



Planning & Zoning Board Virtual Meeting Agenda

July 21, 2020 at 6:00 p.m.

Agenda Items

1. Call to Order and Election of Chair and Vice Chair

2. Approval of June 2, 2020 meeting minutes

3. Public Hearings

- SPR #20-09. Request of Benjamin Callahan for: Approval to construct a 1,549 square foot addition to the existing two-story, 4,129 square foot single-family home located at 275 Stirling Avenue on Lake Virginia, zoned R-1AAA.
- LDC #20-03 Request of the City of Winter Park for: An Ordinance to adopt the Orange County Fertilizer Regulations, by reference.
- ZTA #20-02 Request of the City of Winter Park for: An Ordinance to adopt regulations for the consideration of artificial turf as an impervious surface and to regulate the amount of fill added to residential lots.
- MOR #20-01. Request of the City of Winter Park for: An Ordinance declaring and implementing a contingent temporary moratorium on the acceptance, processing, and consideration of applications for development orders, conditional use applications, site plans, building permits and other development applications that would utilize the Orange Avenue Overlay District policies, regulations, codes, and provisions approved March 9, 2020 by way of Ordinance 3166-20 (Comprehensive Plan amendment) and Ordinance 3167-20 (Land Development Code amendment), providing the temporary moratorium to become effective if the city's Ordinance 3170-20 (rescission ordinance) is determined by a court of competent jurisdiction to be null, void, or of no effect, or if Ordinance 3166-20 or Ordinance 3167-20 are determined to be effective or valid; providing for extension or termination of the temporary moratorium by ordinance or resolution; providing for confirmation and re-adoption of the City of Winter Park Ordinance 3170-20 (rescission ordinance).

4. New Business

5. Planning Director's Report

6. Board Updates & Comments

7. Upcoming Meeting Schedule

Next P&Z Work Session: TBD

Next P&Z Regular Meeting: Tuesday, August 4, 2020 at 6:00 p.m. - location TBD

appeals & assistance

"If a person decides to appeal any decision made by the Board with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105).

"Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting."



401 South Park Avenue • Winter Park, Florida 32789

407-599-3324 • planning@cityofwinterpark.org
cityofwinterpark.org

Planning & Community Development

Planning & Zoning Board Staff Report for July 21, 2020 Meeting

SPR #20-09. Benjamin Callahan for: Approval to construct a 1,549 square foot addition to the existing two-story, 4,129 square foot, single-family home located at 275 Stirling Avenue on Lake Virginia, zoned R-1AAA.

Background

The property owner, Benjamin Callahan, is requesting site plan approval to construct a 1,549 square foot addition to the existing 4,129 square-foot, single-family home at 275 Stirling Avenue, zoned R-1AAA. This property is located on Lake Virginia, and also has a canal running along the eastern portion of the property. This property measures 19,137 square feet. Below is a table summarizing this request in comparison to the R-1AAA zoning/lakefront lot requirements.

Table 1:

	R-1AAA/Lakefront Lot Requirements	Proposed
Floor Area Ratio	Max 33%	5,678.5 square feet/29.6%
Impervious Lot Coverage	Max 50%	6,011.5 square feet/31.4%
Lakefront Setback	50 feet (structure) and 25 feet (pool/deck)	50 feet (structure) and 25 feet (pool/deck)

Lakefront Lot Review Criteria:

Tree Preservation

The purpose and intent of the lakefront lots section of the code states that existing trees shall be preserved to the degree reasonably possible, and the appearance of the property and the shore when viewed from the water will be kept as natural as reasonably possible. The applicant is proposing to preserve all of the existing trees on the property with the exception of a 34" oak tree that is integrated into the existing screened patio in the northern portion of the home (see attached pictures for reference). The city's Urban Forestry Department has assessed this oak tree and stated that the tree was heavily pruned in order to preserve it during the original home construction in 1977. During that process, the tree experienced significant root loss as well. They stated that the tree has done remarkably well over the years, but the trunk of the tree has expanded and is now in contact with the second-floor porch. The concern with this tree pertains to the potential impacts of planned grading for retention areas to the west of the home. Any significant disturbance of this area will cause damage to the majority of the remaining healthy portion of the tree's root system, and will undoubtedly impact its health and

longevity. Therefore, based on this assessment from the city's Urban Forestry Department, Planning staff feels that removing this tree is acceptable.

View From the Lake

The code limits walls and swimming pool decks facing the lake in excess of three feet in height and two feet in height for the canal frontage. This lot has a minimal grade drop from the front of the home to the lakefront/canal front, and the pool and rear deck have been designed as to not exceed the two-foot height rule for properties fronting on a canal.

View of Neighbors

The purpose and intent of the lakefront lots section of the code is to ensure that the views of the lake from adjoining properties will not be unduly impaired by new houses, additions, second story additions, etc. For this particular request, the applicant is proposing two areas of additions that are located further from the lake and the canal than the existing structure at 50 feet from the canal front and approximately 150 feet from the lakefront. Therefore, these additions will not impair the existing lakeviews of the adjoining homes. The code allows pool/deck areas to be located 25 feet from a canal frontage and 50 feet from the lakefront. The application meeting these code requirements and is proposing the pool/deck area 25 feet from the canal and 85 feet from the lakefront.

Stormwater Retention

The code requires retention of stormwater so that stormwater flowing over a waterfront lawn area does not carry with it into the canal or chain of lakes any fertilizers, herbicides, or other chemicals that affect the water quality of our community's most precious assets. The amount of impervious surface on the lot determines the depth/size of the retention needed. The applicant is proposing multiple stormwater swales throughout the lot that are sized to meet the city's code requirements.

Summary

The applicant is proposing additions to the home that meet the intent of the lakefront review criteria. The applicant is ensuring that water pollution from stormwater runoff and other sources will be minimized, is preserving existing trees to the degree reasonably possible, and not impacting the view from the lake or the neighbors. Overall, the plans meet the intent of the canal/lake front review criteria defined in the code and no variances are requested.

Staff recommendation is for approval.



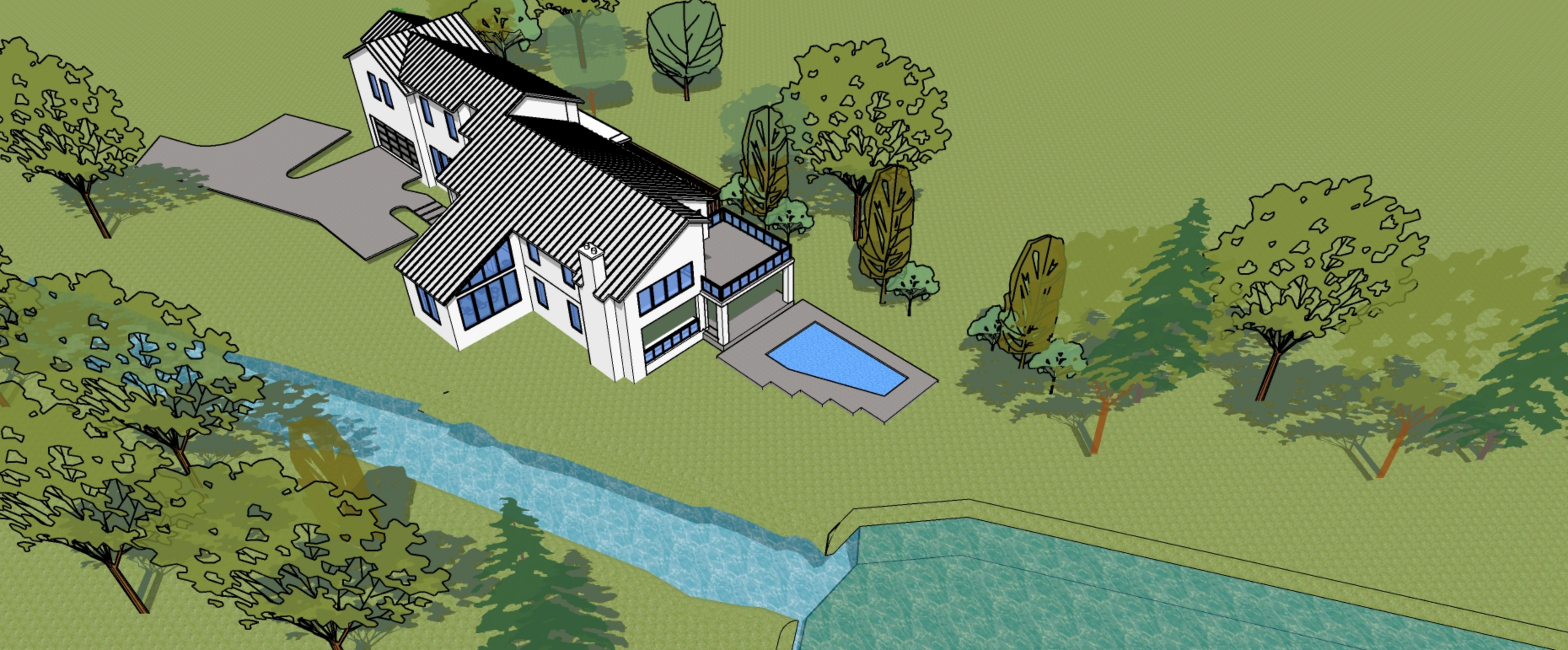
LOCATION MAP

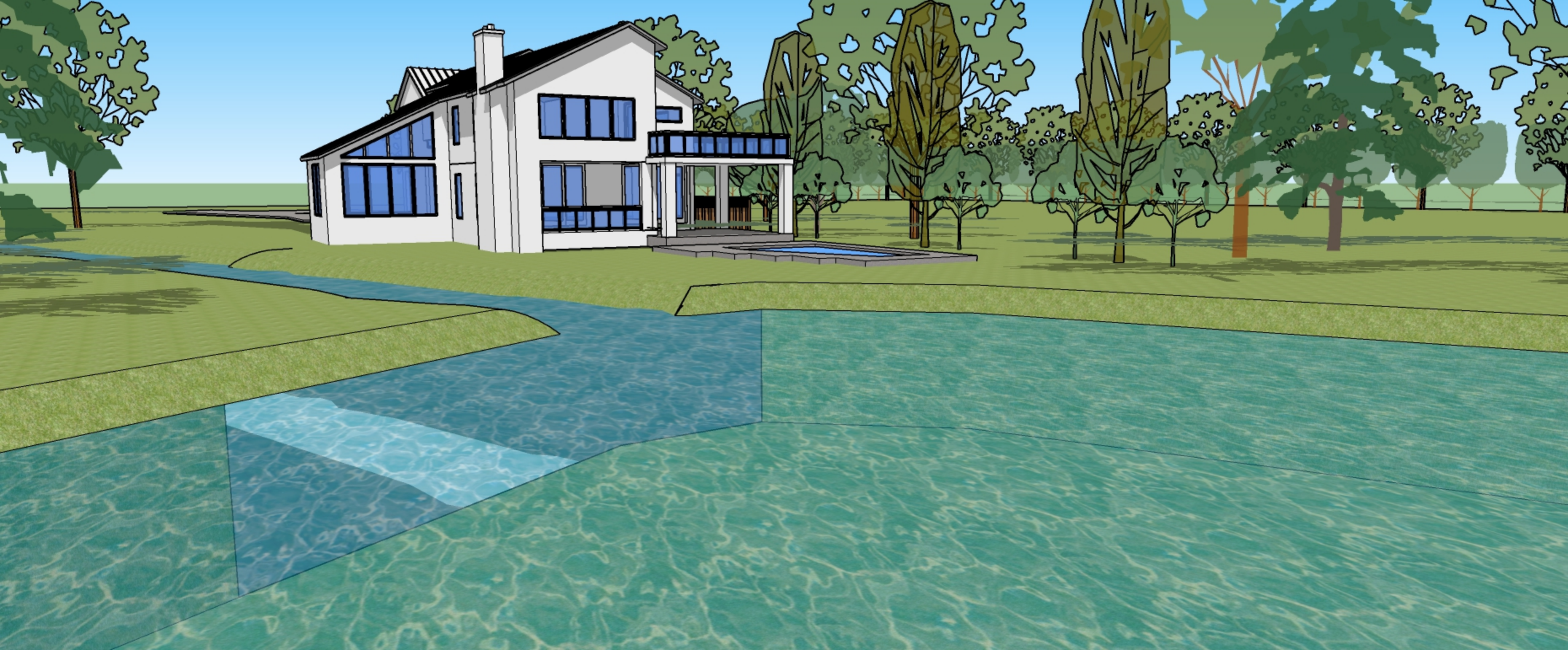
275 Stirling Avenue

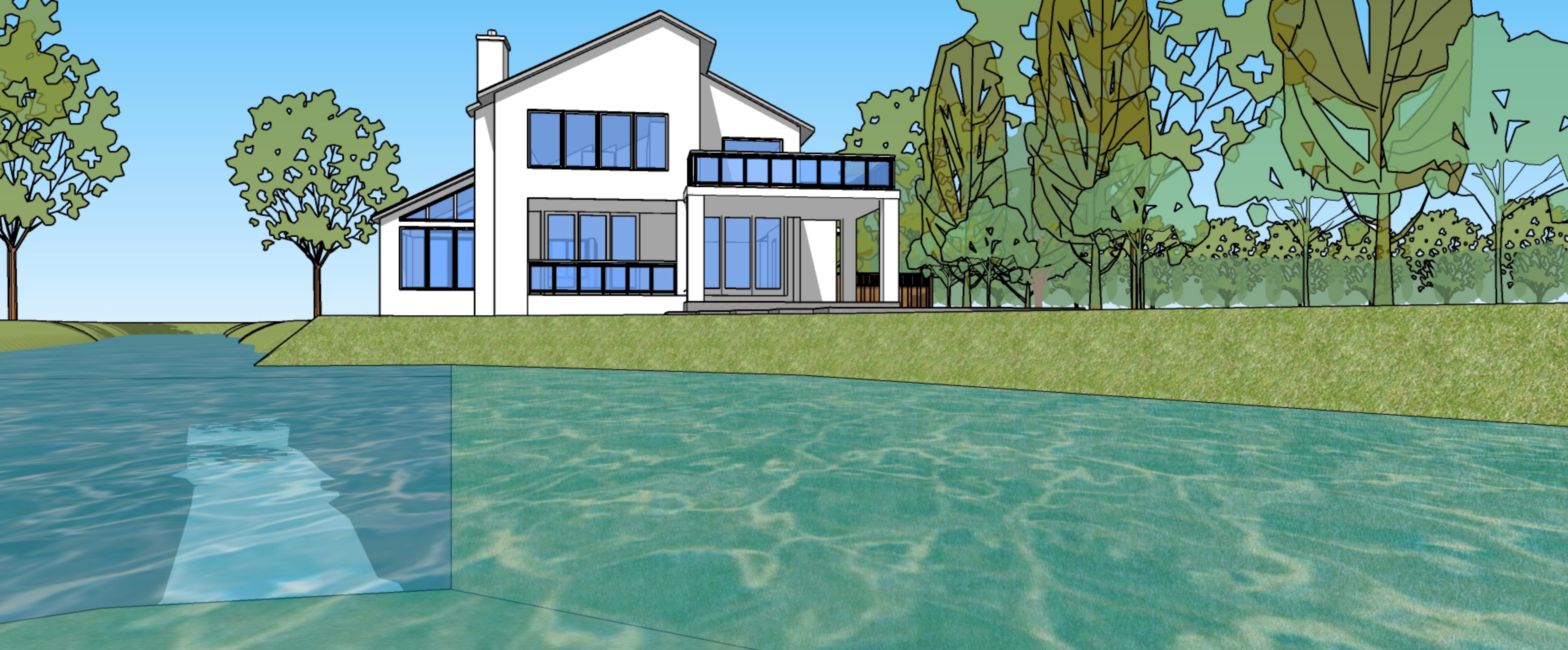
City of Winter Park
Florida

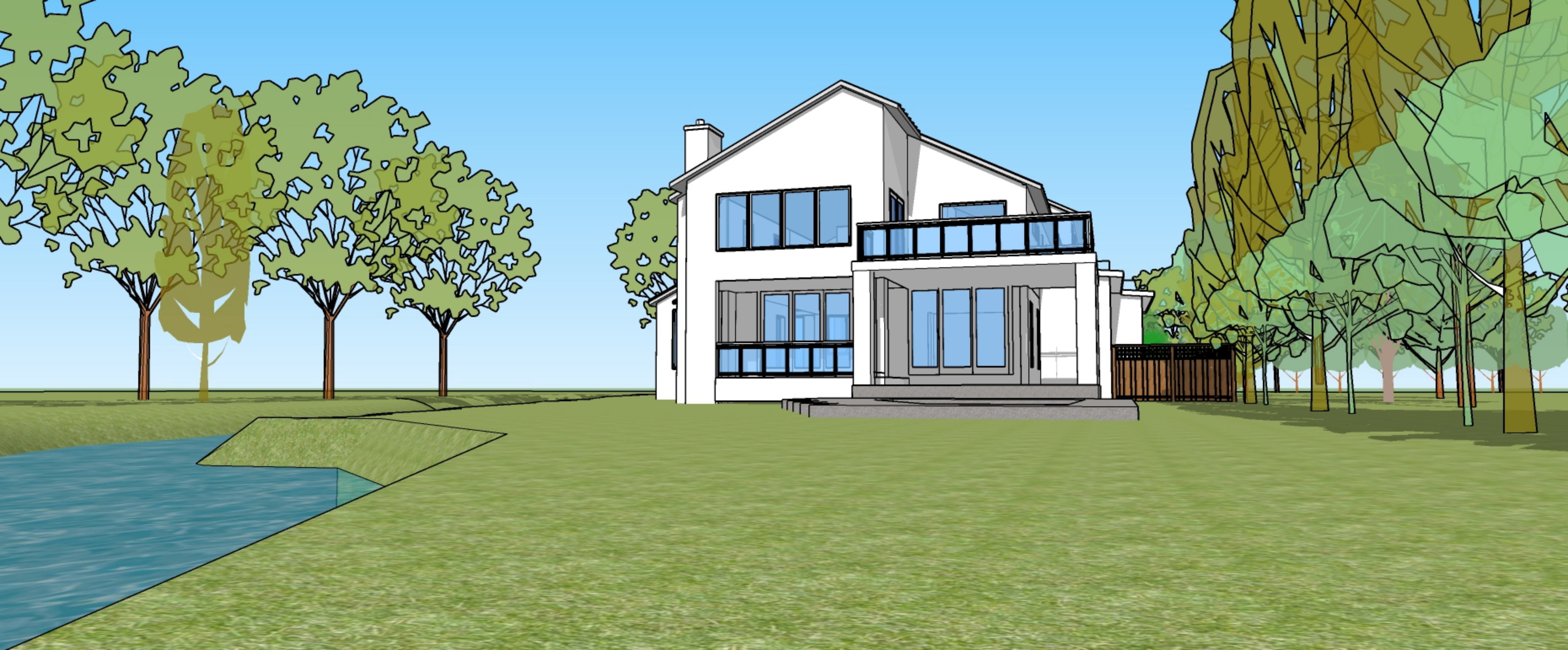








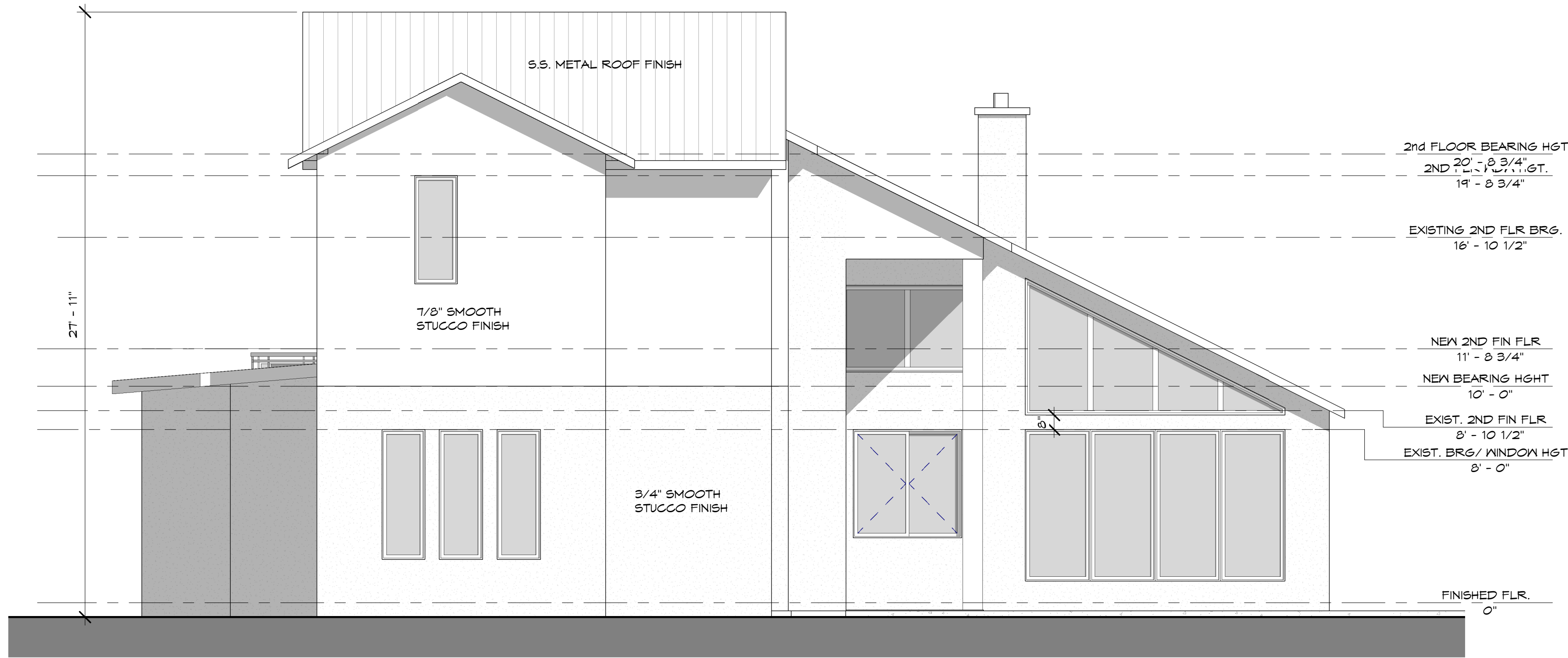




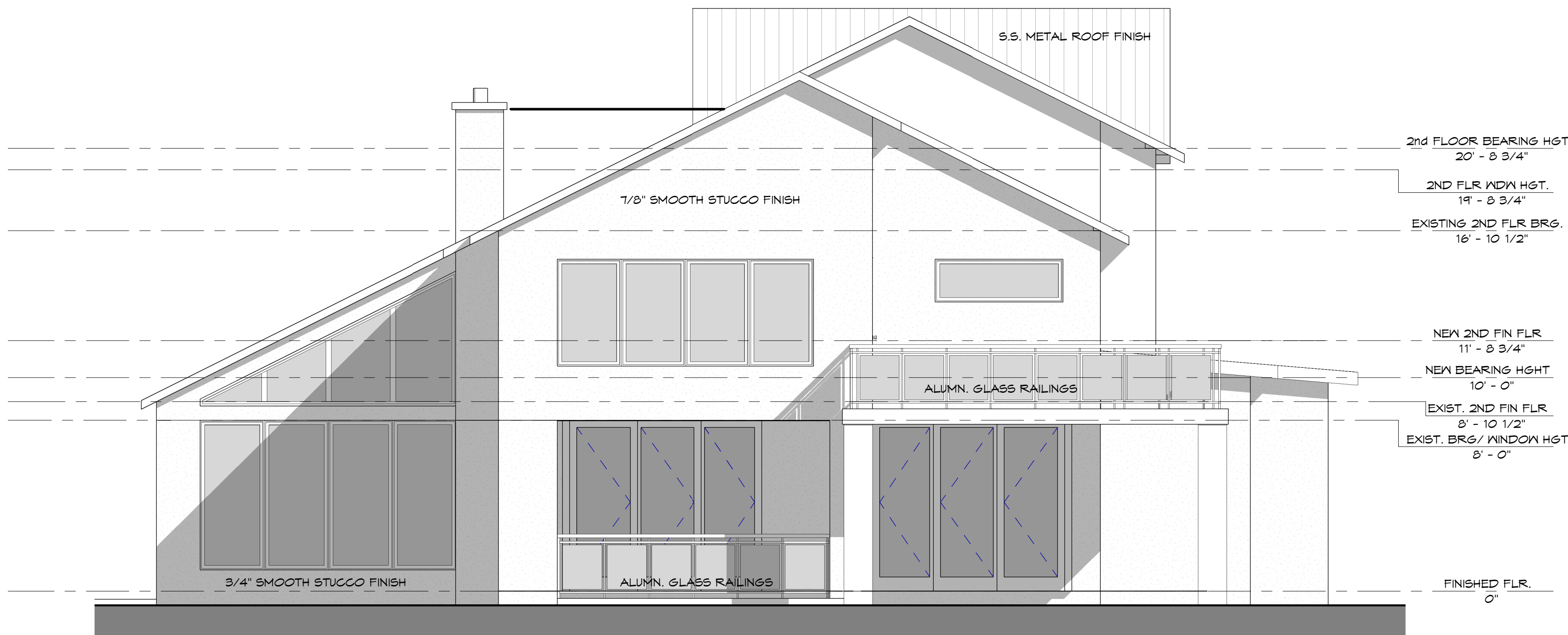


(VACANT LOT)





1 FRONT ELEVATION
A112
SCALE: 1/4" = 1'-0"
REF. SHEET:



2 REAR ELEVATION
A112
SCALE: 1/4" = 1'-0"
REF. SHEET:

PROJECT: ADDITION AND ALTERATION PLANS
275 STIRLING AVE, WINTER PARK
SHEET TITLE: FRONT - REAR ELEVATIONS
PROJECT ISSUED FOR:

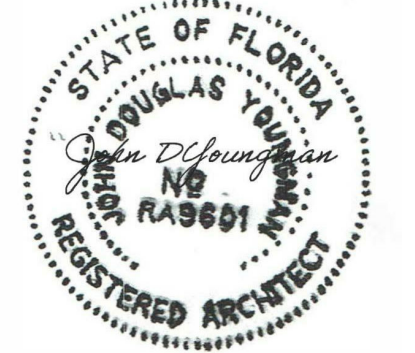
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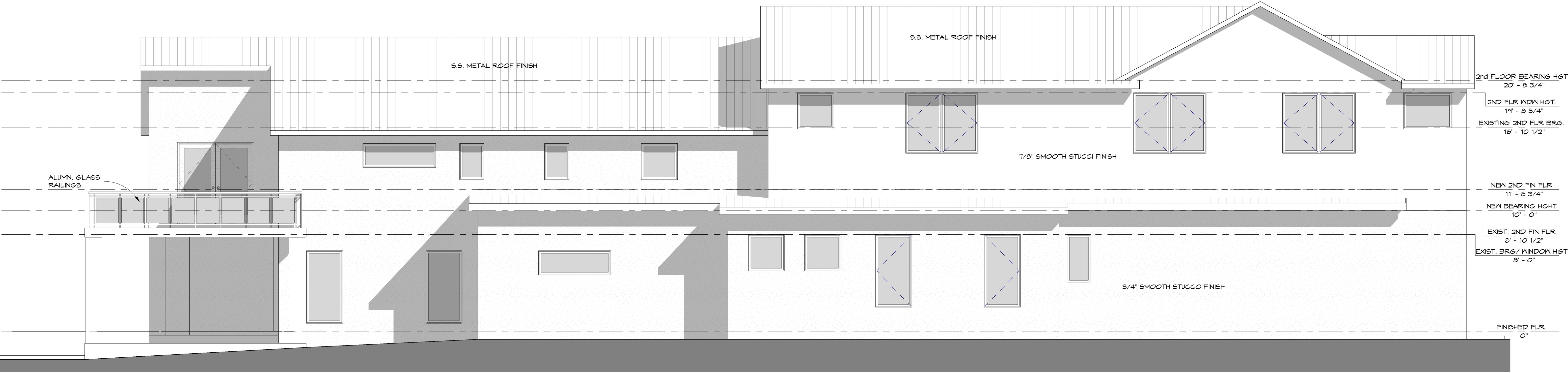
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DATE: 6/3/2020 12:10:53 PM
DRAWN BY: RCARRION
CHECKED BY: JY/ RC
SHEET

A112

THIS DOCUMENT HAS BEEN ELECTRONICALLY
SIGNED AND SEALED BY
JOHN D. YOUNGMAN, ARCHITECT AR9601
ON DATE/ TIME STAMP SHOWN USING
A DIGITAL SIGNATURE

PRINTED COPIES OF THIS DOCUMENT ARE NOT
CONSIDERED SIGNED AND SEALED
AND THE SIGNATURE MUST BE VERIFIED





1
A113 LEFT ELEVATION
SCALE: 1/4" = 1'-0"
REF. SHEET:



2
A113 RIGHT ELEVATION
SCALE: 1/4" = 1'-0"
REF. SHEET:

PROJECT:
SHEET TITLE
PROJECT ISSUED FOR:

ADDITION AND ALTERATION PLANS
275 STIRLING AVE, WINTER PARK

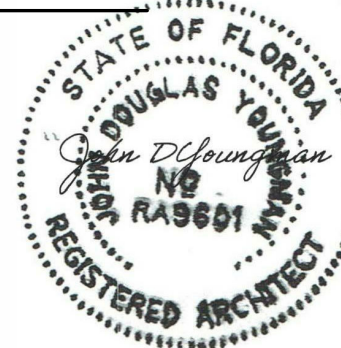
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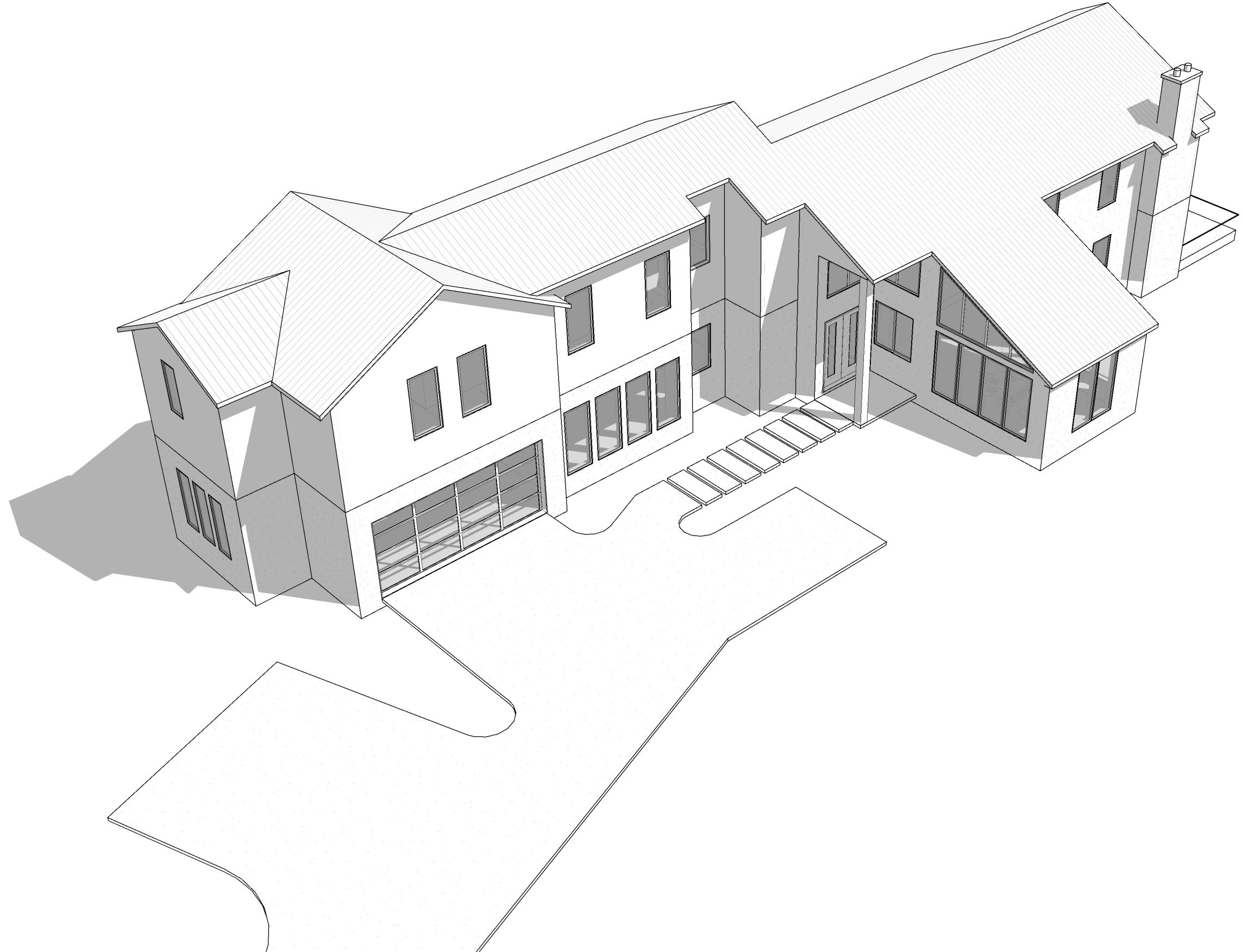
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A113

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- NOTES:
1. THIS BOUNDARY SURVEY WAS PREPARED FROM TITLE OR OTHER INFORMATION FURNISHED TO THIS SURVEYOR. THERE MAY BE OTHER RESTRICTIONS RECORDED OR UNRECORDED EASEMENTS THAT AFFECT THIS PROPERTY. PROPERTY IS SUBJECT TO ALL TITLE EXCEPTIONS, COVENANTS, RESTRICTIONS, EASEMENTS AND SETBACKS OF RECORD. NO TITLE ABSTRACT PERFORMED BY THIS SURVEYOR. EASEMENTS SHOWN PER PLAT INFORMATION UNLESS NOTED. NO TITLE COMMITMENT OR ADDITIONAL EASEMENT INFORMATION PROVIDED TO THIS SURVEYOR.
 2. NO UNDERGROUND UTILITIES OR IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN. SEPTIC +/- IF SHOWN.
 3. THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON OR USED BY ANY OTHER ENTITY. SURVEYS ARE NOT TRANSFERABLE.
 4. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES. BOUNDARY BEARINGS AND DISTANCES ARE SHOWN AS PLATTED UNLESS DENOTED AS MEASURED.
 5. BEARINGS ARE BASED ON RECORD PLAT DATUM AND ON THE LINE SHOWN AS BASE BEARING (BB).
 6. BUILDING LINES SHOWN, REPRESENT BUILDING WALLS. EAVES, IF ANY, NOT LOCATED OR SHOWN.
 7. NO BUILDING SETBACKS OR BUILDING RESTRICTIONS SHOWN UNLESS PROVIDED TO THIS SURVEYOR.

FLOOD ZONE REFERENCE:
PROPERTY APPEARS TO BE LOCATED IN ZONE " X , SHADED X & AE" PER F.I.R.M. MAP PANEL NO. 12095C 0255 F DATED 09-25-09 AND REVISED LETTER OF MAP REVISION 13-04--7033P, DATED 03-07-14.

NOTE:
PROPERTY SUBJECT TO EASEMENT AGREEMENT BETWEEN LOTS 7 AND 8, BLOCK H, VIRGINIA HEIGHTS AND RECORDED IN OFFICIAL RECORDS BOOK 3606, PAGES 931-933. JOINT EASEMENT FOR BOAT DOCK AND FOR INGRESS AND EGRESS.

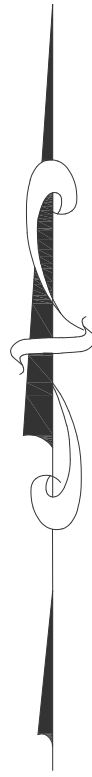
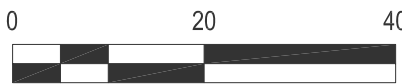
CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1 (M)	35.00'	60°17'11"	36.83'	35.15'	N 61°48'29" W
C2 (M)	35.00'	30°38'56"	18.72'	18.50'	S 16°28'52" E

REVISED TO ADD RELOCATION OF FENCE: 07-15-19
REVISED TO ADD 100 YEAR FLOOD ELEVATION
AND ORDINARY HIGH WATER ELEV.: 12-30-19
REVISED 100 YEAR FLOOD ELEVATION
AND PROPOSED ADDITION.: FIELD: 01-03-20

ELEVATIONS REFERENCED TO
WINTER PARK BENCHMARK
BM #19 (ELEVATION 74.58')

DESCRIPTION: LOT 8, BLOCK H, VIRGINIA HEIGHTS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK G, PAGE 107, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

SCALE 1" = 20'



PERVIOUS/IMPERVIOUS RATIOS:	
SITE AREA:	19,137 SF
BUILDING PAD AREA:	3,468.5 SF
DRIVENWAYS AND WALKWAYS:	1,937 SF
POOL AND DECK AREA:	605 SF
PERVIOUS/IMPERVIOUS:	6011.5/19,137
	31.4% < 50% ALLOWED
FLOOR AREA RATIOS:	
SITE AREA:	19,137 SF
1ST FLOOR & GARAGE AREA:	2,974.8 SF
2ND FLOOR ENTRY AREA:	50.7 SF
2ND FLOOR AREA (Incl. Stairs):	2652 SF
FAR TOTAL:	5677.5/19,137
	29.6% < 33% ALLOWED (BASE FAR)

SITE DRAINAGE NOTES:	
SITE AREA:	19,137 SF
REQUIRED RETENTION (1"):	1,595 CF
RETENTION PROVIDED:	
RETENTION POND 1: 1,245 SF AVERAGE VOL. DEPTH 1'-0" =	1,245 CF
RETENTION POND 2: 502 SF AVERAGE VOL. DEPTH 4" =	167 CF
RETENTION POND 3: 1,592 SF AVERAGE VOL. DEPTH 4" =	531 CF
TOTAL RETENTION VOLUME PROVIDED =	1,943 CF > 1,595



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**Planning &
Community
Development**

Planning & Zoning Board Staff Report for July 21, 2020 Meeting

[LDC #20-03 Request of the City of Winter Park for: An Ordinance to adopt the Orange County Fertilizer Regulations, by reference.](#)

Background:

All Cities and Counties participate in the National Pollution Discharge Elimination System imposed by Federal Law and administered in Florida by the Florida Department of Environmental Protection (FDEP). The overall goal is to reduce pollution of our waterways from point sources (sewer plants or factories) and from non-point sources (streets, storm drainage systems, other properties). A requirement of the NPDES program, is that FDEP requires counties and municipalities to have fertilizer regulation as an ordinance.

The concern is to control the flow of dissolved fertilizer after rain storms going directly into streams and lakes and to reduce the fertilizer runoff from properties that enter the streams and lakes via the storm sewer system. The goal is to reduce the amount of phosphorus and nitrogen intended to fertilize a lawn from fertilizing the weeds and algae in a lake. Thus the ordinance prohibits phosphorus, sets limits on the amount of nitrogen, prohibits fertilizing within 15 feet of a lake and prohibits application of fertilizer right before a forecast storm event such as a hurricane.

Currently, the City of Winter Park does not have such regulation and the City must adopt such regulation as a requirement of our NPDES permit. In essence these regulations already exist because in the County's ordinance, it states that "this ordinance is applicable throughout all of Orange County, except in municipalities that have minimum standards that are no less strict than their ordinance". Since FDEP requires that the City adopt an individual ordinance, the City Attorney recommends that we adopt Orange's County's, by reference as the easiest method of compliance.

Thus, it has been decided that for consistency, the best option for the City is to adopt the Orange County ordinance, by reference.

The City Attorney has prepared the proposed ordinance. Exhibit A is the County's ordinance.

Staff recommendation is for approval.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA;
ADDING A NEW SECTION 58-368 GOVERNING FERTILIZER USE
WITHIN THE CITY; ADOPTING THE ORANGE COUNTY
REGULATIONS PERTAINING TO FERTILIZER USE AND
AUTHORIZING COUNTY AND CITY ENFORCEMENT THEREOF
WITHIN THE CITY; PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

WHEREAS, the Winter Park City Code currently contains no comprehensive regulations pertaining to fertilizer use within the City; and

WHEREAS, as a result of impairment of the City's surface waters, groundwater, and springs caused by excessive nutrients, the City has determined that the improper use of fertilizers on land creates a risk of contributing to adverse effects on surface and groundwater.

WHEREAS, this Ordinance regulates the proper use and application of fertilizer, training requirements, and restricted application periods in the City; and

WHEREAS, the City finds that it is in the best interests of the health, safety, and welfare of the residents of Winter Park and the general public that the City adopt and authorize enforcement of the fertilizer regulations contained within the Orange County Code, Chapter 15, Article XVII, within the boundaries of the City; and

WHEREAS, a copy of the Orange County Code, Chapter 15, Article XVII is attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment. Chapter 58, Article V, Division 11 of the City Code is hereby amended to add a new Section 58-368 thereof, as follows:

Sec. 58-368. – Fertilizer Regulations.

(a) Adoption of County Regulations by Reference. Chapter 15, Article XVII of the Orange County Code, as amended from time to time, governing fertilizer use shall apply within the boundaries of the City. Further amendments to Chapter 15, Article XVII of the Orange County Code shall be automatically incorporated into this section by reference unless the City Commission elects to opt out of such amendments by adopting a resolution or ordinance so stating. Orange County and relevant personnel and agents thereof shall have the authority to enforce and administer Chapter 15, Article XVII of the Orange County Code as incorporated herein within the boundaries of the City. The City and relevant personnel and agents thereof shall have the

authority to enforce and administer Chapter 15, Article XVII of the Orange County Code as incorporated herein within the boundaries of the City using any enforcement mechanism available under this section, other provisions of City Code, County Code, or by law. It shall be unlawful for any person to violate any provision of this section, or any provision of any resolution enacted pursuant to the authority of this section.

(b) City Enforcement. Every City code compliance or code enforcement officer is authorized to enforce the provisions of this section. Any person who violates any provision of this section, or any provision of any resolution enacted pursuant to the authority of this section, shall be subject to the following penalties if enforcement action is taken by the City or its employees or agents:

(1) First violation: Written notice and warning;

(2) Second violation: A second violation shall be a class I violation as provided in Chapter 1, Article II, code enforcement with a civil penalty of \$60.00 per violation paid to the City; however, commercial applicators shall be penalized as a class II violation as provided in Chapter 1, Article II, code enforcement with a civil penalty of \$100.00 per violation paid to the City.

(3) Third and subsequent violations: Successive repeated violations shall be a class IV penalty as provided in Chapter 1, Article II, code enforcement with a civil penalty of \$300.00 per violation paid to the City.

In addition to the enforcement provisions provided in subsection (b), the City may avail itself of any other legal or equitable remedy available to it, including but not limited to, injunctive relief or the initiation of code enforcement proceedings with the remedies as prescribed by Chapter 162, Florida Statutes, in the enforcement of any provision of this section or any provision of any resolution enacted pursuant to the authority of this section. Any person violating this section shall be held liable for all costs incurred by the city in connection with enforcing this section, or any resolution enacted pursuant to the authority of this section, including but not limited to, attorneys' fees and costs.

SECTION 3. Codification. Exhibit "A" to this Ordinance is Chapter 15, Article XVII of the Orange County Code incorporated by reference in Section 2 of this Ordinance. Section 2 of this Ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under

the law.

SECTION 6. Effective date. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

FIRST READING: _____, 2020

SECOND READING: _____, 2020

ADOPTED this ____ day of _____, 2020, by the City Commission of the City of Winter Park, Florida.

CITY COMMISSION
CITY OF WINTER PARK

Steve Leary, Mayor/Commissioner

ATTEST:

Rene Cranis, City Clerk

Exhibit "A"

ARTICLE XVII. - FERTILIZER MANAGEMENT ORDINANCE

Sec. 15-800. - Findings and purpose.

As a result of impairment to the county's surface waters, groundwater, and springs caused by excessive nutrients, the county has determined that the improper use of fertilizers on land creates a risk of contributing to adverse effects on surface and groundwater. This ordinance regulates the proper use and application of fertilizer, training requirements, and restricted application periods in the county.

Orange County's Environmental Protection Division will provide to the board of county commissioners a summary of data collected and current research related to excessive nutrients for evaluation and consideration of ordinance revisions on or before December 31, 2019.

(Ord. No. 2017-14 , § 2, 6-20-17)

Sec. 15-801. - Definitions.

Apply or *application* means the physical deposit, placement, or release of fertilizer upon soil, turf, or landscape plants.

Applicator means any person who applies fertilizer.

Article means chapter 15, article XVII, of the Orange County Code of Ordinances, as amended, unless otherwise specified.

Best management practices (BMPs) means the practice or combination of practices based on research, field testing and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

Commercial applicator means any person who applies fertilizer in exchange for money, goods, services or other valuable consideration and who is required by law, ordinance, or regulation to obtain an Orange County local business tax certificate.

Fertilizer means any substance or mixture of substances, excluding pesticides, organic composts, and fertilizer derived from biosolids, that contains one (1) or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Guaranteed analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

Golf course means any public or private area of land designed and used exclusively for playing or practicing golf, including tees, fairways, greens, rough areas, hazards and driving ranges (stand-alone ranges or those associated with a golf course). A golf course shall also include the following uses if they are accessory to the above uses: clubhouses, and all facilities adjacent to and associated with the daily operations of the above-referenced areas. Golf-related structures or features on residentially zoned private land shall not constitute a golf course.

Groundcover means plants used in mass as alternative to turf or lawn and/or to create variety in landscape; usually not having a mature height over two (2) feet tall.

Landscape plants means any shrub, tree, or groundcover, excluding turf and vegetable gardens.

Person means any person, natural or artificial, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee, or any other legal entity, the United States of America, and the State of Florida and all political subdivisions, regions, districts, municipalities, and public agencies.

Restricted season means the period from June 1 through September 30.

Slow release means nitrogen in a form which delays its availability for plant uptake and use for an extended period after application, or which extends its availability to the plant longer than a readily available, rapid or quick-release product. This definition includes the terms "controlled release," "timed release," "slowly available," and "water insoluble."

Turf, sod , or lawn means a mat layer of monocotyledonous plants, including but not limited to, Bahia, Bermuda, Centipede, Paspalum, St. Augustine, or Zoysia.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 3, 6-20-17)

Sec. 15-802. - Applicability.

- (a) Consistent with section 704 of the Orange County Charter, this ordinance shall be applicable throughout all of Orange County, except in municipalities that have minimum standards for the regulation of fertilizer application that are no less strict than those in this article.
- (b) Any business that sells fertilizer shall post a notice provided by the county stating that the use of lawn and landscape fertilizers in the county is restricted in accordance with this chapter.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 4, 6-20-17)

Sec. 15-803. - Weather and seasonal restrictions.

- (a) No fertilizer containing nitrogen or phosphorus shall be applied to turf or landscape plants during a period for which the National Weather Service has issued any of the following advisories for any portion [of] the county: a severe thunderstorm warning or watch, flood warning or watch, tropical storm warning or watch, or hurricane warning or watch.
- (b) No person, except applicators certified pursuant to section 15-809 herein, shall apply fertilizer containing nitrogen or phosphorus to turf or landscape plants during the restricted season from June 1 through September 30.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 5, 6-20-17)

Sec. 15-804. - Fertilizer content; application rate.

- (a) No fertilizer shall be used unless labeled in accordance with state law.
- (b) No fertilizer containing phosphorus shall be applied to turf or landscape plants. Provided, however, where phosphorus deficiency has been demonstrated in the soil by a soil analysis test performed by a laboratory using University of Florida's Institute of Food and Agricultural Sciences ("UF/IFAS") approved methodology, phosphorus may then be applied at a rate no greater than one-quarter (0.25) of one (1) pound of phosphorus per one thousand (1,000) square feet per application, not to exceed one-half (0.5) pound of phosphorus per one thousand (1,000) square feet per year. Any person who obtains such a soil analysis test showing a phosphorus deficiency may apply phosphorus and shall provide the test results to the Orange County Environmental Protection Division, Attention: Manager within thirty (30) days of receipt of results.
- (c) No fertilizer containing nitrogen shall be applied unless at least fifty (50) percent of its nitrogen content is slow release as indicated on the Guaranteed Analysis label, with no more than one (1) pound total nitrogen per one thousand (1,000) square feet of area per application. This requirement shall change to at least sixty-five (65) percent slow release if the product is readily available on the local commercial market by July 1, 2020.
- (d) Notwithstanding subsection 15-804(c), commercial applicators may apply fertilizer at a rate that does not exceed one-half (0.5) of one (1) pound of readily available nitrogen per one thousand

(1,000) square feet of area, provided, however, that any application that exceeds one-half (0.5) of one (1) pound of nitrogen shall conform to subsection 15-804(c).

- (e) Notwithstanding any other provision of this section 15-804, fertilizers applied to turf must follow the guidelines found in Rule 5E-1.003, F.A.C., as it may be amended.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 6, 6-20-17)

Sec. 15-805. - Fertilizer-free zones.

- (a) No fertilizer shall be applied within fifteen (15) feet of any wetland or surface waters, including but not limited to a lake, pond, stream, water body, water course, or canal.
- (b) No fertilizer shall be deposited, washed, swept, or blown off, intentionally or inadvertently, onto any impervious surface, public right-of-way, public property, stormwater drain, ditch, conveyance, or water body. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or landscape plants or any other legal site, or returned to the original or other appropriate container.
- (c) A low-maintenance zone is strongly recommended, though not required, for all areas within ten (10) feet of the normal high water elevation of any lake, pond, stream, water body, water course or canal, or any wetland, excluding permitted stormwater ponds. Low-maintenance zones should be planted and managed in such a way as to minimize the need for watering, mowing, and other active maintenance. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent over-spray of aquatic weed control products in this zone.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 7, 6-20-17)

Sec. 15-806. - Mode of application.

Broadcast spreaders applying fertilizers must be equipped with deflector shields positioned to deflect fertilizer from all impervious surfaces, rights-of-way, stormwater drains, ditches, conveyances, and water bodies.

(Ord. No. 2009-26 , § 1, 10-6-09)

Sec. 15-807. - Grass clippings and vegetative material/debris.

Grass clippings and/or vegetative material/debris shall not be deposited, washed, swept, or blown off, intentionally or inadvertently, onto any impervious surface, public right-of-way, stormwater drain, ditch, conveyance, or water body.

(Ord. No. 2009-26 , § 1, 10-6-09)

Sec. 15-808. - Exemptions; exceptions.

- (a) Sections 15-805 through 15-810 of this article shall not apply to golf courses; provided, however, fertilizer shall not be applied to golf courses in excess of the provisions set forth in Rule 5E-1.003(3), F.A.C., as it may be amended.

- (b) This article shall not apply to any bona fide farm operation that the county is without authority to regulate with regard to fertilizer application pursuant to the Florida Right to Farm Act, F.S. (2016) § 823.14 et seq., or other applicable state law.
- (c) This article shall not apply to sports turf areas at parks and athletic fields.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 10, 6-20-17)

Sec. 15-809. - Training requirements; proof of compliance.

- (a) No commercial applicator shall cause fertilizer to be applied, except at his or her own residence, without a valid limited certification for urban landscape commercial fertilizer application from the Florida Department of Agriculture and Consumer Services, as specified in section 15-809(c).
- (b) Each commercial applicator shall ensure that each applicator he or she employs has a valid limited certification for urban landscape commercial fertilizer application from the Florida Department of Agriculture and Consumer Services prior to the application of fertilizer.
- (c) Possession of a valid limited certification for urban landscape commercial fertilizer application from the Florida Department of Agriculture and Consumer Services or the Florida Department of Environmental Protection's *Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries* training by UF/IFAS shall suffice as evidence of completion of a county-approved best management practices training program.
- (d) Non-commercial applicators shall provide proof on an annual basis of successful completion of the online training "Orange County Fertilizer Application Education Course for Citizens" on the Orange County fertilizer web page.
- (e) Certified applicators must show proof of training on all vehicles used during applications.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 11, 6-20-17)

Editor's note— Ord. No. 2017-14 , § 11, adopted June 20, 2017, amended § 15-809 and in so doing changed the title of said section from "Commercial training requirements; proof of compliance" to "Training requirements; proof of compliance," as set out herein.

Sec. 15-810. - Commercial applicators; business tax certificate.

Prior to obtaining or renewing an Orange County local business tax certificate for a business that provides landscape services, each commercial applicator shall provide proof of successful completion from county-approved best management practices training programs within the previous three (3) years. Possession of a valid limited certification for urban landscape commercial fertilizer application from the Florida Department of Agriculture and Consumer Services or the Florida Department of Environmental Protection's *Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries* training by UF/IFAS shall suffice as evidence of completion of a county-approved best management practices training program.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 11, 6-20-17)

Sec. 15-811. - Variances.

- (a) All requests for a variance(s) from the requirements of this article shall be made in writing to the Manager of the Orange County Environmental Protection Division. The manager may require the applicant for a variance to provide such information as necessary to carry out the purpose of this article. The manager may approve, approve with conditions or deny requests for variances. A

variance may be granted if strict application of the Orange County Fertilizer Management Ordinance would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant.

- (b) Variances may be issued by the manager only upon satisfaction of the following:
 - (1) A showing of good and sufficient cause by the applicant and that the cause is not self-imposed, and
 - (2) A determination by the manager that the variance is the minimum necessary to afford relief, and
 - (3) A determination by the manager that failure to grant the variance would result in a practical difficulty or a physical hardship affecting the applicant's economic use of the property, and
 - (4) A determination by the manager that the granting of the variance will not result in threats to the health, safety and welfare of the residents of the county or conflict with existing local laws or ordinances.
- (c) Any person aggrieved by the decision of the manager may appeal pursuant to the provisions of section 15-38.

(Ord. No. 2009-26 , § 1, 10-6-09)

Sec. 15-812. - Enforcement and penalty.

- (a) It shall be unlawful for any person to violate any provision of this article, except section 15-802(b), or any provision of any resolution enacted pursuant to the authority of this article. Every code enforcement officer is authorized to enforce the provisions of this article. Any person who violates any provision of this article, except section 15-802(b), or any provision of any resolution enacted pursuant to the authority of this article, shall be subject to the following penalties:
 - (1) First violation: Written notice.
 - (2) Second violation: Fine of fifty dollars (\$50.00), except for commercial applicators it shall be five hundred dollars (\$500.00).
 - (3) Third and subsequent violations: Fine of one hundred dollars (\$100.00), except for commercial applicators it shall be seven hundred fifty dollars (\$750.00).
- (b) In addition to the enforcement provisions provided, the county may avail itself of any other legal or equitable remedy available to it including, without limitation, injunctive relief, in the enforcement of any provision of this article or any provision of any resolution enacted pursuant to the authority of this article. Any person violating this article shall be held liable for all costs incurred by the county in connection with enforcing this article, or any resolution enacted pursuant to the authority of this article including, but not limited to, attorney's fees.

(Ord. No. 2009-26 , § 1, 10-6-09; Ord. No. 2017-14 , § 14, 6-20-17)

Secs. 15-813—15-819. - Reserved.

Select Year: 2019 ▼ Go

The 2019 Florida Statutes

[Title XXIX](#)
PUBLIC HEALTH

[Chapter 403](#)
ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.9337 Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.—

(1) All county and municipal governments are encouraged to adopt and enforce the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes or an equivalent requirement as a mechanism for protecting local surface and groundwater quality.

(2) Each county and municipal government located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to s. [403.067](#), shall, at a minimum, adopt the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. A local government may adopt additional or more stringent standards than the model ordinance if the following criteria are met:

(a) The local government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution which is science-based, and economically and technically feasible, that additional or more stringent standards than the model ordinance are necessary in order to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body.

(b) The local government documents that it has considered all relevant scientific information, including input from the department, the institute, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences, if provided, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation. All documentation must become part of the public record before adoption of the additional or more stringent criteria.

(3) Any county or municipal government that adopted its own fertilizer use ordinance before January 1, 2009, is exempt from this section. Ordinances adopted or amended on or after January 1, 2009, must substantively conform to the most recent version of the model fertilizer ordinance and are subject to subsections (1) and (2), as applicable.

(4) This section does not apply to the use of fertilizer on farm operations as defined in s. [823.14](#) or on lands classified as agricultural lands pursuant to s. [193.461](#).

History.—s. 4, ch. 2009-199; s. 16, ch. 2012-83.



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Planning & Community Development

Planning & Zoning Board Staff Report for July 21, 2020 Meeting

ZTA #20-02 Request of the City of Winter Park for: An Ordinance to adopt regulations for the consideration of artificial turf as an impervious surface and to regulate the amount of fill added to residential lots.

Background:

As the single-family neighborhoods of the City continue to be redeveloped with new homes or substantial remodels, the City encounters drainage issues resulting from the larger homes and increases in impervious surfaces. This Ordinance addresses two issues related to the amount and runoff and controlling the flow of that runoff.

Treating Artificial Turf As An Impervious Surface

The City limits the amount of impervious surfaces allowed, which for single family homes is 60%, if it is a one story home and 50%, if it is a two-story home. Impervious surface is anything that water cannot get through to the underlying soil. Thus, the house itself, the paved driveway, swimming pool, etc. are impervious surfaces. The reason that you often see gravel as part of new driveways is to meet the 50% impervious limitation and to allow some of the driveway runoff to percolate into the ground.

The environmental reason for the limits on impervious surfaces is to percolate rainfall into the ground, which helps to recharge groundwater and eventually the aquifer. The allowable impervious surface limits also promote the use of landscaping and trees in the yard areas that without such limits, could be entirely paved over. The other major reason for the limits is to reduce the amount of rainfall flowing off residential lots into the streets that lead to street flooding issues.

In the last few years, there have been a growing number of situations where builders and homeowners want to use artificial turf as part of their pervious surface calculation. Their desire to use artificial turf is based on the lack of maintenance needed and the appearance. Based upon the direction from the St Johns River Water Management District, which treats artificial turf as impervious, the policy of the City has been to do the same. This has resulted in issues as companies selling the products have shown that the products are pervious.

It is possible to perform an installation that is pervious, but typically the installation method does not result in artificial turf functioning as pervious because the underlying soil has to be compacted or a limerock base put in. That compaction or limerock forms a barrier that does not allow for water to percolate as effectively. Also, under the artificial turf is a rubberized underlayer which has small holes a few inches apart for the purpose of drainage. However, a moderate intensity rain shower overwhelms the ability of these holes to drain the rainwater. While the top layer of the artificial turf is pervious, the underlayer and the ground preparation work, result in precluding property exfiltration and recharge of the rainwater.

The purpose of the inclusion of this text is for conformity with the treatment of artificial turf as impervious, as is done by St. Johns River Water Management District. At this time, it is an implementation policy by the Public Works Dept. This will codify that policy. However, there is the ability for Public Works to grant a case by case exception. In essence, it makes the applicant demonstrate that the product and installation method will function as pervious.

Prohibition on Excessive Fill for New Home Construction.

In most cases, after the demolition of a home, the builder needs to bring in some new clean dirt fill to level the site and/or build up the site (1-2 feet) so that the first floor level is above the grade of driveways, streets, etc. to avoid any drainage issues. Even when measuring building heights from the "existing grade" and not the "finished grade" after the fill is added, the builders always comply with the overall height limit and must provide a surveyor's certification of that building height before the roof inspection is approved.

The problems that have developed are when significant amount of new dirt fill is added to the site. This is especially true with contemporary modern architectural designs with flat roof that can easily be raised 3-5 feet above the existing grade and still conform within the 35-foot height limit. This becomes a privacy issue for the adjacent neighbors who now have homes with floor and outdoor patio deck levels far above their own spaces. However, the other issue is the control of the runoff drainage so that it doesn't go onto the neighbor's properties. Often a solution is to build up the entire lot (not just the house footprint) and then building a retaining wall. Now the entire property/lot is 3-4 feet above the neighbors' properties and homes.

This Code change will limit the amount of fill brought in to no more than two feet of added grade to any lot and also preclude fill that necessitates a retaining wall.

Summary

This proposed ordinance would help to remedy drainage concerns in the City by limiting runoff from artificial turf systems and by limiting the amount of fill and grade change that causes drainage issues to neighboring properties.

Staff recommendation is for approval.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58, CITY OF WINTER PARK CODE OF ORDINANCES, LAND DEVELOPMENT CODE, TO AMEND SECTION 58-71 CONCERNING LOT GRADING AND FILLING REQUIREMENTS AND TO CLARIFY THAT ARTIFICIAL TURF CONSTITUTES AN IMPERVIOUS SURFACE SUBJECT TO THE LIMITATIONS THEREON; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City Land Development Code currently limits the amount of impervious surface that may be utilized in residential and commercial development; and

WHEREAS, artificial turf is a type of impervious surface that replaces a biological system that removes carbon dioxide from the air and replenishes oxygen through photosynthesis, transfers water into the atmosphere through transpiration, supports wildlife, and aerates underlying soils for water absorption. Artificial turf has been shown to increase heat transfer, which contributes to physical stress and loss of habitat that may support wildlife; may increase lead and other metal concentrations; and may have other detrimental effects; and

WHEREAS, the City wishes to make clear that artificial turf constitutes an impervious surface and is subject to the limitations thereon contained in the Land Development Code; and

WHEREAS, the City desires to amend its Land Development Code to not permit the filling with elevated lot grades adjacent to or near other surrounding properties so as to require the use of retaining walls or other barriers or to create an unnatural lot grade transition unless approved by the public works director or building director; and

WHEREAS, the City finds that this Ordinance advances the interests of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. Amendment of City Code. The following sections and subsections of Chapter 58, Article III, and Chapter 58, Article V of the City Code are hereby amended as follows (words that are stricken out are deletions; words that are underlined are additions; stars * * * * * indicate breaks between sections, subsections, or paragraphs and do not indicate changes to the City Code):

Sec. 58-71. - General provisions for residential zoning districts.

(a) *Suitability of buildings.* Any proposed building shall be considered as to its suitability of design and type of construction in relation to the district and to the immediate

neighborhood site, and if such design, lot grading or construction is markedly incongruous with the character of such neighborhood as to be detrimental to the value of adjacent or nearby properties, then the ~~code enforcement~~ building director shall deny the application for a building permit.

(b) *Grading of building site.*

(1) Every lot which is used for a building site shall be so graded that it will be dry and free from standing water and the grade around the walls of every new building at the point where the sill meets these walls shall not be less than 12 inches above the crown line established or to be established for the street on which such a building faces, unless the lot has drainage away from the street to the lake or canal or has other adequate means of drainage as may be checked and approved by the public works director ~~city engineer~~ at the request of the city building director. If the street on which the lot faces has a slope between lot lines, an elevation half-way between the high and low points is to be used for determining the height of crown line.

(2) No lot owner shall grade ~~his~~ a lot in such a way as to interfere with the natural drainage of adjoining lots, ~~or~~ divert the drainage of ~~his~~ a lot onto adjoining lots, ~~nor to~~ interfere with the natural drainage of any lot so that the drainage of such lot is diverted upon any public street or thoroughfare in ~~such~~ a manner ~~or~~ in such amounts as to flood ~~such~~ a public street or thoroughfare. In addition, no lot shall be filled more than two (2) feet above the existing lot grade at the front of the home and no fill may be added in side setback areas that provide grading and drainage of runoff toward an adjacent property and fill may be added anywhere on the site so as to require the use of retaining walls or other barriers to create an unnatural lot grade transition unless approved by the public works director or building director.

* * * * *

Sec. 58-95. - Definitions.

For the purposes of this article, certain terms or words used herein shall be interpreted as follows:

* * * * *

Impervious coverage means the percentage of the lot land area that is covered with impervious materials such as building, swimming pools, (including pool water and pool decks) other decks or patios, driveways, etc. Artificial turf shall also be considered as impervious unless specifically waived by the Public Works Dept. based on materials and installation method. Standard engineering coefficients of permeability may be utilized for mixed surfaces. Land located across a street and separated from the building site shall not be included in the available land area calculation.

* * * * *

Sec. 58-333. - General criteria for all properties.

(a) The use of appropriate Florida-Friendly landscape design (<http://www.floridayards.org/>) is encouraged in order to reduce irrigation needs and to protect the waterfront. An irrigation system

to be used during establishment and selectively during times of drought is still required for landscape plantings that feature Florida-friendly design. The nine principles are:

* * * * *

(8) *Reduce stormwater runoff:* Water running off your yard can carry pollutants, such as fertilizer, pesticides, soil, and debris that can harm water quality. Reduction of this runoff will help prevent pollution. Synthetic turf systems are considered as impervious coverage, and may only be used within the lot impervious coverage limits and landscape requirement limits.

* * * * *

SECTION 3. Codification. Section 2 of this Ordinance shall be codified into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 6. Effective date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida, and shall apply to all existing and future applications for permits.

ADOPTED this ____ day of _____, 2020, by the City Commission of the City of Winter Park, Florida.

CITY COMMISSION
CITY OF WINTER PARK

Steve Leary, Mayor

ATTEST:

Rene Cranis, City Clerk



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Planning & Community Development

Planning & Zoning Board Staff Report for July 21, 2020 Meeting

MOR #20-01. Request of the City of Winter Park for: An Ordinance declaring and implementing a contingent temporary moratorium on the acceptance, processing, and consideration of applications for development orders, conditional use applications, site plans, building permits and other development applications that would utilize the Orange Avenue Overlay District policies, regulations, codes, and provisions approved March 9, 2020 by way of Ordinance 3166-20 (Comprehensive Plan amendment) and Ordinance 3167-20 (Land Development Code amendment), providing the temporary moratorium to become effective if the city's Ordinance 3170-20 (rescission ordinance) is determined by a court of competent jurisdiction to be null, void, or of no effect, or if Ordinance 3166-20 or Ordinance 3167-20 are determined to be effective or valid; providing for extension or termination of the temporary moratorium by ordinance or resolution; providing for confirmation and re-adoption of the City of Winter Park Ordinance 3170-20 (rescission ordinance); providing for non-codification, conflicts, severability, and an effective date.

Background

The City Commission asked staff to prepare a Moratorium on the Orange Avenue Overlay that was approved, but then rescinded by Ordinance prior to the effective date. The intent of the moratorium is to ensure that no development can occur based on the previously approved Orange Avenue Overlay if the lawsuits appealing the rescission of the Overlay are successful.

Staff recommendation is for approval.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, DECLARING AND IMPLEMENTING A CONTINGENT TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, AND CONSIDERATION OF APPLICATIONS FOR DEVELOPMENT ORDERS, CONDITIONAL USE APPLICATIONS, SITE PLANS, BUILDING PERMITS AND OTHER DEVELOPMENT APPLICATIONS THAT WOULD UTILIZE THE ORANGE AVENUE OVERLAY DISTRICT POLICIES, REGULATIONS, CODES, AND PROVISIONS APPROVED MARCH 9, 2020 BY WAY OF ORDINANCE 3166-20 (COMPREHENSIVE PLAN AMENDMENT) AND ORDINANCE 3167-20 (LAND DEVELOPMENT CODE AMENDMENT), PROVIDING THE TEMPORARY MORATORIUM TO BECOME EFFECTIVE IF THE CITY'S ORDINANCE 3170-20 (RESCISSION ORDINANCE) IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE NULL, VOID, OR OF NO EFFECT, OR IF ORDINANCE 3166-20 OR ORDINANCE 3167-20 ARE DETERMINED TO BE EFFECTIVE OR VALID; PROVIDING FOR EXTENSION OR TERMINATION OF THE TEMPORARY MORATORIUM BY ORDINANCE OR RESOLUTION; PROVIDING FOR CONFIRMATION AND READOPTION OF THE CITY OF WINTER PARK ORDINANCE 3170-20 (RESCISSION ORDINANCE); PROVIDING FOR NON-CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Park ("City"), as provided in section 2(b), Article VIII of the Florida Constitution and chapters 163 and 166, Florida Statutes, enjoys all home rule authority, police power, land development and zoning authority, governmental and proprietary powers necessary to conduct municipal government and perform municipal functions, and the City may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, the City Commission, on March 9, 2020, approved an Orange Avenue Overlay District to be implemented through Ordinance 3166-20 (Comprehensive Plan Amendment) and Ordinance 3167-20 (Land Development Code Amendment), with an anticipated effective date of April 16, 2020 based on the Florida Department of Economic Opportunity's notification to the City of comprehensive plan amendment completeness; and

WHEREAS, before Ordinance 3166-20 and 3167-20 became effective, the City Commission rescinded and repealed Ordinance 3166-20 and 3167-20 by adoption of Ordinance 3172-20 (Rescission Ordinance) rescinding/repealing Ordinances 3166-20 (Comprehensive Plan Amendment) and 3167-20 (Land Development Code Amendment) on April 13, 2020; and

WHEREAS, a copy of Ordinance 3172-20 (Rescission Ordinance) is attached hereto as **Exhibit "A"**; and

WHEREAS, the City Commission adopted Ordinance 3172-20 (Rescission Ordinance) before Ordinances 3166-20 (Comprehensive Plan Amendment) and 3167-20 (Land Development Code Amendment) became effective, in part, to avoid anyone, including all of the property owners within and abutting the Orange Avenue Overlay District, from relying on those Ordinances for any purpose and to begin the process of considering an Orange Avenue Overlay District based on additional needed data, information, and analyses; and

WHEREAS, on April 14, 2020, the City notified the Department of Economic Opportunity (“Department”) of the City’s rescission/repeal of Ordinances 3166-20 (Comprehensive Plan Amendment) and 3167-20 (Land Development Code Amendment) and of the withdrawal of the Orange Avenue Overlay District Comprehensive Plan Amendment and the Department acknowledged the City’s rescission/repeal and withdrawal of Ordinance 3166-20 and updated its records accordingly; and

WHEREAS, notwithstanding the foregoing, there are allegations in pending litigation that Ordinance 3172-20 (Rescission Ordinance) was not properly enacted, that Ordinances 3166-20 (Comprehensive Plan Amendment) and 3167-20 (Land Development Code Amendment) were not properly rescinded/repealed; and

WHEREAS, the City Commission finds that Ordinance 3172-20 (Rescission Ordinance) was in fact properly enacted in a manner consistent with law and the City Commission’s own rules and procedures; and

WHEREAS, due to pending litigation challenging the adoption of Ordinance 3172-20 (Rescission Ordinance), the City finds it prudent and necessary to place a contingent temporary moratorium on the acceptance, processing, and consideration of applications for development orders, conditional use applications, site plans, building permits and other development applications that would utilize the Orange Avenue Overlay District policies, regulations, codes, and provisions contained within the now rescinded and repealed Ordinance 3166-20 (Comprehensive Plan Amendment) and Ordinance 3167-20 (Land Development Code Amendment) in order to avoid prejudice to any of the landowners in the Overlay area and to avoid any assertion that any property owner or developer relied upon the provisions of Ordinance 3166-20 and Ordinance 3167-20; and

WHEREAS, the City desires this moratorium only apply to the extent of the policies, regulations, codes, and provisions of the now rescinded and repealed Ordinance 3166-20 (Comprehensive Plan Amendment) and Ordinance 3167-20 (Land Development Code Amendment) and that this moratorium not be construed as a limitation on acceptance, processing, and consideration of applications for development orders, conditional use applications, site plans, building permits and other development applications under any other applicable provisions of the Winter Park Comprehensive Plan and City Code; and

WHEREAS, this temporary moratorium shall only become effective in the event a court of competent jurisdiction determines Ordinance 3166-20 (Comprehensive Plan

Amendment) and/or Ordinance 3167-20 (Land Development Code Amendment) are valid or effective or that Ordinance 3172-20 (Rescission Ordinance) is defective, ineffective, void or otherwise invalid; and

WHEREAS, the City desires to place the property owners, tenants, businesses, residents and other members of public and all parties on notice that the City is creating a contingent temporary moratorium on the acceptance, processing, and consideration of applications for development orders, conditional use applications, site plans, building permits and other development applications that would utilize the Orange Avenue Overlay District policies, regulations, codes and provisions concerning properties located within the Orange Avenue Overlay District as such are contained in the now rescinded/repealed Ordinance 3166-20 (Comprehensive Plan Amendment) and/or Ordinance 3167-20 (Land Development Code Amendment); and

WHEREAS, the City planners, engineers, and other staff estimate they may need approximately six (6) months from the adoption of this Ordinance to obtain the additional needed data, information, studies, analyses, and community input from property owners, tenants, and citizens to determine what policies, provisions, rules, and regulations may be appropriate and necessary to create standards and requirements relating to development and redevelopment within the Orange Avenue Overlay District; and

WHEREAS, the recitals adopted by 3172-20 (Rescission Ordinance) as the legislative findings, purposes and legislative determinations are hereby incorporated into this Ordinance for the purposes of approving Section 3 of this Ordinance; and

WHEREAS, prior to its adoption, this Ordinance was publicly noticed and public hearings were conducted in accordance with Section 166.041(3)(c)2, Florida Statutes; and

WHEREAS, this Ordinance was prepared at the direction of the City Commission and in a manner consistent with the City Commission's own rules and procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK AS FOLLOWS:

SECTION 1. Intent. The above recitals are hereby adopted as the legislative findings and purposes of this Ordinance and as the City Commission's legislative determinations.

SECTION 2. Moratorium. In the event a court of competent jurisdiction determines Ordinance 3172-20 (Rescission Ordinance) is defective, ineffective, void, or otherwise invalid and/or Ordinance 3166-20 (Comprehensive Plan Amendment) and/or Ordinance 3167-20 (Land Development Code Amendment) is/are valid or effective, a temporary moratorium (suspension) on the acceptance, processing, and consideration of all development orders, conditional use applications, site plans, building permits and other development applications that would utilize the Orange Avenue Overlay District

policies, regulations and codes contained within Ordinance 3166-20 (Comprehensive Plan Amendment) and Ordinance 3167-20 (Land Development Code amendment) for all properties proposing development within the Orange Avenue Overlay District identified on the map attached hereto as **Exhibit “B”** shall take effect immediately and last for a period of 270 days thereafter. Building permits and all other applications for development pursuant to the existing comprehensive plan policies, zoning, development and building codes and regulations in effect in the City prior to approval of Ordinance 3166-20 (Comprehensive Plan Amendment) and/or Ordinance 3167-20 (Land Development Code Amendment) are excepted from this temporary moratorium. Further, excepted from the temporary moratorium set forth in this Ordinance are building permits and development orders issued pursuant to any comprehensive plan amendments or land development regulation amendments adopted after the Effective Date of this Ordinance. For the purpose of this Ordinance, the terms “development order” and “development permit” mean the same as defined in section 163.3164, Florida Statutes. The temporary moratorium established by this Ordinance may be extended or terminated early by adoption of an ordinance or resolution of the City Commission.

SECTION 3. Confirmation and Readoption of Ordinance 3172-20. Ordinance 3172-20 (Rescission Ordinance), adopted April 14, 2020 rescinding and nullifying Ordinance 3166-20 (Comprehensive Plan Amendment) and/or Ordinance 3167-20 (Land Development Code Amendment) is hereby confirmed, validated, and readopted. A copy of Ordinance 3172-20 is attached hereto as Exhibit “A”.

SECTION 4. Non-Codification. Given the temporary nature and effect of this Ordinance, it is the intent of the City Commission that this Ordinance shall not be codified.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance, resolution, or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 7. Effective date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

FIRST READING this _____ day of _____, 2020.

SECOND READING this _____ day of _____, 2020.

ADOPTED this ____ day of _____, 2020, by the City Commission of the City of Winter Park, Florida.

**CITY COMMISSION
CITY OF WINTER PARK**

Steve Leary, Mayor

ATTEST:

Rene Cranis, City Clerk

EXHIBIT “B”
Orange Avenue Overlay District

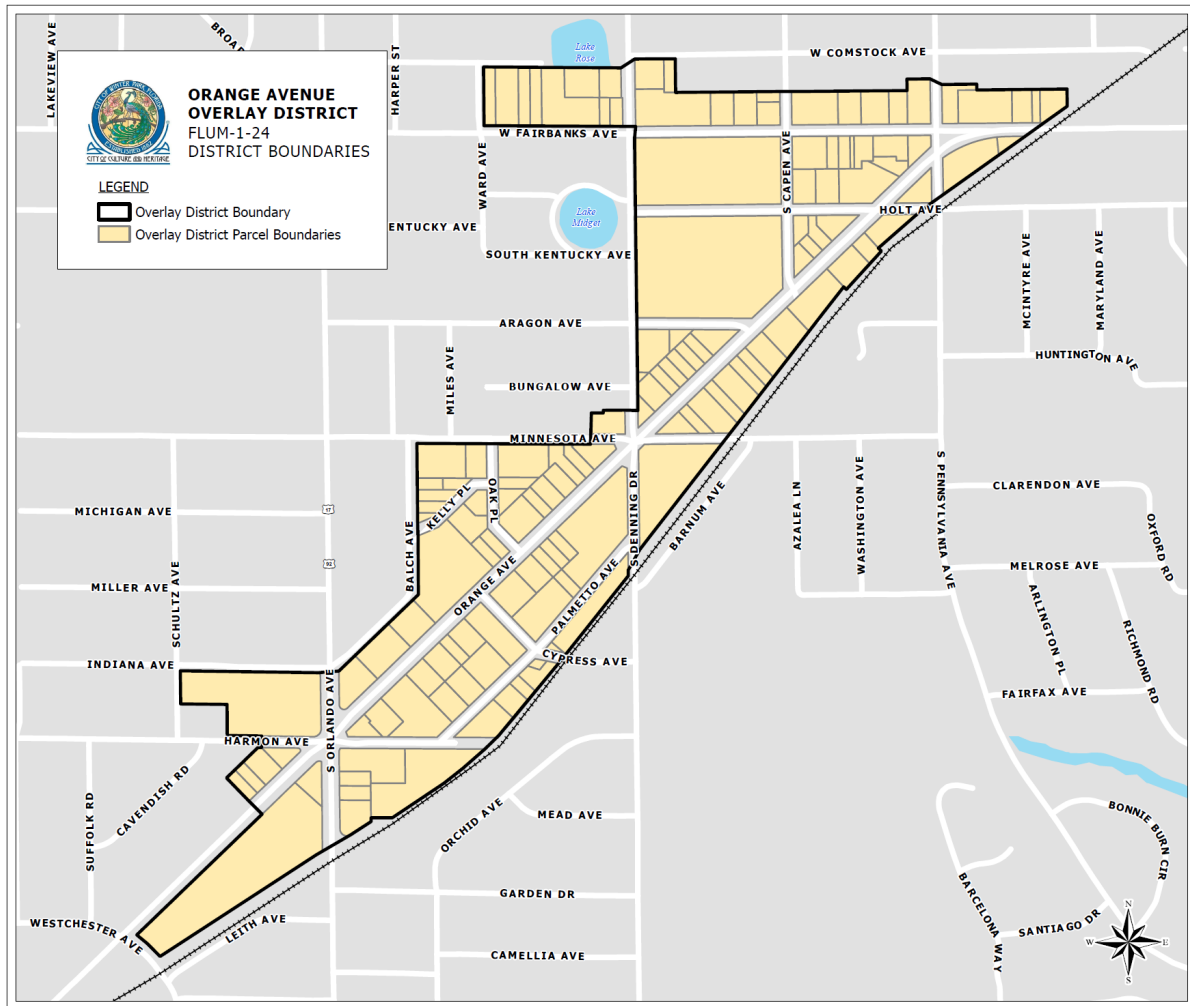


EXHIBIT "A"

ORDINANCE 3172-20

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RESCINDING ORDINANCE 3166-20 AND ORDINANCE 3167-20, WHICH RESPECTIVELY AMENDED THE COMPREHENSIVE PLAN AND ZONING CODE TO ESTABLISH THE ORANGE AVENUE OVERLAY DISTRICT AND GOVERNING POLICIES AND LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CONFLICTS; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Commission adopted Ordinance 3166-20 (Comprehensive Plan Amendment) and Ordinance 3167-20 (Land Development Code amendment) concerning the establishment of the Orange Avenue Overlay District and related policies and land development regulations on March 9, 2020; and

WHEREAS, the City Commission has reconsidered its votes on Ordinances 3166-20 and 3167-20 and now repeals those ordinances before they become effective to avoid causing prejudice to any of the landowners in the Overlay area; and to begin the process anew to consider adoption of an Orange Avenue Overlay District; and

WHEREAS, the City Commission directs City staff to provide necessary data and analysis, as delineated by the City Commission, within 30 days following the expiration of any state or federal Executive Orders (EO) allowing public meeting by communications media technology; and within 30 days following the presentation to and acceptance by the City Commission of such data and analysis, re-initiate the process and schedule public hearings to consider amendments to the Comprehensive Plan and the Zoning Code to create the Orange Avenue Overlay District in accordance with F.S. Chapter 163, pt. II and Land Development Code Section 58-6; and

WHEREAS, since Ordinance 3166-20 and Ordinance 3167-20 are not yet effective, they are not currently part of the Comprehensive Plan or Land Development Regulations of the City of Winter Park; and

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City Commission has reconsidered its votes on Ordinance 3166-20, establishing the Orange Avenue Overlay, and Ordinance 3167-20, the associated land development code amendment, (referred to collectively as the Orange Avenue Overlay), and hereby repeals those ordinances before the ordinances become effective, to avoid causing prejudice to any of the landowners in the Overlay area; and

WHEREAS, the City Commission is repealing the Orange Avenue Overlay to allow more time for Staff to provide analysis and data, and to offer the public additional information and opportunity for public comment, and since many changes in substance were made at the second reading of the ordinances. Chapter 163.3181(1) of Florida Statute expresses the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. There were public hearings on prior versions of the Orange Avenue Overlay, however at the second reading of the ordinances many changes in substance were

made to the Overlay, preventing full opportunity for public understanding and informed comment on the final version; and

WHEREAS, it is the intention of the City Commission to further study and potentially amend proposed Orange Avenue Overlay policies and regulations; specifically, to examine the value to the City from the transfer of residential development rights; intensities of land use; the regulations pertaining to parking garages; the use of existing public right of ways; the economic value of incentives, and

WHEREAS, the City Commission now finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

WHEREAS, Ordinance 3166-20 was not to become effective until April 16, 2020. By repealing Ordinance 3166-20 and Ordinance 3167-20 before April 16, 2020, the City Commission is providing ample notice to the property owners in the Orange Avenue Overlay that they should make no investment backed decisions based on Ordinances 3166-20 or 3167-20. Further that a copy of this Ordinance shall be mailed to all property owners within the geographic area referred to as Orange Avenue Overlay to ensure all owners are aware of this repeal of the Orange Avenue Overlay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. Recitals. The above recitals are hereby adopted as the legislative findings of the City Commission.

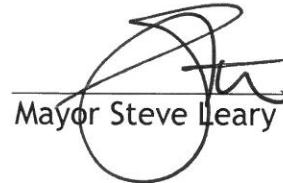
SECTION 2. Rescind. That Ordinances 3166-20 and 3167-20 adopted on March 9, 2020 are hereby rescinded (repealed) and are null and void.

SECTION 3. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 4. Conflicts. To the extent any provision or provisions of this Ordinance conflict with the provision or provisions of other Ordinances, the provisions of this Ordinance control.

SECTION 5. Effective Date. This Ordinance shall become effective immediately following approval of the 2nd Reading.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 13th day of April 2020.



Mayor Steve Leary

Attest:



Rene Cranis, City Clerk