Chair Whiting called the meeting to order at 7:00 p.m. in the Commission Chambers of City Hall. Present: Sarah Whiting, Tom Sacha, Peter Gottfried, Randall Slocum, James Johnston, Drew Krecicki and Robert Hahn. Staff: Planning Director Jeffrey Briggs and Recording Secretary Lisa Smith.

Approval of minutes – November 6, 2012:

Motion made by Tom Sacha and seconded by Peter Gottfried, seconded by to approve the November 6, 2012, meeting minutes. Motion carried unanimously with a 6-0 vote.

PUBLIC HEARINGS

REQUEST OF ATLANTIC HOUSING PARTNERS, LLLP TO: AMEND THE "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS CHANGE THE EXISTING DESIGNATION OF SINGLE FAMILY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL ON THE PROPERTY AT 861 WEST CANTON AVENUE.

REQUEST OF ATLANTIC HOUSING PARTNERS, LLLP TO: AMEND THE OFFICIAL ZONING MAP SO AS CHANGE THE EXISTING ZONING OF SINGLE FAMILY RESIDENTIAL (R-1A) DISTRICT TO MULTI-FAMILY (HIGH DENSITY R-4) DISTRICT ON THE PROPERTY AT 861 WEST CANTON AVENUE.

REQUEST OF ATLANTIC HOUSING PARTNERS, LLLP FOR: CONDITIONAL USE APPROVAL FOR A FOUR STORY, 105 UNIT SENIOR LIVING FACILITY OF AFFORDABLE SENIOR HOUSING UNITS ON THE PROPERTIES AT 550 N. DENNING DRIVE AND 861 WEST CANTON AVENUE.

Planning Director Jeffrey Briggs presented the staff report. He explained that Atlantic Housing Partners LLLP is requesting to develop the former site of the half-finished Denning Drive Apartment project at 550 N. Denning Drive with a four-story, 105 unit residential affordable senior housing development. The project would utilize the existing on-site three level parking garage. He explained that this project is adding a new property at 861 W. Canton Avenue, zoned R-1A, to the previous development site and removing from the previous development plan the properties at 781/783/835 W. Canton Avenue and 441/437 N. Capen Avenue. He said that in order to approve this project there are amendments required to the Comprehensive Plan and Zoning Code to rezone the property at 861 W. Canton Avenue to R-4 and the Conditional Use for the overall project. Due to the project size, a city-wide notice of these public hearings has been mailed to all 15,500 households in the City as well as notices mailed to the property owners within 1,500 feet. The revised development site is 3.5 acres. Mr. Briggs discussed the history of the project, the current development request, building height, architectural elevations, landscaping, building setbacks, storm water retention, traffic impact, parking, affordable housing provisions and the variances requested and relevant comprehensive plan policies.
Mr. Briggs summarized by stating that this is a very good alternative development plan as compared to the previous proposed redevelopment which is vested. As a senior affordable housing project it fills an important social need given our aging population. The site plan revisions and the creation of the open space park on the Canton/Denning corner will be very appealing. The staff welcomes the trade-off for one more floor (4 stories vs. 3 stories) to get this open space park amenity. The new building is further setback from the street frontages which importantly provides more space for landscape screening for the building along the street. The 2006 project had a continuous 470 foot long façade along Denning Drive contrasted with this much smaller 165 foot long façade along Denning Drive. In terms of building size, the 2006 project was a building of 138,788 sq. ft. and the 2012 project is 124,829 sq. ft. or about 14,000 sq. ft. smaller. It has the same number of units but in a 10% smaller building. Staff recommendation is for approval of the comprehensive plan and zoning code amendment ordinances (861 W. Canton) and approval of the conditional use with the Development Agreement to incorporate the entitlements and variances of record.

Rebecca Wilson, Lowndes, Drosdick, Cantor and Reed, represented the applicant. She introduced the members of the development team. She also submitted into the record affidavits and qualifications of the members of the development team and that the project is in compliance with the City’s comprehensive plan. She used a Power Point presentation to provide details of the proposed project. She noted that the Florida Housing Finance Corporation ensures that criteria for age and income are met since that is the agency that issues the tax credit for the project. She responded to Board member questions and concerns.

Scott Culp, Atlantic Housing Partners, also responded to Board member questions and concerns regarding the corner park/open space, the security fencing anticipated, the adequacy of parking, common areas within the project and overall staffing.

Sally Flynn, 1400 Highland Avenue, stated that she was not opposed to the project but expressed concern with the increase in density. She also expressed concern with how park and green space is being monitored in the City.

Dan Bellows, 558 West New England Avenue, spoke in favor of the project and explained that the previous Denning Drive apartments were based on 2.0 spaces per unit so there was always at least 60-70 surplus spaces in the parking garage.

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

The Board members all made individual comments of support for the project and the desirability of the redesign. The Board complimented the applicant on the redesign and expressed that the open space park on the corner would be a wonderful visual enhancement to that corner.

Mr. Hahn asked the Board to discuss the question of accessibility of open space such as this private park on the Canton/Denning corner as public (versus private) gathering spots and encouraged the City to look for ways (balancing the security concerns) for broader use of those areas.

Ms. Whiting asked the Board for more discussion of the parking variance given the characteristics of the residents age (55 and up) and other factors. There was considerable discussion of the parking study provided, its factual support for the variance and the knowledge of this market sector by the applicant. Other members expressed that with 125 surplus parking spaces in the parking garage, it might be advisable for a lesser variance especially if the City could revisit once the project is up and occupied since the City can require less parking later but not more parking later.

The Board asked Mr. Bellows (as the user of the surplus spaces) for his comments. Mr. Bellows indicated that he was Ok with that change if there was a way to revisit the issue once the project is occupied. The Board discussion agreed that this was a reasonable approach to resolve the issue.

Motion made by Mr. Sacha, seconded by Mr. Gottfried recommending approval of the comprehensive plan amendment future land use map designation from single family residential to high density. Motion carried unanimously with a 6-0 vote.
Motion made by Mr. Sacha, seconded by Mr. Krecicki recommending approval of amending the official zoning map changing the zoning designation from R-1A to R-4. Motion carried unanimously with a 6-0 vote.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to recommending approval of the “final” conditional use with a revision to the parking variance to require 170 parking spaces located in the parking garage which gives a parking ratio of 1.62 cars per unit and with the caveat that this parking number or ratio can be reevaluated six months after the project is completed and totally occupied to determine if the original variance requested is warranted. The approval shall also include the revised Development Agreement and the elimination of the former property in the former agreement as presented by staff. Motion carried unanimously with a 6-0 vote.

REQUEST OF MARLOW’S TAVERN FOR: CONDITIONAL USE APPROVAL TO CONVERT THE FORMER MCDONALD’S RESTAURANT AT 1008 S. ORLANDO AVENUE INTO A MARLOW’S TAVERN AND RESTAURANT AT A LOCATION WITHIN 300 FEET OF RESIDENTIAL PROPERTIES.

Planning Director Jeffrey Briggs explained that this Conditional Use request is to redevelop the former McDonald’s site into a Marlow’s Tavern restaurant with the sale and consumption of alcoholic beverages. Conditional Use is required due to this location being within 300 feet of residential properties. He noted that there are residential properties to the east (behind) along Balch and Minnesota Avenues and along Kelly and Oak Place. There are also residences to the west across Orlando Avenue on Miller and Michigan Avenues. The plans submitted depict a very attractive exterior remodel and an interior floor plan for 162 seats. Based on the one space for each three seats the 55 parking spaces allow up to 165 seats. Mr. Briggs provided insight into the City’s conditional use provisions with regard to alcoholic beverages in establishments and reviewed the history of establishments in which they were granted.

Mr. Briggs summarized by recommending approval subject to the following conditions:

1. No outside speaker system is permitted.
2. The restaurant shall have closing hours of 11:00 pm on Sunday thru Thursday and Midnight on Friday and Saturday.
3. No live amplified musical entertainment other than single acoustic acts.

(This is what they do at the Shipyard which also has residences in close proximity and it has worked) Mr. Briggs responded to Board members questions and concerns.

Tom DiGiorgio, 24 NE 24th Avenue, Pompano Beach, FL, represented the applicant. He provided Board members with an overview of Marlow’s Tavern ownership and concept. He noted that a similar restaurant is already opened in Point Orlando, but this location is more representative of the restaurants in the chain. He said that they have no objections to the conditions recommended by staff, as long as there is an opportunity to revisit the hours at a later time. He responded to Board member questions and concerns. No one else wished to speak concerning the request.

Motion made by Mr. Sacha, seconded by Mr. Gottfried recommending approval of the conditional use subject to the conditions recommended by staff and agreed to by the applicant, as follows:

1. No outside speaker system is permitted.
2. The restaurant shall have closing hours of 11:00 pm on Sunday thru Thursday and Midnight on Friday and Saturday.
3. No live amplified musical entertainment other than single acoustic acts.

Motion carried unanimously with a 7-0 vote.

REQUEST OF THE CITY OF WINTER PARK TO: AMEND SECTION 58-6 (a) (6) TO REVISE THE PROCEDURES FOR AMENDMENTS TO THE COMPREHENSIVE PLAN, REPEALING SECTION 58-7 REGARDING DEVELOPMENT AGREEMENTS ADOPTED PURSUANT TO CHAPTER 163, FLORIDA
STATUTES; AMENDING POLICY 1-1.1.3 AND REPEALING POLICY 1-1.1.5 OF THE CITY’S COMPREHENSIVE PLAN OF THE GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE ELEMENT TO REMOVE THE REQUIREMENT OF SUPERMAJORITY OF VOTES FOR ORDINANCES.

REQUEST OF THE CITY OF WINTER PARK TO: REPEAL THE REQUIREMENT FOR A SUPERMAJORITY VOTE OF THE CITY COMMISSION TO ADOPT ORDINANCES; REPEALING SECTION 58-89(e) REGARDING REZONING ORDINANCES; AMENDING SECTION 58-95 REGARDING COMMUNITY REDEVELOPMENT AREA.

Planning Director Jeffrey Briggs presented the staff report. He explained that this item has been prepared by the City Attorney’s office and the Planning staff to:

1. Amend the Comprehensive Plan and Zoning Code to remove the code provisions where four votes or a supermajority are required for the adoption of an Ordinance, and

2. Amend the Land Development Code to remove the code provisions for Development Agreements adopted pursuant to Chapter 163, Florida Statutes.

He explained that the City Attorney, Larry Brown, has prepared a legal opinion which was provided to the Board members. In that opinion, Mr. Brown indicates 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 require either four votes or a supermajority of the City Commission to adopt an Ordinance are in conflict with the City Charter. As the City Charter supercedes and controls the procedure for the adoption of Ordinances, these two ordinances have been advertised to remedy and remove those conflicts.

The amendments repeal the following supermajority vote requirements;

1. Supermajority needed for an Ordinance to adopt Comp. Plan/Zoning changes if recommended for denial by P&Z and also for any Ordinance change to the text of the Future Land Use element. (Sec. 58-6 and Policy 1-1.1.5 and Sec. 58-89(e).

2. Supermajority needed for an Ordinance to create or expand a CRA or CDD. (Policy 1-1.1.3 and Sec. 58-95).

He continued by stating that his conflict with City Charter only relates to the adoption of Ordinances. There are provisions of our Code that require a supermajority for the adoption of certain types of conditional uses or to waive time limits for re-applications. Those are not in conflict with the City Charter.

Regarding the repeal of the Chapter 163 Development Agreement provisions, he explained that in 1991 when the City adopted the Comprehensive Plan pursuant to Chapter 163, Florida Statutes, the City also adopted the provisions set forth in Chapter 163 for Development Agreements. These provisions are in the Article I, “Comprehensive Plan” section 58-7 of the Code. Since 1991, the City has never adopted a Development Agreement pursuant to Chapter 163, Florida Statutes. The reason is that these Development Agreements expire after 10 years. Instead what the City consistently utilizes is the adopted provisions for Development Agreements set forth in the Article III, “Zoning” section of the Code, which are Sections 58-89(j) and 58-90(f). These Development Agreements run with the land and do not expire.

Over the years these conflicting provisions have caused much confusion, as we just experienced with the 1997 YMCA Development Agreement. We wind up with conflicting legal opinions causing unnecessary confusion. The problem is compounded by the fact that when you search the City Code via MuniCode (which is what everyone does) it immediately takes you to the Comp. Plan Section 58-7 provisions and not to the Zoning Code provisions. There is no other solution to eliminate this confusion then to repeal the Section 58-7 provisions that the City has not used in the past 22 years.

He summarized by stating that the Planning and Zoning Board does not really have discretion with regards to the supermajority issue. The City Charter is the City’s Constitution and all the other codes must conform to those Charter provisions. There is discretion as to the repeal of the Development Agreement section. But the recent history with the YMCA shows us that to have conflicting provisions for development agreements in the Code needs to be remedied.
No one wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to recommend approval of the proposed ordinance amending and repealing the specified sections of the comprehensive plan. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Sacha, seconded by Mr. Gottfried recommending approval of the proposed ordinance repealing the requirement for a supermajority vote of the city commission to adopt ordinances; repealing section 58-89(e) regarding rezoning ordinances; and amending section 58-95 regarding community redevelopment area. Motion carried unanimously with a 7-0 vote.

NEW BUSINESS:

Mr. Sacha provided feedback from the joint work session held with the members of the Economic Development Advisory Board on the 29th of November. He said that he feels that the discussion was premature. He requested that when the issue comes back that a decision from the City Commission on what they desire to see happen on the Progress Point property. The Board members expressed that they were appreciative of the opportunity to be included in the discussion, but were in agreement with the comments made by Mr. Sacha.

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

Respectfully submitted,

Lisa M. Smith,
Recording Secretary