The meeting was called to order by Mr. Krecicki at 7:00 p.m. in the Commission Chambers of the Winter Park City Hall.

Present: Chairman Drew Krecicki, Vice-Chairman Rick Swisher, Patrick Doyle, Michael Dick, Sarah Whiting and Carolyn Cooper.

Staff: Planning Director Jeffrey Briggs; Sr. Planner Stacey Scowden, Planning Technician Caleena Shirley, and Recording Secretary Lisa M. Clark.

PUBLIC HEARINGS

- Appeal of DI Partners, LLLP contesting the City Building and Zoning Official's interpretation and enforcement of Article III, “Zoning” of Chapter 58 of the City of Winter Park’s Land Development Code regarding the provisions of Section 58-64 for nonconforming uses relating to the denial by the City for the use of the generally referred to “Holler Chevrolet” properties at 860 W. Fairbanks Avenue, zoned C-3, for the sale and service of recreational vehicles as applies to the provisions of the code regarding nonconforming uses.

Planning Director Jeffrey Briggs presented the staff report. He explained that pursuant to Section 58-91 of the zoning code, the applicant has filed an appeal contesting the interpretation and determination of the City’s building and zoning official that the sale and service of recreational vehicles from the property at 860 West Fairbanks Avenue violates the code provisions regarding non-conforming uses. He added that the Board’s role is like a judicial court of appeals and further that either party may within 15 days appeal the decision to the City Commission. He elaborated on the City’s position in this regard and further stated the reasons for denial of the business license for the request as follows:

1. Non-conforming uses are for specific non-conforming uses of a property. The “legal non-conforming use” of a grandfathered-in property is for that specific use and that specific use only. Historically, the Holler Chevrolet property has been used for the sale of passenger cars and light trucks. This property has never been used for the sales of recreational vehicles, semi-trucks or other vehicles aside from passenger cars and light trucks. The City’s occupational license specifies “new car/used car dealer”. The occupational license application submitted to the City on December 15, 2005, states the use as “independent used car dealer”. To the extent that this property is grandfathered-in as a “legal conforming use” it is only for that specific use requested, licensed and utilized which has been a “car” dealership. The City cannot permit the expansion of this non-conforming use to now apply to recreational vehicles, semi-trucks or other such vehicles.
We understand that the Florida Department of Motor Vehicles will issue a license for the sale of motor vehicles from that location. The Florida DMV does not interpret or enforce municipal zoning regulations nor is any City bound by their determinations. They have routinely over the years issued licenses to locations that are not permitted for vehicle sales by our zoning code which leads to great confusion on the part of those business owners.

2. Non-conforming uses cannot be re-established once the six month period of discontinued activity has occurred. To our knowledge only a portion of the paved parking lot area of 860 West Fairbanks has been utilized actively for the parking of car sales inventory. The request for the use of the entire property for a recreational vehicle business is understood to include parking and sales of RV inventory from portions of the parking lot area that have not been utilized for over six months and it also seeks to re-establish use of the sales buildings and service facility that have not been utilized since at least the latter part of 2005, again longer than the six-month period. When the use of the buildings or portions of the property have been discontinued to be utilized for car sales and/or car service activities, then the non-conforming use cannot be re-established.

Staff responded to Board members questions and concerns.

Mr. Frank Hamner, 1011 Wymore Road, represented the applicant. He used a power point presentation to present the facts of his appeal. His general position is that the code permits all types of motor vehicle sales and does not distinguish between cars, trucks, recreational vehicles, etc. His position is also that if any part of the property is grandfathered-in then the entire property is grandfathered-in and the City cannot distinguish between portions of the parking lot, the building area, etc.

The City has asked Mr. Hamner several times to provide a copy of his power point presentation so that it may be made part of the public record and also made a part of these minutes. He has not provided that information to the City.

Mr. Joe Terranova, 700 Melrose Place, spoke concerning the request asking that the appeal be denied.

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

Considerable discussion ensued between members of the Planning Commission and Mr. Hamner. The discussion explored his contentions and facts involving the use of the property. The Board discussed various aspects of licensing of the property involving both the City’s business licenses and the State Dept. of Motor Vehicle licensing.

Motion made by Mr. Doyle seconded by Mrs. Whiting to DENY the appeal. Motion carried with a 4-1 vote. (Mr. Swisher voted in opposition)

CU 7:08 Request of Camden WP, LLC for Conditional Use Approval to build a three-story, 28,500 square foot, 30-room assisted living facility on the properties at 930, 950 and 960 Minnesota Avenue (zoned R-3).

Planning Director Jeffrey Briggs presented the staff report. He explained that the applicant is making a conditional use request to build and operate a three-story 28,500 square foot assisted living facility on the properties zoned R-3 at 930, 950 and 960 Minnesota. Mr. Briggs reviewed the land area for the project, setbacks, floor area ratio and compatibility with the surrounding neighborhood. He reviewed, in detail, the code requirements with regard these types of facilities. He discussed project issues. He noted that the key issue in the review of this request is the definition interpretation concerning the 50-foot setback. Further, if the Board interprets it differently than the applicant, the request cannot be approved. He further discussed scenarios in this regard.

Mr. Briggs summarized by stating staff concerns as: (1) no defined user of the property. He stated that it is staff’s desire for the applicant to partner with the user in order to be able to answer how the proposed facility will run. (2) The use of an ALF is an institutional use and is significantly different from the predominant
residential use. (3) The size of 28,500 square feet is unprecedented for this neighborhood. Staff recommended denial of the request. Mr. Briggs responded to Board member questions and concerns.

Doug Trovillion, applicant, spoke concerning the request. He gave the Board an overview of the layout of the property, as well as discussed the “50-foot rule”. He noted that the property is surrounded by commercial zoning on Orange Avenue as well as three parking lots. He added that he feels that the proposed ALF would have the least impact on the adjacent residential neighborhood. He responded to Board member questions and concerns.

Guy Nicosia, 836 Miles Avenue, spoke in opposition to the request. He expressed concern that a true ALF has a heavy parking need due to staffing requirements, ambulances, etc. He also added that this type of use may be too intense for the residential neighborhood. He stated that he feels that the proposed use cause a commercial creep and increased traffic. He said that he does not support the conditional use request.

Lance Broderick, 922 Bungalow Avenue, stated that he is strongly opposed to the property being utilized as an ALF.

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

Consensus of the Board was that the use of the site as an ALF was acceptable, however, all voiced that the project must be scaled down considerably.

Motion made by Rick Swisher, seconded by Patrick Doyle to approve the concept of an assisted living facility on the subject properties. Further, consensus was that the project be brought down considerably in size before bringing the project back to the Planning Commission. Motion carried with a 5-0 vote.

SITE PLAN REVIEWS

SPR 12:08 Request of M/M Gwinn for approval of an addition and alterations to their home at 1551 Via Tuscany on Lake Maitland, zoned R-1AAA.

Assistant Planner Stacey Scowden presented the staff report. She reviewed the issues of floor area ratio, impervious coverage, views of the neighbors and the lake, storm water retention and tree preservation. Staff recommended approval. Staff responded to Board member questions and concerns.

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

Motion made by Mr. Doyle, seconded by Mr. Dick to approve the request subject to reconciliation of the tree issue and maintaining a 20-foot setback. Motion carried unanimously with a 5-0 vote.

SPR 13:08 Request of M/M Basisht for approval of a new two-story, single-family home located at 1751 Lake Berry Drive on Lake Berry, zoned PURD.

Assistant Planner Stacey Scowden presented the staff report. She reviewed the issues of floor area ratio, impervious coverage, views of the neighbors and the lake, storm water retention and tree preservation. Staff recommended approval. Staff responded to Board member concerns.

Roger Timlin, 402 Cardinal Oaks Court, Lake Mary, Florida, represented the property owner. He responded to Board member concerns regarding floor area ratio. No one wished to speak concerning this item. Public Hearing closed.
Motion made by Mrs. Cooper, seconded by Mr. Doyle to approve the request contingent upon maintaining 33% floor area ratio based on the NHWE for Lake Berry (elevation 70.0). The applicant is to provide final landscape plan and the retaining wall plan to staff for review and approval (coordination with Michael Dick). Motion carried unanimously with a 5-0 vote.

SPR 14:08 Request of M/M France for approval of additions and alterations to her home at 1511 Via Tuscany on Lake Maitland, zoned R-1AAA.

Assistant Planner Stacey Scowden presented the staff report. She reviewed the issues of floor area ratio, impervious coverage, views of the neighbors and the lake, storm water retention and tree preservation. Staff recommended approval.

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

Motion made by Mr. Swisher, seconded by Mr. Dick to approve the request. Motion carried unanimously with a 5-0 vote.

NEW BUSINESS

Planning Director Briggs discussed upcoming meetings related to the Comprehensive Plan. Discussion ensued.

There was no further business. The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Lisa M. Clark,
Recording Secretary