Planning Director Jeffrey Briggs presented the staff report. He explained that the applicant, Bank First is requesting to amend the Comprehensive Plan future land use map and zoning map on two lots of property at 1289 and 1301 Gene Street from Office to Commercial. These two lots, fronting on Gene Street are combined in ownership with four other lots including the adjacent lot on Gene Street and the three adjacent lots fronting on West Fairbanks Avenue that are all designated Commercial. He noted that the same request had been advertised for the March meeting of P&Z when the CPH engineering firm had made the request on behalf of McDonald’s who was prospectively either leasing or buying this entire property to use for a new fast food restaurant. The current application only states the request is for “all uses consistent with C-3 zoning including restaurant”, however, the staff assumes it is the same end user. He said that restaurants are not permitted on properties designated as “office”. They need to be designated “commercial”. So in order to build a restaurant, the applicant needs the City to change the Comprehensive Plan designation on these two lots from “office” to “commercial” and the zoning from O-1 to C-3. He gave an overview of the approval process, the differences between legislative versus quasi-judicial decisions, the comprehensive plan history, the West Fairbanks Avenue Improvement project and the Form Based Code, and provided a code standard analysis.

Staff indicated that these two lots in question have been designated as “office” in the Comprehensive Plan since the City adopted our first Comprehensive Plan in 1976. They have been zoned office at least since
1953. (That’s the earliest zoning map we have). It is likely that since Gene Street is a local brick street and Gene Street in the past was primarily residential (most of the offices along Gene Street were residential conversions) that office zoning was deemed appropriate given those circumstances.

Staff indicated that the major differences between commercial and office land use is that commercial represents the potential for additional traffic and expanded hours of operation for versus typical office businesses. So that is part of the City Commission’s consideration of this “legislative” question, as to whether that resultant increase in intensity (traffic & hours of operation) is in the best interests of the City at this location.

He summarized by stating that staff believes this Comprehensive Plan change has the potential to create significant and detrimental additional traffic onto a local street and it creates additional (evening/weekend) hours of operation that are not compatible with the character of the surrounding area that includes residential properties. Staff recommended denial. Mr. Briggs responded to Planning Board member questions and concerns.

Mr. Johnston asked if the two lots in question (as part of the overall parcel of six lots) could be used solely as parking for a commercial business, then in that case there would be no increase in potential traffic generation. Mr. Briggs agreed with that scenario but indicated that his analysis was based only on these two lots developing by themselves which lead to a different conclusion.

Mr. Gottfried asked whether the Police Department had examined the traffic safety issues raised. Mr. Briggs indicated that the full traffic analysis happens at the conditional use stage of approval.

Becky Wilson, (Lowndes, Drosdick, Kantor & Reed PA) 215 North Eola Drive, Orlando, FL represented the applicant. She stated that the property is under contract to be sold to McDonalds. She noted that representatives from Bank First, McDonalds and engineers are present to answer any questions that the Board members may have. She used a Power Point presentation to give details of the request and to provide an overview of the dynamics of the neighborhood adjacent to the property. Mrs. Wilson also spoke concerning West Fairbanks Avenue improvement, the proposed form based code, and traffic flow by providing a brief traffic analysis. She also discussed the proposed future land use amendment with regard to compatibility and consistency. She also expressed her concerns regarding the effect that the proposed form based code would have on the subject property, traffic generation and new growth management legislation. She stressed that Gene Street is no longer residential in nature. She responded to Board member questions and concerns. Mrs. Wilson was questioned by the City Attorney as to if she objects to the speakers being sworn in. Mrs. Wilson expressed no objection, and requested that all of the speakers make it known where their property is in relation to the site.

The following people spoke in opposition to the request: Nort Northam, 120 Broadview; Tommy Drake, 500 Shoreview Avenue; Jeff Adams, 490 Shoreview; Mary Black, 1334 Dallas Avenue; Heather Huddleston, 1366 Gene Street; Rick Frazee, 1921 Englewood; Judith Knight, 712 Nicolette; James McClain, 659 and 808 Nicolet; and Jim Strollo, 777 French Avenue. The speakers expressed concern with the following issues: traffic going to and from the site, cut thru traffic, future redevelopment along the Fairbanks corridor, noise to the adjacent home and appropriateness of the location for the proposed use. No one else wished to speak concerning the request.

In a brief rebuttal, Mrs. Wilson acknowledged residential properties owned by Mr. Jim Veigle that are located adjacent on Gene Street. She restated that the requests are to change the zoning and future land use on properties on Gene Street. She responded to traffic concerns for the 17/92 and Fairbanks Avenue intersection. She also noted that it was at the request of staff that the conditional use did not accompany this item. There was no further public comment. The public hearing was closed.

Mrs. Reischman, requested that the Board members disclose any ex-parte communications concerning this request. The Board members provided that information.
Mr. Johnston stated that he understands staff’s position as well as those of the residents. He said that that issue for the board to consider is the future land use map amendment and rezoning of the Gene Street parcels and the appropriateness of the potential change. He said that he feels that it is appropriate for commercial to abut office and that the line dividing the two should conform to ownership. He expressed that there was no substantial reason for these two lots in this location to be office versus commercial, especially as only one third of this property is office and two-thirds are already zoned commercial. He said that he feels that many of the issues raised tonight will be discussed further when the conditional use application is dealt with. He was in support of the request. Mrs. Whiting said that she appreciates the neighborhood input, but feels the focus needs to remain on the two lots in question. She said that she is comfortable with those parcels changing from office to commercial usage. She agreed with the comments made by Mr. Johnston. She spoke to the issues raised concerning traffic. She said that she feels that there should be consideration given to the safety of access to Gene Street and Fairbanks Avenue deserves more study. Mr. Livingston expressed that he felt that circumstances have changed since the office zoning was established in 1953. Mr. Gottfried said that he feels that the entire Fairbanks Avenue corridor must be taken into consideration. He discussed the necessity of future planning for Fairbanks Avenue, and that this corridor is a major consideration needing future planning, including potential improvements to Gene Street. He said that he does not want to see “piece meal” along the Fairbanks Avenue. Mr. Krecicki stated that he does not support the request. He said that when looking at the future land use map for Gene Street, and as you move away from the 17/92 Fairbanks intersection, the uses become less intense especially on the north side. He said that he does not think it is an appropriate change and that approval will add to the increased intensity on Gene Street. Mr. Slocum stated that he agrees with Mr. Krecicki and further the residents who spoke have a vested interested in that area and those concerns have to be taken into consideration. He said that he feels that the applicant should design the project within the parameters of the zoning category that they are in.

Motion made by Mr. Gottfried, seconded by Mr. Johnston to approve the comprehensive plan future land use map designation change from office to commercial on 1289 and 1301 Gene Street. Motion carried with a 4-2 vote. (Board members Gottfried, Livingston, Whiting and Johnston voted yes. Board members Krecicki and Slocum voted no.)

Motion made by Mr. Johnston, seconded by Mr. Gottfried to approve the zoning change from office to commercial on 1289 and 1301 Gene Street. Motion carried with a 4-2 vote. (Board members Gottfried, Livingston, Whiting and Johnston voted yes. Board members Krecicki and Slocum voted no.)

The City Attorney was excused from the meeting at 8:15 p.m.

REQUEST OF THE CITY OF WINTER PARK TO: REPEAL IN THE “ALCOHOLIC BEVERAGES CODE” SECTION 10-33 SUBSECTIONS (g) AND (j) AND REPEAL IN THE "ZONING REGULATIONS" SECTION 58-84, SUBSECTION (X), THE SPECIAL HOURS OF SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR THE HANNIBAL SQUARE OR WESTSIDE NEIGHBORHOOD.

REQUEST OF THE CITY OF WINTER PARK TO: AMEND THE “OFFENSES PROVISIONS CODE”, SECTION 62-98, TO ESTABLISH NOISE ORDINANCE VIOLATIONS INVOLVING LIVE MUSICAL ENTERTAINMENT WITHIN THE HANNIBAL SQUARE NEIGHBORHOOD COMMERCIAL DISTRICT AND OTHER COMMERCIAL PROPERTIES LOCATED WITHIN 300 FEET OF RESIDENTIAL PROPERTIES.

Planning Director Jeffrey Briggs presented the staff report. He said that at the April 25th City Commission meeting there was considerable discussion by the public and the city commission concerning the issue of consistency of the hours for alcoholic sales and consumption. While most of the City operates with the ability for a 2:00 am closing time, the restaurants in the Hannibal Square neighborhood commercial district have an 11:00 pm closing on Sundays – Thursdays and 12:00 midnight on Friday-Saturday. The motion adopted by the city commission was to “have the planning department come back with a more consistent ordinance across the city”. The planning staff ordinance proposal, advertised for adoption, would allow all business establishments to utilize a consistent 2:00 am closing time for the sale and consumption of alcoholic beverages.
beverages. However, the planning staff ordinance proposal also calls for augmenting the city’s noise ordinance to impose limits on musical entertainment audible 200 feet from any establishment after 11:00 pm on Sundays-Thursdays and 12:00 am midnight on Fridays –Saturdays. He said that the affected restaurants have signed a petition in favor of both of these new code changes.

He indicated that this has been a controversial topic and one that has come up at least three times before over the years. For the affected restaurants in the Hannibal Square neighborhood and on Fairbanks Avenue, their viewpoint is that if their business does not create any noise nuisances for neighbors then they should have the same hours of operation as everyone else. To many of the residents in the Hannibal Square neighborhood, they feel the current system is working and it is also about the ‘promise’ that the hours of operation would respect their residential neighborhood, churches, etc.

Mr. Briggs provided the Board members with a detailed history concerning this issue. The public purpose of these city controls including limited hours of operation or limits on live entertainment has always been to protect those nearby residents so they can live and sleep in peace. Another factor is that the City amended our Alcoholic Beverage code in 2009 so that now all establishments have to obtain an “extended hours” permit to allow the sale and consumption of alcoholic beverages after 11:00 pm. Then based upon complaints about noise, overflow parking, underage drinking, etc. the City can revoke that “extended hours” permit and restrict the hours to no later than 11:00 pm. That gives the City a real tool or threat that gets the attention of establishments if complaints arise. Mr. Briggs responded to Board member questions and concerns.

Mr. Krecicki provided the members of the board with a graphic that he created that shows how the proposed ordinances affect each restaurant now and with the proposed change.

Joe Terranova, 700 Melrose Avenue, spoke concerning the history of Hannibal Square. He said that up until two years ago he did not support the change of hours in Hannibal Square. He detailed his concerns of what he does not feel should change in the Hannibal Square neighborhood (i.e.: allowing bars and nightclubs, noise from live or amplified music, and patrons of the establishments creating noise disturbances in the neighborhood). He said that he feels that the noise ordinance that is being proposed addresses those concerns. He said that he feels that there should be a “level playing field”. He said that he does not feel that it is fair to have more restrictions on restaurants that operate in one area versus another.

Vincent Gagliano, 511 West New England Avenue, stated that he is the owner and operator of Chez Vincent. He spoke concerning the history of his business and the effect that the restrictions have had on his establishment. He expressed his support of the proposed ordinance.

Phil Vangelakos, 240 South Pennsylvania Avenue, #302 and Jim Strollo, 777 French Avenue, spoke in favor of the proposed ordinance.

Scott Wells, 211 Holt Avenue, spoke favorably for the proposed noise ordinance but expressed opposition to the proposed ordinance that changes the hours. He stated that he owns property on Holt Avenue that is rented out to Rollins’ students. He expressed his concern with the detriment that could be created if the hours are extended.

Mary Daniels, 650 Canton Avenue, stated that she supports the noise ordinance but opposes the change in hours. She submitted a petition from neighborhood residents opposing the hours change. She said that she feels that there should be consistency for the residents and expressed the need to keep the promise that was made to residents with the creation of the ordinance.

Susan Gabel, 1539 Golfside Drive, Winnie Tyler, 210 East Morse Boulevard; 331 West Lyman Avenue; Lurline Fletcher, 790 Lyman Avenue; Elsie Epps, 832 Symonds Avenue. They were all in agreement with the comments made by Ms. Daniels. They urged the Board members to honor the promises that were made to the residents and not approve the ordinance.
Thad Seymour, 1804 Summerfield Avenue, opposed the ordinance. He said that he agrees that the stakes are extremely high on this issue. He said that he feels that the issue is the character of the community. He said that he feels that the issues of trust and character are at the heart of the decision that has to be made. He quoted Emerson... “A foolish consistency is the hobgoblin of little minds.” *Self-Reliance.*

Vickie Kruger, 200 Carolina Avenue, also stated that she opposes the proposed ordinance. She suggested that if the hours change, require the restaurants to have police officers to assist patrons in getting to their cars. She also suggested that measures be put in place to measure the decibels so that those levels are kept under control.

Kenneth Murrah, 1601 Legion Drive, said that he is extremely opposed to changing the hours. Mr. Murrah discussed the historical aspects of this issue.

Patrick Doyle, 748 McIntyre Avenue, spoke in opposition. He said that he feels that approving the request would not be a good thing for the City to do.

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

Mr. Krecicki expressed that he is not in support of extending the hours, but he does support the proposed noise ordinance. Mrs. Whiting stated that she is appreciative of the time and efforts that staff have put into this particular item. She agrees with Mr. Krecicki. She said that she feels that the restaurants that chose to locate in an area that are adjacent to residential zoning were aware of where they were moving. Mr. Gottfried stated that he supports the staff’s position on this issue. He said that he does not feel that it is fair to compare what existed then to what exists now. He said that he feels that the dynamics of the neighborhood have changed enough to support the proposed ordinance. Mr. Johnston said that he feels that the restaurants have done a very good job policing themselves. He was in support of the ordinance.

*Motion made by Mr. Krecicki, seconded by Mr. Livingston to deny request of staff to repeal the in the alcoholic beverages code the special hours of sale and consumption in the Hannibal Square or Westside neighborhood. Motion carried with a 4-2 vote. (Board members Krecicki, Livingston, Whiting and Slocum voted yes. Board members Gottfried and Johnston voted no.)*

*Motion made by Mr. Krecicki, seconded by Mrs. Whiting to approve the proposed noise ordinance. Motion carried with a 5-1 vote. (Board members Krecicki, Livingston, Whiting Gottfried and Slocum voted yes. Board member Johnston and voted no.)*

Chairman Krecicki called a recess at 9:18 p.m. and reconvened the meeting at 9:23 p.m.

**LAKEFRONT SITE PLAN REVIEWS:**

**REQUEST OF M/M FIELD FOR:** THE CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE AT 1112 PRESERVE POINT DRIVE ON LAKE BERRY, ZONED R-1AAA.

Senior Planner Stacey Hectus presented the staff report. She explained that Mr. and Mrs. Field are requesting approval of a new single-family home located at 1112 Preserve Point Drive on Lake Berry. The home is proposed at 9,351 square feet. That is an FAR of 11% well within the maximum FAR of 25%. This home has impervious lot coverage of 17% within the maximum permitted of 40%. This home meets the code requirement for the 50% front yard landscape coverage. She addressed trees on the site. She said that at this time, there will be five trees removed for this project, and that at the time of the staff report Alan Lee had not assessed the condition of the trees. She also addressed the issues of views from the lake and the neighbors, and storm water retention. Staff recommended approval. Mrs. Hectus responded to Board member questions and concerns.
Phil Kean, 1011 McKean Circle, represented the applicant. He responded to Board member questions and concerns. No one else wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Johnston, seconded by Mr. Livingston to approve the request. Mr. Krecicki offered an amendment to the motion as follows: (1) that the height of the wall change from 3.4’ to 3’, (2) that the placement of the house be allowed to be modified to go from removing 4 trees down to 2 trees, (3) and the gazebo is no higher than what is allowed by code. Mr. Johnston accepted the amendment. Motion carried unanimously with a 6-0 vote.

NEW BUSINESS:

Mrs. Whiting requested that lakefront reviews be moved to first on the agenda, and Mr. Livingston spoke concerning rezoning and consistencies of properties on Gene Street.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN AND P&Z REPRESENTATIVE TO THE TREE PRESERVATION BOARD

Motion made by Mrs. Whiting, seconded by Mr. Livingston appointing Drew Krecicki as Chairman. Motion carried unanimously with a 6-0 vote.

Motion made by Mr. Krecicki, seconded by Mr. Livingston appointing Sara Whiting as Vice-Chair. Motion carried unanimously with a 6-0 vote.

Motion made by Mr. Krecicki, seconded by Mrs. Whiting appointing George Livingston as the Planning Board representative to the Tree Preservation Board. Motion carried unanimously with a 6-0 vote.

There was no further business. The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Lisa Smith,
Recording Secretary