



City of Oakbrook Terrace
Planning & Zoning Commission Meeting
Tuesday June 3, 2014
Case #15-2

The meeting was called to order by Chairman Noble at 7:00 P.M.

Present: Chairman Noble, Commissioner's Schneider, Ventura, Myszkowski, Almeroth

Not Present: Donoval

Also Present: Building and Zoning Administrator Mihaela Dragan, City Attorney Peter Pacione, Planning & Zoning Commission Secretary Janice Coglianese, Attorney Mark Daniel, Daniel Law Office, P.C., Jeff Smith, Twin Peaks, Vice President of Development, David NcCallum, David McCallum Associates, Inc., Landscape Architect, Luay Aboona, Kenig, Lindgren, O'Hara, Aboona, Inc. (KLOA), Transportation and Parking Planning Consultant, Jacob Bohne, President of Jacob & Hefner Associates, Joseph Abel, of Abel & Associates, Barbara Peloquin, KIMCO Realty, Regional Counsel, Scott Tucker, KIMCO Realty, Vice President of Leasing, and William Jarosik, KIMCO Realty, Assistant Property Manager

Chairman Noble said the first order of business was to approve the minutes of May 6, 2014, Case #15-1, the request by the City of Oakbrook Terrace for text amendments to Sections 156.004 and 156.088 of the Zoning Ordinance concerning the regulation of Cannabis Cultivation Centers and Medical Cannabis Dispensaries in the B-4 Business Park District of the City of Oakbrook Terrace, DuPage County, Illinois.

Chairman Noble asked if there were any comments from the Commissioners.

There were none.

Chairman Noble asked for a motion to approve the minutes.

MOTION Commissioner Almeroth entertained a motion to approve the minutes of May 6, 2014, Case #15-1, the request by the City of Oakbrook Terrace for text amendments to Sections 156.004 and 156.088 of the Zoning Ordinance concerning the regulation of Cannabis Cultivation Centers and Medical Cannabis Dispensaries in the B-4 Business Park District of the City of Oakbrook Terrace, DuPage County, Illinois.

The motion was seconded by Commissioner Schneider.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE.

Chairman Noble said the second order of business, to consider the request by 22ND STREET PLAZA 337, LLC ("Petitioner"), under authority from the owners 22ND STREET PLAZA 837, LLC and LANDOVER LAND, INC., for the approval of demolition of the Pompei building and various ordinances and resolutions pertaining to property commonly known as 17W744 22nd Street (PINs 06-21-403-024, 06-22-301-059) which is referred to below as the "Subject Property" and pertaining to property commonly known as 17W714, 17W734 and 17W740 22nd Street (PINs 06-21-403-023, 06-22-301-058) which is referred to below as the Commercial Area Parcel. The ordinances and resolutions are requested on the basis that the Petitioner wishes to redevelop the Subject Property while obtaining relief continuing the previous approvals and limited additional approvals for the Commercial Area Parcel.

MOTION Commissioner Almeroth entertained a motion to waive the reading of the legal notice and stated that copies will be available for anyone wishing to read it at the end of the meeting.

The motion was seconded by Commissioner Schneider.

Ayes: Schneider, Ventura, Myszkowski, Almeroth, Chairman Noble
Nays: None
Absent: Donoval

The following was not read according to the motion, but documented for the records:

Petitioner seeks the following relief:

1. An ordinance, pursuant to Section 156.025(C)(4) of the Zoning Ordinance, preliminarily and finally approving an amendment to planned unit development and related "Overall PUD Amended Site Plan" for planned unit development for the Commercial Area Parcel

with exceptions authorized under Section 156.025(B) as noted in Item No. 3 and to permit the reduction of yards and open spaces adjoining the Commercial Area Parcel pursuant to Section 156.025(B)(2);

2. An ordinance, pursuant to Section 156.025(C)(4) of the Zoning Ordinance, preliminarily and finally approving an amendment to planned unit development for the Subject Property subarea and related "Subarea PUD Amended Site Plan (Twin Peaks/Tenant Space)" for the Subject Property subarea with exceptions authorized under Section 156.025(B) as noted in Item No. 4 and to permit the reduction of yards and open spaces adjoining the Subject Property pursuant to Section 156.025(B)(2);
3. An ordinance, pursuant to Section 156.023(B) of the Zoning Ordinance, approving variations for the Commercial Area Parcel as follows:
 - a. B-3 General Retail District Variations for the Commercial Area Parcel as follows:
 - i. Variation from Section 156.087(G)(1) of the Zoning Ordinance prohibiting paved areas in the front yard within ten (10) feet from the front lot line in order to permit paved areas to be located zero (0) feet from the front lot line;
 - ii. Variation from Section 156.087(G)(2) prohibiting paved areas in the side yard within five (5) feet from the side lot lines in order to allow paved areas situated within two (2) feet of the west side lot line and zero (0) feet from the east side lot line;
 - iii. Variation from Section 156.087(G)(3) prohibiting paved areas in the rear yard within five feet (5) from the rear lot line in order to allow paved areas within five feet (2) of the rear lot line;
 - iv. Variation from Section 156.087(G)(4) limiting a drive aisle in the side and rear yards to 50% of the required rear yard in order to allow (a) the maintenance and replacement of the existing rear yard drive aisle and loading area to occupy as much as 85% of the rear yard, and (b) the maintenance and replacement of the existing side yard drive aisles to occupy as much as 100% of the east side yard;
 - v. Variation from Section 156.087(H) of the Zoning Ordinance in order to permit the existing building(s) on the Commercial Area Parcel to remain at their

- current height even where a portion may exceed the maximum building height of thirty-five (35) feet;
- vi. Variation from Section 156.087(I) in order to permit the continuation of existing improvements at the Commercial Area Parcel (with one landscape island being removed immediately east of the Subject Property) with no required additional landscaping and to waive the requirements of Sections 156.049(H) and 156.049(I) pertaining to perimeter and interior landscaping on the Commercial Area Property;
 - vii. Variation from Section 156.087(J) in order to permit lighting to exceed two (2) foot candles at the lot lines of the Commercial Area Parcel in order to allow the continuation of the existing lighting for and within the Butterfield Road freestanding sign;
- b. Parking/Loading Variations under Section 156.087(F) for the Commercial Area Parcel as follows:
- i. Variation from Sections 156.100, 156.101(A)(2)(b), and 156.101(B)(1) of the Zoning Ordinance, limiting parking on a parcel or zoning lot to the parking of vehicles of patrons, occupants or employees of the principal use or building on that parcel or zoning lot, in order to permit the use of the Commercial Area Parcel for the parking of vehicles for the occupants or employees of the uses and buildings on the Subject
 - ii. Property, West Suburban Bank and the 17W700-17W704 22nd Street (the "Inland Parcel") parcel, the Inland Parcel users only to the extent of thirty three (33) parking spaces within one hundred fifty (150) feet of the Inland Parcel;
 - iii. Variation from Sections 156.100, 156.101(A)(2)(b), and 156.101(B)(1) of the Zoning Ordinance, limiting parking on a parcel or zoning lot to the parking of vehicles of patrons, occupants or employees of the principal use or building on that parcel or zoning lot, in order to permit (a) the use of parking (20 spaces) on the West Suburban Bank parcel by occupants and employees of uses and buildings on the Commercial Area Parcel for the parking of vehicles in existing spaces directly north of West Suburban Bank, (b) the use of the Inland Parcel by occupants and employees of uses and buildings on the Commercial Area Parcel for the parking of vehicles (in four (4) existing spaces)

on the west side of the Inland Parcel, (c) outdoor storage west and south of the loading bays and loading operations in the drive aisle between the two outdoor storage areas and (d) seasonal outdoor sales occupying an 80' x 90' (7,200 s.f.) within 30 parking spaces and a related drive aisle with the west line of this area approximately 267 feet east of the west lot line and the north line of this area 339 feet north of the 22nd Street lot line (ending on the south line of accessible parking stalls at the north end of the three parking rows and drive aisle affected);

- iv. Variation from Section 156.101(A)(2)(d)(e) in order to permit the current overnight staging of semi-tractors and semi-tractor trailers in the west loading docks and the drive aisle between the two west loading areas and to permit a maximum of one (1) roll-off trailer in the area north of the east tenant space;
- v. Variation from Section 156.100, 156.101(C), and 156.101(B)(1) of the Zoning Ordinance, in order to allow for the joint and collective use of the Commercial Area Parcel off-street parking facilities for the uses and buildings on the Commercial Area Parcel, the Subject Property, West Suburban Bank and the Inland Parcel subject to the parking variations provided for the Commercial Area Parcel and the
- vi. Subject Property and notwithstanding some overlap that may occur during business hours;
- vii. Variation from Section 156.100 and Section 156.101(D)(1) of the Zoning Ordinance setting the mandatory dimension and area requirements of parking spaces and drive aisles in order to permit the utilization of existing parking spaces (with the exception of three (3) spaces 185 feet west of the northeast corner of the Commercial Area Parcel which will not be restriped) and drive aisles, as designed and installed, on the Commercial Area Parcel notwithstanding the circumstance that some spaces or aisles are or may be undersized and exist;
- viii. Variation from Sections 156.100 and 156.101(D)(2) of the Zoning Ordinance setting the mandatory dimension and area requirements of accessible parking spaces in order to permit the utilization of existing parking spaces, as designed and installed, on

- the Commercial Area Parcel but not of an area and dimensions not less than those required by the accessibility guidelines of the Illinois Capital Development Board;
- ix. Variation from Sections 156.100 and 156.101(E) of the Zoning Ordinance setting the maximum dimension and area requirements for drives and flares from drives over public property at the City's right-of-way line, or at the right-of-way line of a county or state roadway, in order to continue the existing dimensions of the drives and flares adjacent to and nearby the Commercial Area Parcel which are in excess of thirty five (35) feet (drives) and five (5) feet (flares);
 - x. Variation from Section 156.101(F)(2)(d) in order to permit existing lighting on the Commercial Area Parcel notwithstanding any measurements of two foot candles at the lot line;
 - xi. Variation from Sections 156.100 and 156.101(G)(2) of the Zoning Ordinance, mandating that required parking spaces shall be within three hundred (300) feet of the use served in order to permit the existing configuration of the parking areas and drive aisles at the Commercial Area Parcel;
 - xii. Variation from Section 156.100, Section 156.102(G) of the Zoning Ordinance, setting various requirements and ratios for minimum required parking, particularly for shopping centers, in order to (a) allow a parking ration of 3.6 parking spaces per 1,000 square feet subject an adjustment by removing the area of restaurants to allow for appropriate parking for the restaurant while maintaining the aforementioned ratio for the shopping center, (b) allow a minimum parking requirement of eight hundred thirty four (834) parking stalls on the Commercial Area Parcel subject to reduction for the outdoor storage (23 spaces) and seasonal outdoor sales (30 spaces) which may occur simultaneously; (c) allow the southerly extension of the three (3) parking aisles east of the northeast corner of the Subject Property by one stall to add six (6) spaces; (d) expand or contract parking to eliminate or reinstall accessible parking stalls

- provided that the Commercial Area Parcel remains in compliance with applicable accessibility laws and regulations; (f) provide for a maximum attribution of parking for the Inland Parcel to occur on the Commercial Area Parcel at a maximum of thirty three (33) spaces within one hundred fifty (150) feet of the Inland Parcel; and (g) provide for a maximum attribution of parking for the West Suburban Bank Parcel to occur on the Commercial Area Parcel at a maximum of two (2) spaces;
- xiii. Variation from Section 156.103(A)(2) in order to allow loading in the drive aisle between the outdoor storage area on the west building face and the 12 parking spaces in the second outdoor storage area;
 - xiv. Variation from Sections 156.045(B)(14), 156.100, 156.103 and Section 156.104 of the Zoning Ordinance in order to permit the use, access, design and location of loading spaces in their existing form and location, including in the west side and rear yard, on the Commercial Area Parcel;
- c. General Regulation Variations for the Commercial Area Parcel as follows:
- i. Variation from Section 156.035(B) in order to permit the continuation of existing improvements at the
 - ii. Commercial Area Parcel and the development of the Subject Property as contemplated by the proposed Overall PUD Amended Site Plan on file with the City;
 - iii. Variation from Section 156.035(C)(3) and Section 156.045(B)(30) of the Zoning Ordinance, limiting the height of accessory structures to sixteen (16) feet above grade, in order to permit the installation of banner signs on existing light poles, and to allow the continuation of the existing structures at the Commercial Area Parcel which include, but are not limited to (a) light poles not to exceed thirty (30) feet in height, (b) freestanding signs, (c) canopies and fences, and (d) retaining walls on the Commercial Area Parcel;
 - iv. Variation from Section 156.035(C)(4)(a) of the Zoning Ordinance, limiting the area of sheds to one hundred fifty (150) square feet in order to allow containers to remain (as part of existing operations) in designated locations on the Commercial Area Parcel;

- v. Variation from Section 156.035(C)(4)(b) of the Zoning Ordinance, limiting the size of generators and placing conditions on site design around generators in order to allow the existing generators and its replacement with a chain link fence and no landscaping buffer within the area that extends twenty five (25) feet south of the existing loading docks for Home Depot and twenty (20) feet west of the west face of the building and with existing or similar replacement components near the freestanding sign at the Butterfield Road entrance;
- vi. Variation from Sections 156.035(E) and 156.045(B)(30) of the Zoning Ordinance restricting the height of light poles to allow the continuation and replacement of all light poles on the Commercial Area Parcel with the exception of light poles in the southernmost parking field directly east of the Subject Property at a height not to exceed thirty (30) feet and to allow banner signs on said light poles at a height not to exceed twenty two (22) feet (or the maximum height allowable for the aforementioned southernmost parking field);
- vii. Variation from Section 156.037 of the Zoning Ordinance in order to allow the continuation of the
- viii. existing improvements on the Commercial Area Parcel and the improvement of the Subject Property as depicted in plans on file with the City and described, in part by these variations;
- ix. Variation from Section 156.038(C) in order to allow more than one principal structure on a zoning lot, single subdivided lot or an unsubdivided parcel of land in order to permit the existing improvements on the Commercial Area Parcel and to allow the construction of the entry canopy for Twin Peaks to extend from the east line of the Subject Property to a point not more than fifteen (15) feet east thereof;
- x. Variation from Section 156.039(B)(1) of the Zoning Ordinance in order to permit fences in the front yard as contemplated for patios to be installed on and near the Subject Property and to permit the fencing around the seasonal sales area as well as cart corrals on the Commercial Area Parcel;

- xi. Variation from Section 156.039(B)(2)(3) in order to permit maintenance and replacement of existing side and rear yard fencing;
 - xii. Variations from Section 156.039(B)(5) in order to permit maintenance and replacement of existing side yard fencing that will extend no further than fifteen (15) feet south of the easternmost wall of the principal building on the Commercial Area Parcel;
 - xiii. Variation from Section 156.039(B)(8) of the Zoning Ordinance in order to permit fences constructed, at least in part and in whole, with chain links in front of the principal and accessory structure on the Commercial Area Parcel (north, northeast and east of Big Lots, west of Home Depot and near the monument sign along Butterfield Road);
 - xiv. Variation from Section 156.051(E)(1) of the Zoning Ordinance in order to permit the continuation and replacement of three (3) above ground service facilities on the Commercial Area Parcel;
 - xv. Variation from Section 156.051(F)(2) to waive the landscape screening requirement for above ground service facilities in the loading and service areas on the Commercial Area Parcel and to allow fencing for the generator as approved without a full landscape buffer;
 - xvi. Variation from Section 156.051(D)(5) waiving the 250-foot radius prohibition for multiple above-ground service facilities in order to permit the installation of three (3) above ground service facilities on the Commercial Area Parcel;
- d. Accessory Structure Variations for the Commercial Area Property as follows:
- i. Variation from Section 156.035(B) and Section 156.087(G)(1) of the Zoning Ordinance from the minimum forty (40) foot required front yard and related ten (10) foot unpaved area in B-3 District front yards in order to allow a minimum six (6) foot front yard along Butterfield Road for an backup generator/transformer, formerly referred to as an electrical substation, within six (6) feet of the front lot line along Butterfield Road;

- ii. Variation from the prohibition in Section 156.035(B) and Section 156.039(B)(2) of the Zoning Ordinance against fences in the front yard in a business district in order to allow an opaque eight (8) foot high security fence around the backup generator/transformer, formerly referred to as an electrical substation, along Butterfield Road;
 - iii. Variation from the prohibition in Section 156.035(B) and Section 156.035(B)(2) of the Zoning Ordinance against accessory structures in the required front yard to allow the backup generator/transformer, formerly referred to as an electrical substation, within the front yard along and adjacent to Butterfield Road;
- e. Signage Variations for the Commercial Area Parcel as follows:
- i. Variation from Section 156.043(B)(1) of the Zoning Ordinance in order to permit total sign area for a building with three (3) frontages to exceed six hundred (600) feet in gross sign area and to allow the existing entitlement of 1,973 square feet in gross sign area plus gross sign area attributable to the banner signs, plus an additional area of signs of five hundred (500) square feet, or a total of two thousand four hundred seventy three (2,473) square feet;
 - ii. Variation from Section 156.043(B)(2), Section 156.043(B)(3)(a), and Section 156.043(F)(5) limiting the number and surface area of freestanding, directional and identification signs in order to allow (a) two (2) freestanding pylon signs on the Commercial Parcel at the Butterfield Road entrance and the east 22nd Street entrance with a maximum sign area of four hundred forty (440) square feet, two hundred twenty (220) square feet or less per sign, one hundred ten (110) square feet or less per sign face, (b) one (1) freestanding pole sign east of the Subject Property along 22nd Street not to exceed two hundred twenty (220) square feet in area or one hundred ten (110) square feet per sign face, (c) as many as thirty four (34) banner signs with an area not to exceed fifteen (15) square feet per banner which may only be placed on light poles at a maximum of seventeen (17) locations and a height not to exceed twenty two (22)

- feet with such signs containing non-commercial and commercial content relating to goods or services available on site, and (d) as many as three (3) freestanding signs with an area per double-sided not to exceed ten (10) square feet (five (5) square feet per side maximum) and not exceeding a height of three and one-half (3.5) feet;
- iii. Variation from Section 156.043(B)(3)(b) of the Zoning Ordinance limiting the size of any wall sign to three hundred (300) square feet in order to allow the continuation and replacement of the main entry sign for Home Depot at an area not to exceed four hundred forty (440) square feet;
 - iv. Variation from Section 156.043(C)(5) limiting the height of freestanding signs in order to permit (a) the banner signs at a height not to exceed twenty two (22) feet on light poles at no more than seventeen (17) locations (2 per light pole), (b) the pylon signs at the Butterfield Road and 22nd Street entrances at a height not to exceed thirty three (33), and (c) the pole sign east of the Subject Property not to exceed a height of twenty two (22) feet;
 - v. Variation from Section 156.043(C)(10) in order to permit the east main entry canopy sign to extend onto the Commercial Area Parcel;
4. An ordinance, pursuant to Section 156.023(B) of the Zoning Ordinance, approving variations for the Subject Property as follows:
- a. B-3 General Retail District Variations for the Subject Property as follows:
 - i. Variation from Section 156.087(D) limiting the floor area ratio to 0.5 for retail uses in order to allow a floor area ratio not to exceed 0.58;
 - ii. Variation from Section 156.087(G)(1) in order to permit paved areas in the front yard to be located closer than ten (10) feet from the front lot line of the parcel in order to allow cement at and below grade for the monument sign situated approximately thirty seven (37) feet west of the east lot line of the Subject Property;
 - iii. Variation from Section 156.087(G)(2) in order to permit paved areas in the side yard to be located closer than five (5) feet and a building to be located within ten (10) feet from the east side lot line of the

- parcel in order to allow paved areas walks, entry, entry canopy walk and elk support, and a building to be situated on, nearby, along and over the east lot line of the Subject Property;
- iv. Variation from Section 156.087(G)(3) in order to permit paved areas in the rear yard to be located closer than five (5) feet and a building to be located within 30 feet from the rear lot line of the parcel in order to allow construction of walks, covered and uncovered patios, fences and a building within five (5) feet and thirty (30) feet of the rear lot lines;
 - v. Provided that the Subject Property is improved substantially in accordance with plans on file with the City, variations from Section 156.087(G) in order to reduce the yards on the Subject Property as follows: (a) front yard, ten (10) feet; (b) side yards to zero (0) feet on the east and five (5) feet on the west; and (c) rear yard to zero (0) feet;
 - vi. Variation from Section 156.087(G)(4) in order to allow the common access drive to the loading area to serve as more than one-half of a side or rear yard requirement and to exist in the front yard;
 - vii. Variation from Sections 156.087(I), 156.049(H) and 156.049(I) in order to permit the development of the Subject Property based upon the continuation of existing improvements at the Commercial Area Parcel (less a landscape island situated east of the Subject Property) with no landscaping required in addition to the landscaping set forth in the landscape plan for the Subject Property on file with the City, and to otherwise waive the requirements of Section 156.049(H) and 156.049(I);
 - viii. Variation from Section 156.087(J) in order to permit lighting to exceed two (2) foot candles at the north, east and west lot lines of the Subject Property in order to allow the continuation of existing lighting and in order to allow the development of the Subject Property;
- b. Parking and Loading Variations under Section 156.087(F) for the Subject Property as follows:
- i. Variation from Section 156.100 and Section 156.101(A)(2)(b) of the Zoning Ordinance, limiting parking on a parcel or zoning lot to the parking of

- vehicles of patrons, occupants or employees of the principal use or building on that parcel or zoning lot, in order to permit the use of the Commercial Area Parcel for the parking of vehicles for the occupants or employees of the uses and building on the Subject Property;
- ii. Variation from Section 156.100 and Section 156.101(C) of the Zoning Ordinance, in order to allow for the joint and collective use of the Commercial Area Parcel off-street parking facilities for the uses and building on the Subject Property subject to the parking variations provided for the Commercial Area Parcel and the Subject Property and notwithstanding the overlap that may occur during business hours;
 - iii. Variation from Section 156.100 and Section 156.101(G)(2) of the Zoning Ordinance, mandating that required parking spaces shall be within three hundred (300) feet of the use served in order to permit the existing configuration of the parking areas and drive aisles at the Commercial Area Parcel;
 - iv. Variation from Section 156.100 and Section 156.101(D)(1) of the Zoning Ordinance setting the mandatory dimension and area requirements of parking spaces and drive aisles in order to permit the utilization of existing parking spaces and drive aisles, as designed and installed, on the Commercial Area Parcel notwithstanding the circumstance that some spaces and aisles are or may be undersized and exist on other zoning lots or parcels;
 - v. Variation from Section 156.100 and Section 156.101(D)(2) of the Zoning Ordinance setting the mandatory dimension and area requirements of accessible parking spaces in order to permit the utilization of existing parking spaces, as designed and installed, on the Commercial Area Parcel and in order to permit the installation of new accessible parking spaces of an area and dimensions not less than those required by the accessibility guidelines of the Illinois Capital Development Board;
 - vi. Variation from Section 156.102(E)(14)(a)(b) in order to set the parking requirement for restaurant tenants on the Subject Property based on a calculation of bar area and indoor and outdoor dining area on the

- subject property, and also to permit the continued parking of vehicles on the ratio of one (1) space per one hundred (100) square feet of actual dining area and three (3) spaces per one hundred (100) square feet of actual bar area based on the approved and permitted restaurant dining and bar areas;
- vii. Loading variation from Section 156.100, Section 156.103 and Section 156.104 of the Zoning Ordinance in order to permit the use, access, design and location of a loading space in the form and of the size (30' x 60') reflected in the Subarea PUD Amended Site Plan (Twin Peaks/Tenant Space) which is on file with the City;
- c. General Regulation Variations for the Subject Property as follows:
- i. A variation from Section 156.035(B) of the Zoning Ordinance in order to permit the construction of fences and walls for covered and uncovered improvements to accommodate (a) dining patios with or without fences in the side yards (east and west) and the front and/or rear yard (north), (b) an entry canopy in the side yard (east), and (c) loading facilities, trash receptacles, grease trap, keg storage area, signage and restaurant-related waste disposal and storage within enclosures at the locations depicted in the front yard (south) and the side yard (east);.
 - ii. Variation from Section 156.035(B) and Section 156.043 of the Zoning Ordinance in order to permit the installation of a monument sign in the front yard (south) along 22nd Street;
 - iii. Variation from Section 156.035(C)(4)(a) of the Zoning Ordinance, limiting the area of sheds (beer cooler) to one hundred fifty (150) square feet in order to allow a cooler area of up to three hundred (300) square feet;
 - iv. Variation from Sections 156.035(F) and 156.045(A)(3) limiting occupancy of the rear yard by an accessory building which is not part of the principal building to 30% or less of the required rear yard and an area not to exceed 800 square feet in order to permit two (2) patios with fences, one of which is covered and may be enclosed and the other of which is open to the

- elements, and both of which exceed eight hundred (800) square feet in area;
- v. Variation from Section 156.037 of the Zoning Ordinance in order to allow the improvement of the Subject Property as depicted in plans on file with the City and described, in part by these variations;
 - vi. Variation from Section 156.039(B)(1) of the Zoning Ordinance in order to permit fences in the front yard as contemplated for screening of service bays, loading area, keg storage and waste disposal areas in the front yard on the Subject Property;
 - vii. Variation from Section 156.039(B)(8) of the Zoning Ordinance in order to permit fences constructed, at least in part, with chain links in front of the structure on the Subject Property (south side of building) provided that appropriate design techniques will obscure the view of the chain links from public areas;
 - viii. Variation from Sections 156.051(D) and 156.051(E)(1) in order to permit two (2) above ground service facilities in the front yard on the Subject Property;
 - ix. Variation from Section 156.051(F)(2) to waive the landscape screening requirement for above ground service facilities in the loading and service area on the Subject Property;
 - x. Variation from Section 156.051(D)(5) waiving the 250-foot radius prohibition for multiple above-ground service facilities in order to permit the installation of two (2) above ground service facilities in the front yard on the Subject Property;
- d. Bulk Regulation Variations for the Subject Property as follows:
- i. Variation from Section 156.087(D), limiting the floor area ratio to 0.5 for retail uses and to 0.8 for service uses, in order to permit the development of a new building on the Subject Property with a floor area ratio not to exceed 0.58;
 - ii. Variation from Section 156.087(F) in order to permit the parking and loading described above;
 - iii. Variation from Section 156.087(G) in order to permit the following yard area reductions, alternatively to the relief set forth in "e" immediately above: (a) front yard (south) reduction of yard to eight (8) feet; (b) front

- yard and/or rear yard (north) reduction of yard to zero (0) feet from the north lot line; (c) side yard (east) reduction of yard to zero (0) feet from the east lot line; and (d) side yard (west) reduction of yard to five (5) feet from the west lot line;
- iv. Variation from Section 156.087(G) of the Zoning Ordinance in order to permit the extension of a main entry canopy from the building on the Subject Property to a point not greater than fifteen (15) feet east of the east lot line of the Subject Property;
 - e. Accessory structure variations for the Subject Property from Section 156.045(B)(14)(20)(35)(36) of the Zoning Ordinance prohibiting accessory structures within ten (10) feet of the vertical wall of the nearest building faces in order to permit the front yard cooler storage area, the front yard trash and recycling receptacles (including grease trap and keg storage area);
 - f. Signage Variations for the Subject Property as follows:
 - i. Variation from Section 156.043(A)(3) in order to allow (a) a sign above the east main entrance and on canopy at a point that will be more than four (4) feet from the principal building but which cannot protrude from the area beneath the canopy by more than one (1) foot and (b) signs on the canopy over the east patio area that will be situated more than four (4) feet from the principal building;
 - ii. Variation from Section 156.043(B)(1) of the Zoning Ordinance limiting the Subject Property to five hundred (500) feet in gross sign area in order to and to allow six hundred seventy five (675) square feet in gross sign area;
 - iii. Variation from Section 156.043(B)(2) of the Zoning Ordinance in order to permit a freestanding monument sign with two (2) faces, each face of which may be as large as one hundred fifty (150) square feet;
 - iv. Variation from Section 156.043(C)(3)(B) in order to allow canopy signage and lettering to appear above the canopy over the east patio;
 - v. Variation from Section 156.035(B) and Section 156.043(C)(5) of the Zoning Ordinance restricting the height of freestanding signs to fifteen (15) feet in

order to a freestanding monument sign situated along 22nd Street at a height not to exceed nineteen (19) feet;

- vi. Variation from Sections 156.043(C)(4), 156.043(C)(11)(c) and Section 156.043(C)(10) to (a) permit the illumination of the east main entry sign on the face of the canopy and (b) allow the east main entry canopy sign to extend onto the Commercial Area Parcel;
5. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use permit under Section 156.035(E) to allow accessory structures to exceed a height of sixteen (16) feet on the Commercial Area Parcel, including canopies, fences, storage racks, storage facilities, and retaining walls;
6. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use permit for an exterior electrical generator/transformer substation in the B-3 District pursuant to Sections 156.087(D)(1) and 156.087(D)(3);
7. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use for outdoor dining with an area exceeding 25% of the indoor dining space pursuant to Section 156.087(C)(28) of the Zoning Ordinance for Twin Peaks on the Subject Property;
8. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use for outdoor dining with an area equal to or less than 25% of the indoor dining space, but in no event less than the area required for legal table service to two (2) two-person tables and five (5) four-person tables pursuant to Section 156.087(C)(28) of the Zoning Ordinance for the second tenant space on the Subject Property;
9. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use under Section 156.087(A)(2) to allow business, service, repair and processing, storage and merchandise display to be conducted without an enclosed building at the Commercial Area Parcel and under Section 156.087(C)(14) to allow exterior sales, display and storage of merchandise, including greenhouses, when accessory to permitted enclosed hardware and lumberyard uses on the same zoning lot, all in the areas depicted in the proposed Overall PUD Amended Site Plan on file with the City;
10. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use under Section 156.087(C)(6) to

allow the sale of dimension lumber, millwork, cabinets, and other building materials (provided that no milling, planning, jointing or manufacture of millwork shall be conducted on the premises) at the Home Depot on the Commercial Area Parcel;

11. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use under Section 156.087(C)(13) to allow equipment rentals with outdoor storage at the Home Depot on the Commercial Area Parcel;
12. An ordinance pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use under Section 156.051(D)(1) and (H) in order to allow three (3) above ground service facilities on the Commercial Area Parcel;
13. An ordinance pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use under Section 156.051(D)(1) and (H) in order to allow two (2) above ground service facilities on the Subject Property;
14. An ordinance, pursuant to Section 156.024(B) of the Zoning Ordinance, approving a special use under Section 156.087(A)(2) to allow business, service, and merchandise display to be conducted without an enclosed building at the Subject Property to occur on the patios depicted in the proposed Subarea PUD Amended Site Plan on file with the City;
15. An ordinance accepting the abandonment of the special use granted (Ordinance No. 01-18, Section 2) for the operation of a cocktail lounge, catering service and outside dining area for the former Pompei Banquet Center;
16. Authorization by resolution to demolish the existing Pompei structure pursuant to Chapter 153 of the Code of Ordinances of the City of Oakbrook Terrace in advance of construction pursuant to the plans reflecting the relief noted above and a variation from Section 153.02(A)(6) pertaining to the planting island and tree to be removed east of the Subject Property on the Commercial Area Parcel and for vegetation and trees to be removed on the Subject Property.

Petitioner seeks those variations otherwise necessary to allow the improvement, maintenance and operation of (a) the Subject Property according to the Subarea PUD Amended Site Plan (Twin Peaks/Tenant) and (b) the Commercial Area Parcel according to the Overall PUD Amended Site Plan on file with the City of Oakbrook Terrace.

City Attorney Pacione asked if anyone in the audience wanted a copy of the legal notice.

There were none.

Chairman Noble asked the Petitioner and anyone else who wished to speak to be sworn in.

Mark Daniel of Daniel Law Office, P.C., Attorney for Twin Peaks, Jeff Smith, Vice President of Development for Twin Peaks, William Bohne, President of Jacob & Hefner Associates, Joseph Abel of Abel & Associates, Barbara Peloquin, Regional Counsel for KIMCO Realty, Luay Aboona, Transportation and Parking Planning Consultant, David McCullum, Landscape Architect of David McCallum Associates, Inc., and Scott Tucker, Vice President of Leasing for KIMCO Realty were sworn in by Planning and Zoning Secretary Coglianese.

Chairman Noble asked the Petitioner to state their case.

Mark Daniel, Attorney for the Petitioner took the floor and stated that he was here this evening representing 22nd Street Plaza 337 LLC as the Petitioner. He said during the evening he would be referring to 337 or the 337 Parcel, the smaller out lot parcel originally the former Pompei. The 22nd Street Plaza 337 LLC has been authorized by three (3) companies to proceed with the application. He proceeded to identify the property. On the Home Depot site there are a number of businesses, Home Depot, Big Lots, and a vacant Loyola space, all situated in the mainline center. On the mainline parcel that surrounds the out lots that runs up to Butterfield Road on the northwest side known as the 837 parcel or the commercial area parcel, the larger partial, has a history of former stores, Handy Andy, Venture, K-Mart, and Home Depot which were the primary anchors for this location. The 337 parcel has a history of former places like Chi Chi's, a seafood restaurant, and Pompei, which Twin Peaks is now seeking authorization for their new location. These two (2) parcels are under a distinct ownership. The larger commercial area parcel is owned by 22nd Street Plaza 837 LLC, the smaller parcel is owned by Landover Land. Landover Land has a ground lease with the Petitioner; all authorized the Petitioner to proceed with the application. Attorney Daniel said they are asking some relief on the commercial area parcel; some out of economic common sense, some out of necessity, and some out of an attempt to create a shopping center environment.

Attorney Daniel stated that the 337 parcel is commonly known as 17W744 22nd Street and the larger 837 parcel is known as 17W714, 17W734 and 17W740 22nd Street, are two (2) parcels that are tied into this development due to title transactions and warrant deeds. They are the southwest corner of the commercial area parcels, West Suburban Bank and a two-story office

building and the parcel on the southeast corner of the 837 commercial parcel (the inland parcel) which are not the subject of this application this evening. These properties will come up in discussion due to related parking agreements.

Attorney Daniel continued to comment on the history of the properties that used special warranty deeds that created access from Midwest Road and Summit Avenue from the east into the Home Depot site, a transaction with the inland parcel which led to some reciprocal parking up to 33 spaces under the current arrangement and the West Suburban Bank transaction that created some development limitations for the bank. There is a cross-access for both of these parcels. Attorney Daniel stated in respect to the zoning entitlements for the property, the City has been incredibly active. Home Depot has been rated the 5th highest in the region out of 90 stores.

Attorney Daniel commented what is being proposed tonight is to replace Pompei with a new restaurant of the same size, same height, and the same signage, with the exception that there will be two (2) tenants occupying this space. The activity of the main entrances to the property will generally remain the same. The main entrance for Twin Peaks will be situated on the east face of the building to take advantage of the 110 parking spaces on the south parking field purposely designed to draw parking away from the main parking field of Twin Peaks. The second tenant entrance will be located on the north face of the building and one (1) of the major improvements is the injection of the loading area.

Attorney Daniel said the curious twist in a municipal zoning regulatory perspective is that there is no original planned unit development ordinance by title; the City Attorney and Attorney Daniel have both agreed on this. At no time did the City adopt an ordinance titled a "Planned Unit Development Ordinance" for the property. Sometime in the early 2000's it was noted that there was an ordinance adopted involving Pompei and all the parking on the main commercial area property entitled an "Ordinance Amending the K-Mart Planned Unit Development to Allow for the Pompei Use of a Smaller Property Within It Today and the Parking Services on the Larger Surface Parcels". This was an amendment to the planned unit development that didn't exist.

Attorney Daniel commented how the Commission could amend something that didn't previously exist. The City Code states that if the amendment follows the same process it could be treated as a planned unit development. Attorney Daniel stated that application and legal notice can be complicated, and that a planned unit development could be considered a vested right.

Attorney Daniel is first asking that the Commission recommend an amendment to the planned unit development site plan for the commercial area parcel and to approve an amendment to the south area parcel that Pompei occupies now. He asks that the Commission recommend that with the exceptions show on the application discussed today.

Attorney Daniel stated that this was not the only thing they were requesting. There are a series of special uses necessary for the outdoor patio, multiple transformers, above-ground service displays on the same property, and in regard to planned unit development and the planned unit development exceptions, because the City Attorney might say that there was no original planned unit development; he's asking that they adopt a belt and suspenders approach to ensure that his client has the proper entitlement. The belt being an amendment to the planned unit development and the suspenders to make sure the thing holds being an approval of site plans amended pursuant to variations granted by the Commission. They are asking for both forms of relief, which in essence the Commission could approve both.

Attorney Daniel continued to comment on "Standards of Variations". He said these included practical difficulty and particular hardship, which are viewed in the context of several things, how the property is situated, the design of the property, the size of the property, the location of the frontage, the elevation of the property, and the site. The site is set up with minimal landscaping, which the City Council was comfortable with, along with the signage and height of the building. The second tenant was designed for the purpose of a restaurant, but could fall back to retail. In essence there are two (2) tenants operating at a lower intensity than Pompei operated.

Petitioner Smith took the floor and discussed Twin Peaks background, which started in 2005 in a suburb north of Dallas. They currently have 52 locations throughout the United States predominantly in the south, southeast, and midwest; currently one (1) operating in Wheeling. Twin Peaks is a sports theme with a mountain lodge motif. In 2010 they were awarded the Hot Concept Award of the National Restaurant News and Franchise of the Year by the International Franchise Association in 2011. What makes Twin Peaks so unique are four (4) things; environment to come in and watch your favorite sports where you can see a high definition TV from any location, 30 items on the menu, all made from scratch, arranging from salads to sandwiches to burgers to steaks to fish, and pot roast, a full bar with craft beer and domestic beer, and the fourth is the service with an all-female staff with high energy service. Petitioner Smith proceeded to walk through the plans describing the design, layout and décor of the building

with four (4) focused areas that included 80" and 60" TV's, an outdoor patio with TV's, and a full menu, fireplace, shades, and vinyl wrap for complete closure for year round use.

Attorney Daniel continued with information on the interior of the second tenant space that would not conflict with Twin Peaks; a restaurant similar to Chipotle's, fast dining where food is prepared for dine-in or take-out, possibly beer and wine and a seasonal patio weather permitting. The two (2) patios, Twin Peaks and the second tenant's, will be completely enclosed with no access other than the restaurant entrances. The plans for the second tenant show the maximum interior dining area without any kitchen, no counter space, no storage space or bathrooms, to show the Commission the maximum demand for parking which may not be reached due to the need of all the above. On two (2) fronts they are seeking patio approval in the access of 25% of the interior dining area. The ordinance addressing the 25% generally says that an outdoor patio cannot go in an excess of 25%; Redstone Grill is in the excess of 25%. This is the practical difficulty in making a future outside patio.

Petitioner Smith commented as you walk up to the building's entrance it is very neutral and earth tone with large timbers as you would see in a mountain lodge along with a 7' bronze Elk. Petitioner Smith then proceeded to describe the front elevation which carries the signage and the west side for the service area.

Attorney Daniel commented that on the second tenant signage, signage would be shown on the north, east, and west sides. The Petitioner submitted a sign package with the application to show a monument sign, which is a freestanding sign that stands approximately 18' tall that will match the Twin Peaks signage, but are asking for a variance of 19' to get the sign above the berm, but not dominating the Big Lots sign. Twin Peaks will be on top of the sign and the second tenant underneath as depicted on the pictures; location of sign will be 10' off the lot line.

Petitioner Smith said a service area is required not only for waste, but also for deliveries, and continued to point out the areas on the plans along with the cold keg storage, which are located in the back and not the front.

Attorney Daniel asked to speak briefly on the site plan to ask the Commissioners to consider the 2002 Alter Survey showing the inland parcel and the 337 parcel in the middle; the loading is shown on the west side which takes up four (4) parking spaces. Previously Pompei's loading was in the parking spaces of the southernmost parking field. There was discussion

on larger trucks and their ability to do turn-arounds or U-turns, and signage preventing them to do this. There will be three (3) larger food service trucks per week that will unload east of the building due to their size. They will be arriving with deliveries to the front door prior to anyone coming into the building.

Attorney Daniel continued to compare Pompei's two (2) uses with Twin Peaks. Pompei had more seats with more intense use. The carry out area for Pompei was situated on the east face; however, Pompei did not take advantage of the southern parking area. Twin Peaks will service this area very well with 110 spaces remaining with a tendency for tenants to park on the inland parcel on the north toward Big Lots and will not utilize the east or the west. Attorney Daniel stated since Twin Peaks bar area is just slightly smaller and they have no banquet services, along with the second tenant being a fast service restaurant, parking and traffic should not be an issue at this site. On the elevation side, Pompei towered over the height of Twin Peaks and the second tenant's space proposal. The tallest point of Twin Peaks building is located on the east face of the building; the tallest massing faces the commercial loading area for the inland parcel and the parking field. Attorney Daniel addressed the concerns from staff and Mr. Lynch regarding handicap parking. The plans showed all the handicap parking banked on one side of the building. Mr. Lynch wanted to see a few placed on the north side of the building by the second tenant just outside the front doors. Twin Peaks only concern is that the customers will be crossing the busy drive aisle access on the west or should they take a non-threatening route that has no obstructions around the patio to the front doors of the second tenant; they will abide by Mr. Lynch's decision. Attorney Daniel mentioned that they have been in communication with other governmental agencies that see no glitches, Pat Giacobbe of Flagg Creek, and the Public Works Foreman of the Village of Oak Brook, who informed them that water still remains available. There are no impediments that would prohibit them from carrying out this project.

Attorney Daniel continued describing the sign packages, the ones illuminated internally, which are the main entrance canopy attached to the building above the main door of Twin Peaks, a canopy over the patio, on the east elevation, which is the calling card for the cold draft beer, on the north side of the building is a continuation above the canopy over the patio, and the Twin Peaks logo, which will bring in the customers and steer them around the parking lot in the right direction. On the west face of the building is combined signage for both Twin Peaks and the second tenant. The south face of the building is signage for the second tenant and for Twin Peaks on

the east. The monument sign is coming slightly above the maximum for the parcel do to the berm. Even though there are multiple entrances, the speed limit is a factor; the 22nd Street corridor is a six (6) lane highway and there is still only one (1) main access. A motorist could miss the entrance going eastbound. The full access is on the west side going down 22nd Street. He handed the floor over to Mr. Bohne & Mr. McCallum regarding the civil engineering perspective and stated that they have done preliminary engineering and landscape planning for the small site only at this point and time.

Mr. Bohne began with briefly walking the Commissioners through the site showing the east side with the 110 parking spaces and showing that there is currently some landscaping that they are preparing to move to provide as much parking spaces adjacent to the building as possible. They located five (5) ADA parking spaces adjacent east of the main entrance with a depressed curb situation with a full walk outside the front so the customers can safely access the building. There is full pedestrian access along the east and north sides of both tenant spaces that allows for safe passage and he pointed out the two (2) outdoor patios mentioned previously. They created a service entrance with quite a grade differential at the corner; a steep drop off in grade with a berm along 22nd Street. Due to this, they are designing a retaining wall; southwest of the wall will be a 6' wall which will be integral with the southwest trash enclosure and will shrink in size going north and east to about 2' high to make up being so close to the main entrance. The service area provides as much space as possible for larger vehicles to make turns, and the trash enclosure on the southwest corner for two (2) dumpsters and an electrical transformer for Twin Peaks and one (1) for the second tenant. The existing use for Twin Peaks has all the utilities provided: water, sanitary and storm sewer for rough drainage and parking lot drainage, electric, telephone, and gas. All of these will be disconnected for reconfiguration of the facility. The east/west main drive aisle is being preserved and intact, with some reconstruction for the ADA parking spaces. A couple new storm inlets for drainage will be added along with the existing ones that will be tied into the main storm sewer system. They do not hit the trigger for the proposed impervious area for stormwater detention, which is required by the City's Ordinance or the DuPage County Stormwater, so there is no need to add additional detention.

Mr. McCallum commented that the landscape plan being presented before the Commission this evening is an attractive plan not only for the area, but also an attractive setting for Twin Peaks. The landscape code first focuses on the points system for the various buffers. They were not able to meet the certain buffer point systems do to the pavement on the east and

the west side; however, they have the total number of points on other areas on the property. The plan calls for over twenty-two (22) shade, evergreen, and ornamental trees. The shade trees will be planted at a caliber of 3", the evergreens a minimum of 8', and the oriental trees between 6' to 10' and in addition to these items there will be 160 new shrubs and over 150 new perennials and grasses; Mr. McCallum then proceeded to show the areas to be sodded. The architecture focuses very much on a mountain lodge so they took this into account for the landscaping and going with a wide variety of native grasses, perennials, and wildflowers.

Attorney Daniel stated in one (1) aspect of their request for relief arises from the width of the east/west drive aisle that connects Denny's to the inland parcel to the center property to West Suburban; the drive aisle is very wide and wider than it needs to be according to the City's Ordinance. When the inland parcel was conveyed, there was a limitation placed on the narrowing of that drive aisle, but it ends at a point going west from the inland parcel down to the drive aisle going towards Twin Peaks. The proposal shows to allow the extension of six (6) rows of parking by one (1) space. The narrowed width of the drive aisle starts about 40' west of the Inland Parcel to the point near the northwest corner where they are proposing demolition and construction adding another six (6) parking spaces.

Attorney Daniel continued to talk about the landscaping and how the team started a project for the entire larger parcel; he also gave a history of past multiple tenants that were all in a single line. Attorney Daniel commented that Home Depot had their garden sales on the west side of the building and presently they have it on the south side of the building. This seasonal sales area has gone beyond thirty (30) spaces. From an ownership perspective, it has not hurt anybody, but the Petitioner will continue to address this issue down the road. Attorney Daniel pointed to the drawings directing the Commissioners from Butterfield Road to the east where there is a shared entrance drive with an office building just north of Home Depot's loading zone on the east used for periodically loading used lumber and on the west side, flower or garden trucks. Going towards Big Lots, the Big Lots trucks staging area is situated east face of Home Depot north of the Big Lots wall. There are a couple of loading docks, two (2) chain link fence enclosures, one (1) for a former trash compactor, and a roll-off trailer for loading and unloading. There is a variance requested for a chain link fence on-site that includes the partial chain link fence structure north of the Big Lots, a chain link structure that basically comprises the west wall of the outdoor Home Depot area, and the south wall of the garden center; chain link fences that will be situated, but obscured on the Twin Peaks site and a chain link fence

that starts north of Big Lots, and wraps the parking area between Big Lots and the Stellco Property site. This chain link fence spans the eastern 15% of the north lot line and about 1/3 of the east property line. The reason for a chain link fence is the major grade change between La Quinta on the east and Big Lots on the west; a heavy fence would not survive, and a chain link fence would be safer. Twin Peaks is asking the authorization to continue the chain link fence. There are various fields of parking, but the only real pressure for parking for 837 is at Off Track Betting, and the only time Attorney Daniel had trouble getting out of the site is at the Off Track Betting where signs are posted for "No Derby Parking". So far Home Depot's seasonal sales, when constrained, have not caused a parking problem; however, Twin Peaks and the second tenant may have some issues along with the City of Oakbrook Terrace. An approved activity on the Home Depot site is temporary loading on the west exterior of the building with certain pallet type loads that are stacked up within the authorized area. At certain times you will see semi-trucks, flatbeds, and a crane off-loading the pallets. Presently, Home Depot is authorized to have the outdoor storage and loading area, and the outdoor seasonal sales occupying 30 spaces approximately 7200 square feet. If they have the outdoor sales, they are not allowed to use the outdoor storage. Attorney Daniel didn't think this made sense since the outdoor storage is very remote from the seasonal sales area, and outdoor seasonal sales is usually during Home Depot's peak seasons when there is the most volume and need during the year for outdoor storage and deliveries. The past has shown that using both at the same time is justified. Attorney Daniel commented that others would be discussing the shared parking concept, the rotation, and peak demand for parking and having these at the same time will be part of the Petitioner's request.

Attorney Daniel continued with other requests for the larger area parcel for two (2) light poles located on the south parking field, one (1) near an existing planting island and one (1) near the front entrance for the Twin Peaks Restaurant; the poles will be code compliant. The poles are 22' to 25' in height in which the Petitioner is asking for pole signage. There could be granites that stick out from the pole, or banners between them with different verbiage for the seasons or other verbiage showing that the field is one (1) field indicated by the signs. The Petitioner is asking for all seventeen (17) light stands to be approved to the west and to the south of the building. The light standards may or may not contain the banner signs, but in any event the key is to draw the public to the parking fields through signage and banners.

Attorney Daniel continued in respects to the parking demand on site, the Commissioners will note that the survey to the proposed site plan shows property lines for Twin Peaks. Twin Peaks entrance canopy crosses the lot line and that there is no on-site parking. Ms. Peloquin of KIMCO has been working on the access encroachment paperwork necessary prior to ownership so that the 837, 337 and Twin Peaks are all comfortable; this encroachment access will stay in effect as long as the building exists.

Attorney Daniel stated in regards to the required parking, in general, is sufficient. As you drive through the site, there is ample parking for all. There is some remote parking behind the Big Lots, and some remote spaces between the Inland parcel and Big Lots. In the overall parking analyst, historically the City had a site plan with a table of parking; parking is calculated with a ratio of the square footage of the area of the building measured to the exterior walls. Attorney Daniel, when using the DuPage GIS System, showed a difference of 3.6 from the City of Oakbrook Terrace, which shows 3.7 per 1,000 as being sufficient. Attorney Daniel adopted a strict area of the code, and looking at a perspective of protecting his client, he said at some point in time when sitting at the closing table the City will have to show authorization for the parking volume and ratio. Attorney Daniel commented if he's getting a different area on the GIS and the Assessor's office is getting a different area, than he has to be careful for his client. Attorney Daniel stated that there was no disagreement with the issue of the number of parking spaces being provided. The Petitioner is trying to open up an envelope so that they can avoid a potential permitted use in the Loyola space; the type of business that will occupy this space. If a restaurant goes in, there is only a two (2) space envelope, which is not enough. The practical difficulty and hardship is the concern that somebody may not rely on those plans drawn up from the 1984 or the 2002 period that have always shown the square footages for the commercial center main line use. In today's economy there could be a circumstance where somebody trying to lease a space, faces competition and the minute they hear there is a zoning issue, could send them to another municipality. There are two (2) parking spaces if you use the exterior wall measurements, which includes the operable sales area, and the 3.6 gives roughly an envelope of 31 spaces, but the number of parking spaces on site stays at 834 plus 24 off-site which is a total of 858 only four (4) fewer than was authorized when Pompei came in which was 862.

Mr. Aboona took the floor to discuss the shared parking and traffic issues. He stated that Home Depot usually has its peaks during the day time hours between 1:00 P.M and 3:00 P.M. on weekdays and Saturdays, and contractors that come earlier in the morning hours. There is a restaurant

use that peaks at 6:00 P.M. to 7:00 P.M. on weekdays and Saturdays. Mr. Aboona commented that this is what you would like to see, different characteristics for peak time hours, which not only helps with the parking, but for traffic issues also. This will help with the pressure on the drive aisles and the street system.

Mr. Abel took the floor to discuss the surroundings in the area pointing out most of them. Mr. Abel said he was interested in this area due to the triangle formed by Summit Avenue, Butterfield Road, and 22nd Street. Mr. Abel was the planning consultant that planned one (1) of the first comprehensive plans for the City of Oakbrook Terrace. He mentioned the triangle will always be the most dominant commercial parcel for Oakbrook Terrace. While in the process of reviewing the standards with Attorney Daniel, in the terms of evaluating how the parking works on this site, it is the shared use concept that comes into play. The way to figure the parking is to take the key tenant that will probably be there for a long term, like the Home Depot, and when centers like this one are designed, they include the outlots where the shared use concept comes into play. Everything that was recommended for this triangle, the Planned Unit 4, is being taking care of with some additional streetscaping. In the ordinance are the standards for the variations. Mr. Abel's professional point of view, all the standards are met for the variations requested. The most important thing, the central character on this area, is not being disrupted by anything that is being proposed this evening. This center will continue to be a real shopping, office and restaurant area in the community. The Pompei structure, as it stands, in Mr. Abel's opinion, would not be considered an architectural gem. He recommends demolition, and building a new major facility at this important entry way into the shopping center, and designed in such a way that it will be a real plus, and the landscaping will benefit this type of architecture.

Attorney Daniel proceeded to walk the Commission through some key components of the project narrative. On page three there are some specific comparisons to Pompei, the combined interior and patio space for the two (2) uses proposed is 12,551 square feet, Pompei's was 12,441 square feet; an increase of 110 square feet. Pompei's seating was 484 interior and Twin Peaks combined with the second tenant is 466. Attorney Daniel then walked the Commission through the parking table. The Petitioner tried to justify the signage for Twin Peaks and the second tenant and on page four the need for the Big Lots signage, due to Big Lots being so far from the road; at the same time Twin Peaks needs to capture the signage from the west for the visibility. Under Exhibit A, of the Commercial Site Data Summary, the data helps to explain what is going on with the zoning compliance.

There is a point where the totals for parking required by development is 64 parking spaces; however, 65 spaces is the maximum required after rounding off depending on if you were adding the bar space to the fractional space of the dining area or if you are rounding twice, once for the bar and once for the restaurant use; as it stands they fit into the 3.7 per 1,000. The Petitioner took the exterior of the building and took noted options so the Commission knows with the 3.6 and the shared parking testimony there is very little worries that this site will operate with the maximum floor area in use. Table A, under "Yards" there are many different issues in which the site cannot be developed as is. Attorney Daniel said there would be no on-site parking, no yards; the front yard area is facing 22nd Street so the front will never be facing the south side of the building, there will be no unpaved areas set apart from the lot line per the specification of the code, and there will no paved handicap parking access or sidewalks. Attorney Daniel thinks the idea of a loading zone is a plus; however the loading and unloading zone comes with variances. There is an above ground service facility in the landscaped area east of the loading zone in which they are asking for a chained link fence with no landscaping.

Attorney Daniel then moved on to Exhibit B stating that they took a range of approaches to calculate the parking. The current on-site parking count is 838 parking spaces; the proposed 834 parking spaces. If there are seasonal sales, and no outdoor storage the totals are 808 and 804 parking spaces, only outdoor storage, the totals are 815 and 811 parking spaces; these totals are the current and the proposed. If there are both seasonal sales and outdoor storage there are 785 spaces available and 781 proposed. This accounts for the 30 spaces occupied by the outdoor seasonal sales and the 23 spaces occupied by the loading area to the west. There will be 24 spaces on the off-site, 4 on the inland parcel, 20 on the West Suburban Bank site and under the Reciprocal Parking Agreement, the larger commercial property to the inland parcel is 33 spaces, the current parking demand is 37 spaces. At 3.7 per 1,000 for the entire site without breaking up the type of use, they are still at 37 spaces. If you take a look at the parking fluctuations overtime, the calculations are based on the measurements that staff have taken. If someone went by the strict reading of the ordinance, the Petitioner is not at the point to get a potential restaurant into this space, and the City may not get another potential restaurant into this space. Attorney Daniel continued to stay that on Exhibit A all the parking calculations, if there are seasonal sales, and outdoor storage at the same time and they calculate at 3.7 per 1,000 there is an envelope available before they account for the parking on the 337 property where the intended Twin Peaks will be located. There is an envelope of 67 spaces available, 65 will be taken by Twin Peaks and the second tenant.

Attorney Daniel said it is a small adjustment on how staff reviews the ordinance, and if the Commission goes strictly by the code, the parking would not work out, and this is why they are requesting 3.6 per 1,000. Attorney Daniel said that City Attorney Pacione and Building and Zoning Administrator will work on a draft ordinance stating variations from the code for 3.6 per 1,000 will do the same minimum parking requirements on site. The 834 parking spaces will not affect the 24 offsite parking spaces and there will still be 858 parking spaces if there are no outdoor seasonal sales and outdoor storage. This will help with any legal problems if the property has to be sold, and avoids the inconvenience around potential change in how administration views the space calculation for parking.

Attorney Daniel continued to speak on the subject of variances for signage for Twin Peaks, and the frontages from Butterfield Road, the drive aisles, the access off of Summit Avenue for Big Lots, and for 22nd Street. The calculation will include the two (2) existing pylon signs, wall signage, and property signage at a ballpark figure of 1,973 square feet. There are two (2) additional signs on the south side, which read "22nd Street Plaza – Welcome" on one (1) side and "Thank You for Shopping at the 22nd Street Plaza" on the second side. There was another sign at one point, but it was moved.

Commissioner Almeroth commented that it was a Venture sign.

Attorney Daniel then continued to say there will be two (2) banner signs, seasonal signage, that are 5' tall and 2 ½' wide, approximately 500 square feet of technical freestanding signage. When asking for a freestanding sign, they could have asked for 100 square feet to match Big Lots, but the Petitioner only requested 70 square feet. On the commercial area parcel they are trying to create essentially a bank of gross sign area for the landlord; the bank is about 440 - 450 square feet. There is the opportunity to have an additional freestanding sign. There is also, potentially down the road, to have directional signage. The idea of creating a landlord bank recognizes two (2) things; one (1) there is not a lot of interior signage onsite. Due to outdoor loading and storage the area would benefit from signage to steer traffic, and for the entranceway to the private property north of Home Depot and east of the Butterfield Road entrance, and a monument sign for the southeast corner area directly west of the loading area on the Twin Peaks property. The Petitioner's request for the bank will help eliminate traffic by directing cars to other exits in the 22nd Street Plaza.

Chairman Noble thanked Attorney Daniel for his presentation.

Chairman Noble asked if there were any comments from Building and Zoning Administrator Dragan.

Building and Zoning Administrator Dragan commented that Mark Daniel has provided various calculations and parking counts to the City in relation to the request for a variation that allows a ratio of 3.6 spaces per 1,000 square feet of gross floor area. The numbers support the application, but a few notes are required in this regard. First, the City has historically applied the same series of floor area figures for the shopping center uses. Second, these area measurements differ from those that Mark has provided and those from the Assessor. Third, the City's calculation of floor area amounts to a bit less area than the area available by calculating the area of active display and sales areas in the center, interior areas and entry structures.

Building and Zoning Administrator Dragan commented the third concern led the applicant to calculate the gross interior floor area for the three (3) current tenant spaces from exterior wall to exterior wall using the DuPage County GIS system. In doing so, he determined that a strict application of the existing code at 3.7 per 1,000 would possibly not permit a restaurant use even though the City's current application may allow such a restaurant without any further zoning relief. The City's prior regulation using the lower square footages for the existing tenants has been sufficient. However, a more restrictive application of the regulations could be a problem in the future. The 3.6 ratio affords the applicant a reasonable envelope for re-use of the Loyola space without coming back for a public hearing. The more conservative approach from which a variation is sought down to a ratio of 3.6 spaces per 1,000 square feet will not reduce the number of parking spaces available on site, and the requested ordinance would state the required minimum number of parking spaces.

Building and Zoning Administrator Dragan continued to say that the Commissioners received a lot of information, and at the present time she wanted to summarize the applicant's request. The majority of the requests related to the commercial area parcel are intended to reflect prior authorizations. The new request for the commercial area space includes an amendment to the planned unit development site plan, in which the City Attorney will address the issue, signage variation from 1,973 square feet to allow up to 2,947 square feet in order to allow installation of seasonal banners on the light poles in the parking lot, and to allow 500 square feet for future additional signage. The request for a parking variation to allow 3.6 spaces per 1,000 square feet of gross floor area for the Home Depot, Big Lots, and former Loyola space will result in gaining 31 available parking spaces, and the Petitioner is also seeking approval to allow the seasonal

outdoor garden and storage on the west side of the building to be used simultaneously.

Building and Zoning Administrator Dragan stated the subarea parcel is proposed to be redeveloped, and the request includes approval for a special use permit to allow an outdoor dining area for Twin Peaks and the second tenant, and a variation to allow the area of the dining space on each patio to exceed 25% of the area of the indoor dining space in each establishment, signage variation from the allowable 500 square feet to permit 675 square feet of signage, a sign height variation to allow a height of 19' instead of 15' maximum allowed, and a total area of 140 square feet for the additional freestanding sign for advertising Twin Peaks and the second tenant. Also, the applicant is seeking approval for variations from the Zoning Code for set-backs, yards, floor area ratio, loading zone dimensions, approval for two (2) above ground service facilities, and to allow shared parking within the overall development parcel.

Chairman Noble asked if there were any other questions from the Commissioners.

Commissioner Almeroth asked Mr. Smith what kind of screening was to be placed around the outdoor patios, if they could see in from the parking lot or see out from the dining area.

Mr. Smith said typically it wouldn't have screens; they would drop the screens and it would become a shade screen.

Commissioner Almeroth asked if it was like a 3', 4' or 6' wall.

Mr. Smith commented it would be more like a 36" high wall made of wood columns that will be compatible with the building along with railings.

Commissioner Almeroth asked if the railings were going to be above the 36" high wall.

Mr. Smith responded yes basically like a fence.

Commissioner Almeroth directed the next question to Attorney Daniel asking if their request was approved this evening would they would have to restrict Home Depot to 30 parking spaces and not allow them to expand.

Attorney Daniel said this was not what he was saying and that they were just trying to get back to what was previously approved; the issue was how

to manage the demand for the outdoor seasonal sales, which is still being evaluated between staff, Code Enforcement Officer Collins and the owner of Home Depot. There has been no formal discussion about expanding the 30 spaces in any direction.

Commissioner Almeroth commented that he thought there was a need for Home Depot to expand, because it is a big sales generator and compared to other Home Depot's, the other stores have much more than what the City is allowing this store. Commissioner Almeroth said he would have a hard time restricting Home Depot to 30 spaces for any period of time they are there.

Attorney Daniel commented this issue would have to be addressed at a later time, and he was really focusing on Twin Peaks at the present time even though he spoke a lot about Home Depot.

Commissioner Almeroth said he just wanted to make sure that they were talking about the same thing, and continued to say that there was full access at Butterfield Road and at Midwest Road.

Attorney Daniel said that was true.

Commissioner Almeroth commented that Attorney Daniel kept mentioning that there was only one (1) full access at the center point, but there are actually three (3) full service accesses.

Attorney Daniel stated that on Midwest / Summit Avenue it is practically impossible to make a left hand turn going northbound due to the timing of the lights, but he agreed that there was full access.

Commissioner Almeroth said that he is there every day and there is a median in middle that you can sit at.

Attorney Daniel agreed with Commissioner Almeroth, but said the main point he was trying to make was for the full access into the main line center area that has the building façade, the point where you can get in at the west line.

Commissioner Almeroth asked if the Commission would have final approval on the expansions of the sign bank / the free banking.

Attorney Daniel commented that on the freestanding sign it wouldn't be improper to impose a condition. The Commission would be able to review it and determine whether it is in conformity with the other signage.

Commissioner Almeroth thought the Commission should have approval of what is placed there.

Attorney Daniel said if the bank were allowed they would come before the Commission for a formal hearing.

Chairman Noble remarked assuming this was approved, and due to the large amount of snow last winter, and Twin Peaks is built, would they need a bigger parking space.

Attorney Daniel mentioned that there would be management changes and that snow removal would have to be staged in the right way. Attorney Daniel said that Big Space does not have a peak season at this time and there are 60 available spaces on each side of the property.

Ms. Peloquin of KIMCO mentioned that the management changes have already been discussed internally, and there are other ways to stage the property; she does not see the snow removal as an issue.

Chairman Noble opened the floor for public participation.

There was none.

Chairman Noble asked for positive or negative testimony;

There was none.

Chairman Noble closed the audience participation portion of the hearing.

Chairman Noble asked if there were any other questions from the Commissioners.

Commissioner Schneider asked at the current time how many spaces does Home Depot occupy during seasonal sales.

Attorney Daniel commented that it depends on the time of day; sometimes it tends to move south, probably around 58 or 59 spaces.

Commissioner Almeroth mentioned it could be 60.

Commissioner Schneider noted that a lot of employees would park on the south side of Big Lots. He commented if 30 Home Depot employees would park on the south side, it would free up quite a bit of spaces.

Attorney Daniel stated that there were three (3) ways of looking at this, you have the tenant demand that regulates it, you have Bill's code, and then you have the owner's interest, and regulating parking. Home Depot has a preferred parking field between its entrances, and directly adjacent to the entrances which extends out to the next drive-out beyond the loading drive aisle. Attorney Daniel said you still have the Loyola use, the Big Lots use, and it just becomes a concern about how it would affect the tenant's rights that have already been granted.

Commissioner Almeroth mentioned the whole west line of the property is diagonal parking, around 50 - 60 spaces, and the Home Depot employees could park in this area.

Attorney Daniel commented that they would see people parking at this time of the year and some from Chipotle, West Suburban, and some employees will walk over there during loading operations.

Commissioner Almeroth said and at Jimmy Johns too.

Chairman Nobel asked if there were any other questions from the Commissioners.

There were none.

Chairman Noble asked for comments from the City Attorney.

City Attorney Pacione mentioned that Attorney Daniel eluded the fact that there may be some issues with the planned unit development. City Attorney Pacione stated that his office took a look at all the ordinances regarding this property from 1983 through 2010. There appeared to be some attempt to creating a planned unit development, and in 2001 there was an ordinance regarding Pompei in which the preamble refers to the K-Mart PUD, but there's nothing ever creating one, and there's never a reference to it again. There was a Home Depot request for certain zoning entitlements, and all they did was to amend the site plan. There is no other reference to a planned unit development or to a planned unit site plan. In City Attorney Pacione's opinion there was no planned unit development ever created, there was probably intent to create one, and it was never approved by the City or the Planning and Zoning Commission. In City Attorney Pacione's

recommendation to the Commission was to approve amendments to a site plan with the variances requested, and to deny any request to amend a planned unit development that never existed.

Commissioner Ventura enquired about creating a planned unit development.

City Attorney Pacione stated that this would be a separate process and could be a possibility in the future.

Attorney Daniel said he could not disagree with the City Attorney's position that there was no initial ordinance titled planned unit development or an additional planned unit development site plan. Attorney Daniel said he was not sure how the K-Mart planned unit development came, but he needed to be careful on how to approach this. Attorney Daniel said he would not withdraw his request on behalf of his client, but he did consider the City's Attorney concern since early April. He was hoping that the City would adopt the belt and suspenders approach. Attorney Daniel commented that all they have to do is change the name on the site plans to have the right site plans referenced in a revision date; he said the project can stand on its own.

Commissioner Almeroth asked if a planned unit development would be the cleanest way for future zoning.

City Attorney Pacione said that it would and all they would need to do is apply and qualify.

Commissioner Almeroth directed a question to Building and Zoning Administrator Dragan asking if in her opinion was the Commission comfortable not having it as a planned unit development.

Building and Zoning Administrator Dragan stated that it was okay not to have a planned unit development, but it would be great to consider it in the future. She said if they considered going with the City Attorney's recommendation they may deny the request for modification to the planned unit development and approve the request for modification to the amended site plan and grant the variations requested.

Attorney Daniel stated the special uses weren't affected by the planned unit development question. Commissioner Almeroth was referring to a question of why there might not have been a planned unit development in the past. Attorney Daniel commented that the property was developed in earlier times in the City under its zoning ordinance with the most stringent restrictions in

what is called a special warranty deed, which eliminated the need for a planned unit development, and also separated the ownership of the different parcels; for example, inland parcel can operate self-sufficiently without any consideration to the 837 or the 337 parcels. It is the same for West Suburban Bank; the limits are in place and fixed because of the special warranty deeds. The same is true for the two (2) properties they are dealing with now which Ms. Peloquin is still working on some cross access.

Attorney Daniel concluded with the 22nd Street Plaza has every interest in getting this building up as soon as possible for Twin Peaks just because of the economics, and every month delayed is essentially a half million dollars and a planned unit development would just cause some problems now.

City Attorney Pacione stated if Attorney Daniel was not going to take his advice or the recommendation from this office, he asked that Attorney Daniel take a separate vote on Items 1 and 2 just for indication of the record which are an amendment to that planned unit development, and then take a vote on the remainder of the write-ups listed in the notice.

Building and Zoning Administrator said at this time it would be appropriate to read the motion.

Commissioner Almeroth asked the City Attorney Pacione to help with the motion.

Attorney Pacione said he would ask the Commissioners to entertain a certain motion and the do a first and a second.

Attorney Daniel concurred.

Commissioner Almeroth commented that he understood what Attorney Daniel's was presenting; however, he was going with the legal counsel for the City at this time.

Attorney Daniel stated he would still like the variations, because of the legal side and that people would be protected; and the site plan approved.

Commissioner Almeroth stated he needed to protect the City and was still sticking with the City's legal counsel.

City Attorney Pacione stated the first motion is to deny a request to finally approve an amendment to a planned unit development and related overall

planned unit development amended site plan, and to deny the request to preliminary and finally approve an amendment to a planned unit development for the subject property subarea related subarea planned unit development amended site plan Twin Peaks / tenant space.

Chairman Noble asked for a motion.

MOTION Commissioner Almeroth entertained a motion to deny a request to finally approve an amendment to a planned unit development and related overall planned unit development amended site plan, and to deny the request to preliminary and finally approve an amendment to a planned unit development for the subject property subarea related subarea planned unit development amended site plan Twin Peaks / tenant space.

Commissioner Ventura seconded the motion.

Chairman Noble asked if there was any final discussion.

There was none.

Chairman Noble asked for a roll call.

Ayes: Schneider, Ventura, Myszkowski, Almeroth, Chairman Noble

Nays: None

Absent: Donoval

MOTION WAS PASSED.

Attorney Pacione asked Attorney Daniel how he wanted to handle the second motion, to call it the approval of the site plan for Twin Peaks, or an amendment of the site plan.

Attorney Daniel stated an approval of the site plan for commercial area parcel and an approval of the site plan for Twin Peaks.

Building and Zoning Administrator Dragan would like to have it considered as a modification, not an approval as a site plan.

Attorney Daniel commented then it would be an amendment to the site plan for the commercial area parcel and then an amendment to the site plan.

Building and Zoning Administrator Dragan said the commercial area parcel should be an amendment and she suggested an approval of the subarea parcel.

City Attorney Pacione said the second motion would be for the approval of the commercial area site plan and then an approval of a site plan for the subarea Twin Peaks / Tenant space with all requested variations and special uses.

MOTION Commissioner Almeroth entertained a motion for the approval of the commercial area site plan and then an approval of a site plan for the subarea Twin Peaks / Tenant space with all requested variations and special uses, and asked to open the floor for discussion purposes.

Commissioner Schneider seconded the motion.

Chairman Noble opened the floor for discussion.

Commissioner Almeroth asked if parcels 837 and 337 were legal.

Attorney Daniel stated that it is defined in the notice as a commercial area parcel, and the subject or Twin Peaks as the subarea parcel. There are two (2) separate ones at least by way of the application.

City Attorney Pacione asked if there were any further discussion.

There was none.

Chairman Noble asked for a roll call.

Ayes: Schneider, Ventura, Myszkowski, Almeroth, Chairman Noble

Nays: None

Absent: Donoval

MOTION WAS PASSED.

Attorney Daniel wanted to make sure the record was clear that prior to the hearing there was some discussion about a demolition request, the removal of the alley.

City Attorney Pacione stated it would be presented as it was going to be demolished as part of the application by the Planning and Zoning Commission; it was approved.

Chairman Noble asked Building and Zoning Administrator Dragan when the petition would be presented to the City Council.

Building and Zoning Administrator Dragan stated that The Letter of Recommendation will be placed on the agenda for the June 24, 2014 City Council Meeting. The next Planning and Zoning meeting is scheduled for June 17th.

Chairman Noble asked for a motion to adjourn the meeting.

MOTION Commissioner Schneider entertained a motion to adjourn the meeting.

Commissioner Ventura seconded the motion.

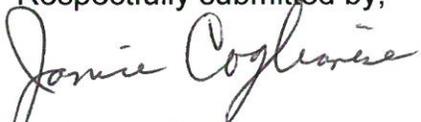
Chairman Noble asked for a vote.

Ayes: Schneider, Ventura, Myszkowski, Almeroth, Chairman Noble
Nays: None
Absent: Donoval

MOTION WAS PASSED.

Chairman Noble adjourned the meeting at 9:29 P.M.

Respectfully submitted by,



Janice Coglianese
Planning and Zoning Secretary