She also discussed what would be allowed if they were proposing a building under the R-3 zoning code, setbacks and the location of the entrances. She discussed the issue of hardship specifically the height variance and the associated setback variance. She noted that it is due to the shape of the property and not wanting to impact the wetland.

There was a considerable amount of discussion from the Board concerning the size of the proposed building. Board members expressed no opposition to the use of a memory care facility; however the main concern was the size of the proposed building. Consensus of the Board was to direct the applicant to size down the project and bring those plans back to the P&Z for consideration.

Motion made by Tom Sacha, seconded by Bob Hahn to approve the use of a memory care facility on property located at 1298 Howell Branch Road. Motion carried with a 7-0 vote. Mr. Gottfried abstained.

REQUEST OF JT PALM HOLDINGS LLC (CASK & LARDER) TO: AMEND THE "COMPREHENSIVE PLAN" FUTURE LAND USE MAP FROM A SINGLE FAMILY DENSITY RESIDENTIAL FUTURE LAND USE DESIGNATION TO A PARKING LOT FUTURE LAND USE DESIGNATION ON THE VACANT PROPERTY AT 520 SOUTH PENNSYLVANIA AVENUE.

REQUEST OF JT PALM HOLDINGS LLC (CASK & LARDER) TO: AMEND THE OFFICIAL ZONING MAP FROM SINGLE FAMILY RESIDENTIAL (R-1A) DISTRICT ZONING TO PARKING LOT (PL) DISTRICT ZONING ON THE PROPERTY AT 520 SOUTH PENNSYLVANIA AVENUE.

Planning Manager Jeffrey Briggs presented the staff report. The applicant, JT Palm Holdings, LLC (property owner) is requesting the following:

1. Changing the Comprehensive Plan future land use designation of Single-Family Residential to Parking Lot on the property at 520 South Pennsylvania Avenue;
2. Changing the Zoning on the same property from Single-Family Residential (R-1A) to Parking Lot (PL).

Mr. Briggs reviewed the details of the rezoning and comprehensive plan amendment. He explained that the applicant seeks to rezone 520 South Pennsylvania Avenue to PL (parking lot) because the paving and driveway improvements cannot be done under the existing single family (R-1A) zoning. He noted that the subject property is currently vacant and is grandfathered-in and used for parking for many decades in spite of its residential zoning. He noted that since this matter was tabled at the September 6th P&Z meeting the applicants have a proposed development agreement with provisions that will run with the title to the land and takes into consideration the uniqueness of the subject property; and if a situation arises where the current property owners are no longer in control, the property will revert back to single-family residential; and all of the improvements shown on the plans will be maintained. He stated that the applicants have decided to withdraw their previous conditional use request to expand and relocate the outdoor seating at the Cask & Larder restaurant at 565 West Fairbanks Avenue. He explained that in response to the comments heard at the September P&Z meeting, the applicant has provided a preliminary landscape plan showing the improvements to be done to upgrade the aesthetics of the entire site. He noted that the applicants are willing to abide by a Development Agreement if the Board deems it necessary. He explained that the most significant change from the previous plan is that the subject property at 520 S. Pennsylvania is now primarily being used as an upgraded entrance/exit for the overall property; and the parking spaces previously shown on the north side of the new driveway have been eliminated. There also is more land area being used for landscaping in that area behind the Cleaners/Swine & Sons building. Other aesthetic improvements are upgraded landscaping along the west side of that building, new landscape islands with trees in the interior of the existing parking lot and relocation of the dumpster out of sight. He said that this plan meets the primary desire of the applicants which is to increase the attractiveness of access along Pennsylvania Avenue, and to upgrade the appearance of the entire property.

Mr. Briggs stated that generally the staff is in opposition to zoning changes from residential to a business use. However given the property's historic use and location on the end of a transitional neighborhood, it is difficult to take that stance. In this transitional location, the parking lot zoning category would not change the use of this property from what exists today, and it creates a buffer for the residential properties from the commercial uses. Staff feels that this would improve the aesthetics of this block. He added that if the Board chooses, it could condition an approval upon review and approval of the specific landscape plan with sizes, types of plantings, etc. shown or delegate that to staff. Staff recommended approval of the request as follows:

1. APPROVAL of the request to change the Comprehensive Plan future land use designation of Single-Family Residential to Parking Lot on the property at 520 South Pennsylvania Avenue;
2. APPROVAL of the change of Zoning on the same property from Single-Family Residential (R-1A) to Parking Lot (PL); and
3. APPROVAL SUBJECT to the terms of the proposed Development Agreement.

Attorney Stuart Buchanan, 1031 West Morse Boulevard, Suite 350, represented the applicants. He indicated their agreement with the staff report as presented by staff. He explained that he assisted the applicants draft the proposed development agreement that it takes into consideration comments from the September meeting. He noted that the revised plans reflect two separate lots; the larger parent tract and the smaller lot where parking will occur. He noted that the request for the deck has been withdrawn and the conditional use is not needed and the only piece the Board is asked to make a decision on is the R-1A zoned piece. He requested approval of the request given the historical use of the property for parking, and that the applicants only want to improve the lot for parking, and that the applicants have committed to by way of the proposed development agreement that the property will revert back to residential if the property were to no longer be used as a parking lot. He responded to Board member questions and concerns.

Michael Wenrich, 865 Nottingham Street (project architect), was also present to respond to Board member questions and concerns.

Bob Cambric, Hannibal Square CLT, 2265 Lee Road, Suite 117, commended the owners of Cask and Larder for working with the neighborhood residents. He asked for clarification on the location of the entrance in proximity to the existing residential, and the reverter clause in the proposed development agreement.

Forrest Michael, 358 West Comstock Avenue, also commended the applicants and discussed his concerns with regard to the lay-out of the current plan. He said that it could present a problem to future owners. He presented to the Board members with an alternate parking plan.

Bob Morris, 112 Washington Avenue, spoke in support of the request. He thanked the applicants for working with members of the community to come up with an acceptable plan.

Mr. Buchanan responded to the concerns raised in the public comment. He explained that the drive-way entrance, as proposed, is necessary to maintain the amount of parking they have. With regard to the reverter clause, he clarified that the development agreement is tied to the use not ownership.

No one else wished to speak in support of the request. Public Hearing closed.

James Johnston stated that he is comfortable that the development agreement as drafted accurately reflects the applicant's intent for the property reverting back to R-1A. The applicant has done a commendable job in working with the community. Randall Slocum stated that he feels that this layout is the most efficient in obtaining the most parking spaces. Mr. Slocum noted that the drive-way ingress/egress is on the south side of the residential lot across the street, so he did not see an issue. Bob Hahn, Tom Sacha and Shelia De Ciccio also expressed their support of the request and thanked the applicants for their efforts in working with the community.

Motion made by Tom Sacha, seconded by Randall Slocum to approve the request to amend the Comprehensive Plan Future Land Use Map from single family residential to parking lot on property located at 520 South Pennsylvania Avenue. Motion carried unanimously with a 7-0 vote.

Motion made by Tom Sacha, seconded by Randall Slocum to approve the request to amend the official zoning map from single-family residential (R-1A) to parking lot district on property located at 520 South Pennsylvania Avenue. Motion carried unanimously with a 7-0.

REQUEST OF KNIGHTIRA, LLC FOR: SUBDIVISION OR LOT SPLIT APPROVAL TO DIVIDE THE PROPERTY AT 1751 TAYLOR AVENUE, ZONED R-1A, INTO TWO SINGLE FAMILY BUILDING LOTS. THE TWO LOTS ARE PROPOSED TO BE 70 FEET IN WIDTH AND 10,500 SQUARE FEET IN SIZE. VARIANCES ARE REQUESTED FOR THE 70 FEET OF LOT WIDTH PROPOSED.

Planner Allison McGillis gave the staff report. She explained that Knightira, LLC is the contract purchaser of the subject property and is requesting subdivision or lot split approval to divide the property located at 1751 Taylor Avenue, currently zoned R-1A, into two single-family lots. The property is currently occupied by one single-family home in the eastern portion of the lot, which the applicants plan to demolish. She provided an overview of the criteria for both the Zoning and Comprehensive Plan tests, review of the applicable codes, preliminary development plans. She stated that based on the advice from the City Attorney, the staff will not recommend "approval" of lot splits with variances due to the lots not meeting the minimum lot size requirements. However, the criteria still exists in the Comprehensive Plan and Subdivision Code regulations that the Planning and Zoning Board can base their recommendation on the Comprehensive Plan Test of the comparison with lot sizes in the immediate neighborhood. The Planning and Zoning Board then has the factual justification for approval or denial based on those statistical comparisons. This is a situation where the proposed lot sizes (square footage) is comparable to the neighborhood standard but the lot widths are five feet smaller than required. She added that based on the advice from the City Attorney, the staff will not recommend

“approval” of lot splits with variances. The issue is that if staff says that staff should not be recommending the creation of lots that do not meet the minimum lot size requirements. However, the criteria still exists in the Comprehensive Plan and Subdivision Code regulations that the Planning and Zoning Board can base their recommendation on the Comprehensive Plan Test of the comparison with lot sizes in the immediate neighborhood. The Planning and Zoning Board then has the factual justification for approval or denial based on those statistical comparisons. This is a situation where the proposed lot sizes (square footage) is comparable to the neighborhood standard but the lot widths are five feet smaller than required. In recognition that variances are required, staff recommended denial. She responded to Board member questions and concerns.

Bret Lindequam, Lindev Custom Homes, 1201 Louisiana Avenue, explained that the subject property sits on the east of a 140 foot wide lot and the west of the lot is greater than 70 feet. He added that there are no trees on the site; therefore, tree preservation is not an issue. He noted that of the 26 homes on Taylor between Phelps and Lakemont, the average lot size is 67.98 feet. He added that he plans to hire local architect Gary Hancock to draft preliminary designs of the homes and that each home is proposed to be between 3,900 and 4,000 square feet. He responded to Board member questions and concerns.

Meredith Murphy, 1770 Windsor Drive, spoke in opposition to the request. She expressed concern with the applicant constructing two-story homes. She stated that she feels that will result in a loss of privacy and she also expressed that she would like to see the character of the existing neighborhood maintained.

Linton Hutchinson, 724 Bonita Drive, (owns 1728 Taylor Avenue), spoke in opposition to the request. He said that he too would like to see the character of the existing neighborhood maintained. He added that his neighbor Mr. Fred Kittingham was not able to attend the meeting and he read a statement into the record from him.

Mr. Lindequam was allowed an opportunity to respond to the concerns of the neighbors. He said that letters were sent out to the surrounding neighborhood and no responses were received. He stated his willingness to install a landscape buffer so that the existing neighbor's privacy is maintained.

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

The Board members supported the request.

Motion made by Tom Sacha, seconded by Randall Slocum to approve the subdivision or lot split request to divide the property at 1751 Taylor Avenue into two single family building lots. The two lots are proposed to be 70 feet in width and 10,500 square feet in size. Variances are granted for the 70 feet of lot width proposed. Motion carried unanimously with a 7-0 vote.

REQUEST OF UP FIELDGATE US INVESTMENTS – WINTER PARK LLC TO: AMEND THE CONDITIONAL USE AND DEVELOPMENT AGREEMENT FOR THE WHOLE FOODS PROJECT AT 1000/1040 N.ORLANDO AVENUE, 1160 GALLOWAY DRIVE AND 967 CHEROKEE AVENUE, PROVIDING FOR THE ADDITION OF THE DEVELOPMENT PROPERTIES AT 900/950 N. ORLANDO AVENUE AND TO ALLOCATE THE PERMITTED BUILDING FLOOR AREA RATIO AMONGST ALL OF THE ABOVE REFERENCED PROPERTIES, SUBJECT TO FUTURE APPROVAL OF THOSE BUILDING PROJECTS.

Planning Manager Jeffrey Briggs provided the staff report. He explained that the this public hearing involves the request of Fieldgate US Investments – Winter Park LLC, the owner and developer of the Whole Foods Shopping Center at 1040 N. Orlando Avenue to transfer the unused floor area ratio building density from the 11 acre shopping center parcel to the 2 acre property directly to the south of the new Lee Road extension at 900/950 N. Orlando Avenue. He discussed the history of the UP Development. He explained that the method of implementation for this request is to provide an Amendment to the original Whole Foods Development Agreement for this purpose. The City Attorney has reviewed and modified the proposed Amendment for the protection of the City. He gave an overview of the proposed development agreement amendment. Mr. Briggs

noted that if the Development Agreement is approved, then the next step will be for UP Development to request Conditional Use approval for a specific project utilizing some or all, of the permitted floor area ratio. Since that future project still must meet the parking requirements, it is certain that any development exceeding the 45% floor area ratio would contain a parking garage component. It also is to be expected that such future development would encompass most of the site. He summarized by stating that when UP Development originally asked FDOT for approval to modify the Lee Road/Orlando Avenue intersection, all that UP Development desired was a signalized entrance/exit for the shopping center. If FDOT had granted that approval, then this agenda item would not be needed. Then, UP Development could have spread the permitted floor area ratio over the entire site within the permitted 45% floor area ratio. However, FDOT required the construction of the Lee Road extension and with the approval from the City it has been constructed and will soon be dedicated as a public street. So in that sense, UP Development is not asking for anything that they did not already have the ability to do, if not for the FDOT mandate. Staff recommended approval of the request.

Attorney J.J. Johnson, represented UP Fieldgate, stated that he was in agreement with the content of the staff report as presented by staff.

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

Motion made by Tom Sacha, seconded by Randall Slocum to approve the request to amend the conditional use and development agreement for the Whole Foods project at 1000/1040 North Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue, providing for the addition of the development properties at 900/950 North Orlando Avenue and to allocate the permitted building floor area ratio amongst all of the above referenced properties, subject to future approval of those building projects. Motion carried unanimously with a 7-0 vote.

NEW BUSINESS:

Upcoming Meeting Dates:

Tuesday, October 18, 2016 @ 6:00 p.m. FLU Work Session

Wednesday, October 19, 2016 @ 4 p.m. City-wide Transportation Meeting

Thursday, October 20, 2016 @ 6 p.m. P&Z meeting re: Comprehensive plan

Tuesday, October 25, 2016 @ 12:00 p.m. P&Z regular monthly work session

Tuesday, November 1, 2016 @ 6:00 p.m. Regular monthly P&Z Board meeting

There was no further business. Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Lisa M. Smith
Recording Secretary