



Planning & Zoning Board Regular Meeting

Agenda

August 3, 2021 @ 6:00 pm

City Hall

401 S. Park Avenue

welcome

Agendas and all backup material supporting each agenda item are accessible via the city's website at cityofwinterpark.org/bpm and include virtual meeting instructions.

assistance & appeals

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

"If a person decides to appeal any decision made by the Board with respect to any matter considered at this hearing, a record of the proceedings is needed 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).

please note

Times are projected and subject to change.

-
1. **Call to Order**
 2. **Consent Agenda**
 - a. [Approval of the July 6, 2021 Meeting Minutes.](#) 1 minute
 3. **Public Hearings**
 - a. [SUB #21-05 Request of Wooten Built, Inc for:](#) 30 minutes
 - Subdivision approval to split the property at 280 E. Lake Sue Avenue, zoned R-1AA into two single-family building lots. Variances are requested from the R-1AA minimum lot dimension standards.
 - b. [CPA #21-05, RZ #21-04 Request of the City of Winter Park for:](#) 10 minutes
 - An Ordinance amending Chapter 58, "Land Development Code", Article I, "Comprehensive Plan" future land use map so as to establish a commercial future land use on the annexed properties at 647/653 Harold Avenue and to indicate the annexation on the other maps within the comprehensive plan.
 - An Ordinance amending Chapter 58, "Land Development Code", Article III, "Zoning" and the official zoning map so as to establish commercial (C-3) zoning on the annexed properties at 647/653 Harold Avenue.
 - c. [CPA #21-06 Request of the City of Winter Park for:](#) 10 minutes
 - An Ordinance amending Chapter 58 "Land Development Code" Article I, "Comprehensive Plan" so as to add a new Property Rights Element including new Goals, Objectives, and Policies for this Element pursuant to House Bill 59: Growth Management.
 4. **Staff Updates**
 5. **Board Comments**
 6. **Adjournment**



Planning and Zoning Board

agenda item

item type	Consent Agenda	meeting date	August 3, 2021
prepared by	Mary Bush	approved by	
board approval	Completed		
strategic objective			

subject

Approval of the July 6, 2021 Meeting Minutes.

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[July 6 draft.pdf](#)



Planning and Zoning Board Minutes

July 6, 2021 at 6:00 p.m.

401 S. Park Avenue | In-Person and Virtual | Winter Park, Florida

1. Present

Chairman Richard James called the meeting to order at 6:01 p.m. Present: Jim Fitch, Richard James, Michael Spencer, Melissa Vickers, and Alex Stringfellow. Absent: Vashon Sarkisian and David Bornstein. Also Present: City Attorney Dan Langley. Staff: Director of Planning and Transportation Bronce Stephenson, Principal Planner Jeff Briggs, Senior Planner Allison McGillis, Transportation Manager Sarah Walter, and Recording Secretary Mary Bush.

2. Approval of Minutes

Motion made by Melissa Vickers, seconded by Alex Stringfellow, to approve the May 4, 2021 meeting minutes.

Motion carried unanimously with a 4-0 vote. (Michael Spencer was not present for the approval of the minutes. Vashon Sarkisian and David Bornstein were not present for the meeting.)

3. Public Hearing:

- SPR #21-08. Request of Michael Wenrich for: Approval to construct a new, two-story, 9,866 square-foot, single-family home located at 1250 College Point on Lake Virginia, zoned R-1AAA.

Mrs. McGillis provided the Board a brief summary of the SPR #21-08 request. She noted that no trees are being removed, the pool and pool deck are proposed at less than the three foot height maximum from existing grade, and the applicant has proposed swells throughout the lot that meet the storm water retention criteria. Staff determined the average lake front setback for the property to be 60-ft and the pool deck minimum setback is 50-ft. The applicant is proposing to match these setbacks. Mrs. McGillis also noted that the applicant has proposed a 440-sq ft area for a planter bed and fire pit that extends past the 50-ft setback. Code allows for 10% of the area between the minimum setback and the lakefront to be used for these types of items.

Staff recommendation was for approval.

Chairman James asked about the front setback to which Mrs. McGillis replied it is 40-ft.

No one from the public wished to speak. The public hearing was closed.

Motion made by Michael Spencer, seconded by Alex Stringfellow, for approval to construct a new, two-story, 9,866 square-foot, single-family home located at 1250 College Point on Lake Virginia, zoned R-1AAA.

Motion carried unanimously with a 5-0 vote. (Vashon Sarkisian and David Bornstein were not present for the meeting.)

- Request of the City of Winter Park for: An Ordinance of the City of Winter Park amending the Comprehensive Plan Future Land Use Map designation from an Office future land use designation to a Single-Family Residential designation on the properties at 2141/2151/2211/2221/2223/2225/2227 Loch Lomond Drive in order to match the existing Single Family (R-1A) zoning.
- Request of the City of Winter Park for: An Ordinance of the City of Winter Park amending the Comprehensive Plan Future Land Use Map designation from an Office future land use designation

to a Single-Family Residential designation on the properties at 2229/2255/2311/2313 Loch Lomond Drive and 2272 Nairn Drive in order to match the existing Single Family (R-1A) zoning.

Mr. Briggs provided a brief summary of the requests to the Board. He noted that the requests are basically changing the Future Land Use zoning of the properties to Single-Family zoning, which they currently follow. He presented the Future Land Use map from the Comprehensive Plan that shows how the properties are supposed to be zoned and the Zoning map which shows how they are currently zoned. Mr. Briggs then provided a brief background on why there is a difference between the documented and utilized zoning for the properties. He noted that the requested amendments will avoid having to change the zoning to match Single-Family zoning for each individual parcel in the future. He also noted that the residents in the area are looking forward to the prospect of hopefully getting the City to install sanitary sewer lines along Loch Lomond Drive once the properties are rezoned.

Staff recommendation was for approval.

Mr. Fitch asked about the zoning for the lots to the North on Nairn Drive. Mr. Briggs replied that they are zoned R-1A and have a similar issue with the Future Land Use zoning because there is a Comprehensive Plan policy that allows in some cases for townhomes to also be built there along with the Single-Family homes.

Mr. Stringfellow asked if there are any possible lot splits for the properties that are included in the amendments to the Future Land Use zoning that would not have been previously allowed. Mr. Briggs replied that none of the properties are big enough to do a lot split.

No one from the public wished to speak. The public hearing was closed.

Mr. Stringfellow inquired if staff has an ongoing effort to identify where septic tanks are located and where sewer services are being planned to extend to around the City. Chairman James replied that the City's Water and Waste Water department continually has discussions regarding septic tanks and sewer lines. Mr. Stephenson replied that the City Commission has also had discussions on reducing the number of septic tanks in town.

Motion made by Melissa Vickers, seconded by Alex Stringfellow, for approval of an Ordinance of the City of Winter Park amending the Comprehensive Plan Future Land Use Map designation from an Office future land use designation to a Single-Family Residential designation on the properties at 2141/2151/2211/2221/2223/2225/2227 Loch Lomond Drive in order to match the existing Single Family (R-1A) zoning and for approval of an Ordinance of the City of Winter Park amending the Comprehensive Plan Future Land Use Map designation from an Office future land use designation to a Single-Family Residential designation on the properties at 2229/2255/2311/2313 Loch Lomond Drive and 2272 Nairn Drive in order to match the existing Single Family (R-1A) zoning.

Motion carried unanimously with a 5-0 vote. (Vashon Sarkisian and David Bornstein were not present for the meeting.)

4. New Business:

No new business.

5. Planning Director's Report:

Mr. Stephenson and City Attorney Langley discussed Board standard operating procedures on how the Board would like to proceed with applicant and public comment, including the amount of time that should be given for presentations and the amount of people that are allowed to speak. Mr. Stephenson noted that the guidelines are flexible and can be adjusted to suit varied situations specific to each meeting. He also noted that for privacy purposes the Board does not have to use their personal email address for their Board email and reminded them to send any public communications to staff for the public record. After considerable discussion, the Board indicated that they were comfortable with allowing 15 minutes for applicant presentations, ten minutes speaking time per group representative

for groups of at least four properties, five minutes speaking time for rebuttals, more time for speakers directly impacted by an application or for an applicant when denial is being recommended by staff, and limiting time for multiple people speaking for the same cause - for or against. Whenever possible, staff will provide the Board with an indication of any contentious items on a meeting agenda and do a preamble prior to the meeting. Mr. Stephenson briefly explained a few basic procedures for dealing with derogatory or foul language and comments directed at a single person as well as procedures for breaking and leaving during meetings.

6. Board Update and Comments:

Mr. Spencer requested to add the topic of potential design standards for Fairbanks Avenue to the Planning and Zoning Board's next month's meeting agenda. Mr. Stringfellow recommended considering possible effects to other neighboring roads for whatever may be planned for Fairbanks Avenue.

Chairman James noted that after speaking with the Board of Adjustments he was made aware that they have been dealing with some re-occurring items that require variances. He suggested that Planning and Zoning review the code and adjust wording to help avoid the re-occurring items.

7. Upcoming Meeting Schedule:

The next regular meeting will be held on August 3, 2021 and the next work session will be on July 27, 2021.

Adjourn

Meeting adjourned at 7:05 p.m.

Respectfully Submitted,

Mary Bush

Recording Secretary



Planning and Zoning Board

agenda item

item type Public Hearings	meeting date August 3, 2021
prepared by Jeffrey Briggs	approved by Bronce Stephenson
board approval Completed	
strategic objective	

subject

SUB #21-05 Request of Wooten Built, Inc for:

item list

- Subdivision approval to split the property at 280 E. Lake Sue Avenue, zoned R-1AA into two single-family building lots. Variances are requested from the R-1AA minimum lot dimension standards.

motion / recommendation

Denial

background

Wooten Built, Inc. (contract purchaser) has the two lots (Lots 8 & 9) at 280 East Lake Sue Avenue, the corner of East Lake Sue Avenue and Winter Park Road under contract for purchase to redevelop as two individual single-family homes. The Zoning is single-family residential (R-1AA). The property now has one existing single-family home on it and thus would be demolished for the rebuild as two homes.

During the City's review process of subdivisions or lot split requests, there are two criteria that are reviewed. First is the 'Zoning Test' as to conformance with the zoning criteria. The next is the 'Subdivision Code Test' which is conformance to the neighborhood character.

Zoning Test

The two lots combined have 140.35 feet on East lake Sue Avenue and 140 feet on Winter Park Road. Due to the different setbacks for a corner lot, the applicant wants to divide the property into an interior lot with 67 feet of frontage (9,380 square feet) and a corner lot with 73 feet of frontage (10,220 square feet). *For corner lots the narrow side is always the deemed to be the front.*

The R-1AA zoning requires a minimum lot frontage of 100 feet for interior lots and 110 feet for corner lots, as well as 10,000 square feet of lot area. Thus, variances are

requested from the R-1AA minimum lot dimensions for the 67 and 73-foot lot widths and the one lot with less than 10,000 square feet.

Lot Conformance to Subdivision Code Test

There are 76 other homes within this immediate 500-foot radius neighborhood with the same R-1AA zoning (see attached map). The average lot width is 80 feet but since a couple of large lots can affect the average, the better statistic is that the median lot width is 67 feet. The average lot size is 12,856 square feet and the median lot size is 10,596 square feet.

One important comparison of compatibility is that 63% of the homes in this immediate 500- foot radius have 67-70 foot wide lots, while the balance 37% are on larger conforming lots. Lot size variances are to be based upon a finding of compatibility. There is flexibility to use either the averages for a determination of non-compliance or the medians and percentages for a determination of compatibility.

No Impact on Floor Area Ratio

The applicant is aware of the recent code change that limits the maximum floor area ratio to the same 38% FAR as exists today on the combined lots versus the maximum 43% FAR that would otherwise apply after the lots are split. As a result, the square footage of the future homes/structures on these lots is unchanged. The difference is that the square footage can be divided into two homes versus one home. Plans have been submitted to show what is expected to be built in conformance with the FAR and setbacks. They are two homes of 3,884 square feet and 3,564 square feet respectively. The applicant believes that the two smaller homes are much more compatible with the neighborhood than one much larger home of up to 7,448 square feet in size.

Applicable Codes

The applicable Comprehensive Plan policy and Subdivision Code section governing lot splits are on the following pages.

Development Plans

The applicant has provided generalized site plans and front elevations for the type of homes that they plan to build. The applicants will comply with the normal single-family development standards, setbacks, etc. and are asking for no variances with respect to the single-family building parameters.

Summary

The Subdivision Code says that the City is to grant variances based upon a determination that the proposed lots are compatible with "neighborhood standards and existing

conditions". There are comparisons that can support that conclusion.

It is the general practice of the City staff not to recommend approval of subdivision lot dimension variances. Upon legal challenge the courts view the staff as the "experts" and if the "experts" say an applicant qualifies for a variance then it is extremely difficult for the city attorney to defend a denial. For that reason, so that the P&Z Board and City Commission can exercise your flexibility and to approve or deny that staff does not recommend approval in any situation requiring variances.

RELEVANT COMPREHENSIVE PLAN POLICIES:

Policy 1-5.2.8: Subdivision of Land and Lot Splits for Non-Lakefront Single Family & Low Density Multi-Family Property. The City shall consider approving subdivision and lot split applications, which are not lakefront properties and which are not estate lots in areas designated single family, low density or multi-family residential, when the proposed new lots are designed at size and density that meet the adopted subdivision regulations. The City Commission in consideration of lot consolidation requests may limit the applicable floor area ratio as a condition of approval in order to preserve neighborhood scale and character.

ARTICLE VI. - SUBDIVISION AND LOT CONSOLIDATION REGULATIONS

Sec. 58-377. - Conformance to the comprehensive plan.

(a) In the City of Winter Park, as a substantially developed community, the review of lot splits, lot consolidations, plats, replats or subdivisions within developed areas of the city shall insure conformance with the adopted policies of the comprehensive plan as a precedent to the conformance with other technical standards or code requirements.

(b) In existing developed areas and neighborhoods, all proposed lots shall conform to the existing area of neighborhood density and layout. The proposed lot sizes, widths, depths, shape, access arrangement, buildable areas and orientation shall conform to the neighborhood standards and existing conditions. This provision is specifically intended to allow the denial or revision by the city of proposed lot splits, lot consolidations, plats, replats or subdivisions when those are not in conformance with the existing neighborhood density or standards, even if the proposed lots meet the minimum technical requirements of the zoning regulations.

(c) In determining the existing area or neighborhood density and standards, for the consideration of lot splits, plats, replats or subdivision of other than estate lots or lakefront lots, the planning and zoning commission and city commission shall consider the frontage and square foot area of home sites and vacant properties with comparable zoning within an area of 500-foot radius from the proposed subdivision.

(d) In order to implement the policies of the comprehensive plan, the city commission may also impose restrictions on the size, scale, and style of proposed building, structures, or other improvements. This provision shall enable the city commission to impose restrictions on the size, height, setback, lot coverage, impervious area or right-of-way access such that proposed building and other improvements match the dimension and character of the surrounding area or neighborhood.

[alternatives / other considerations](#)

[fiscal impact](#)

ATTACHMENTS:

[Location map.pdf](#)

ATTACHMENTS:

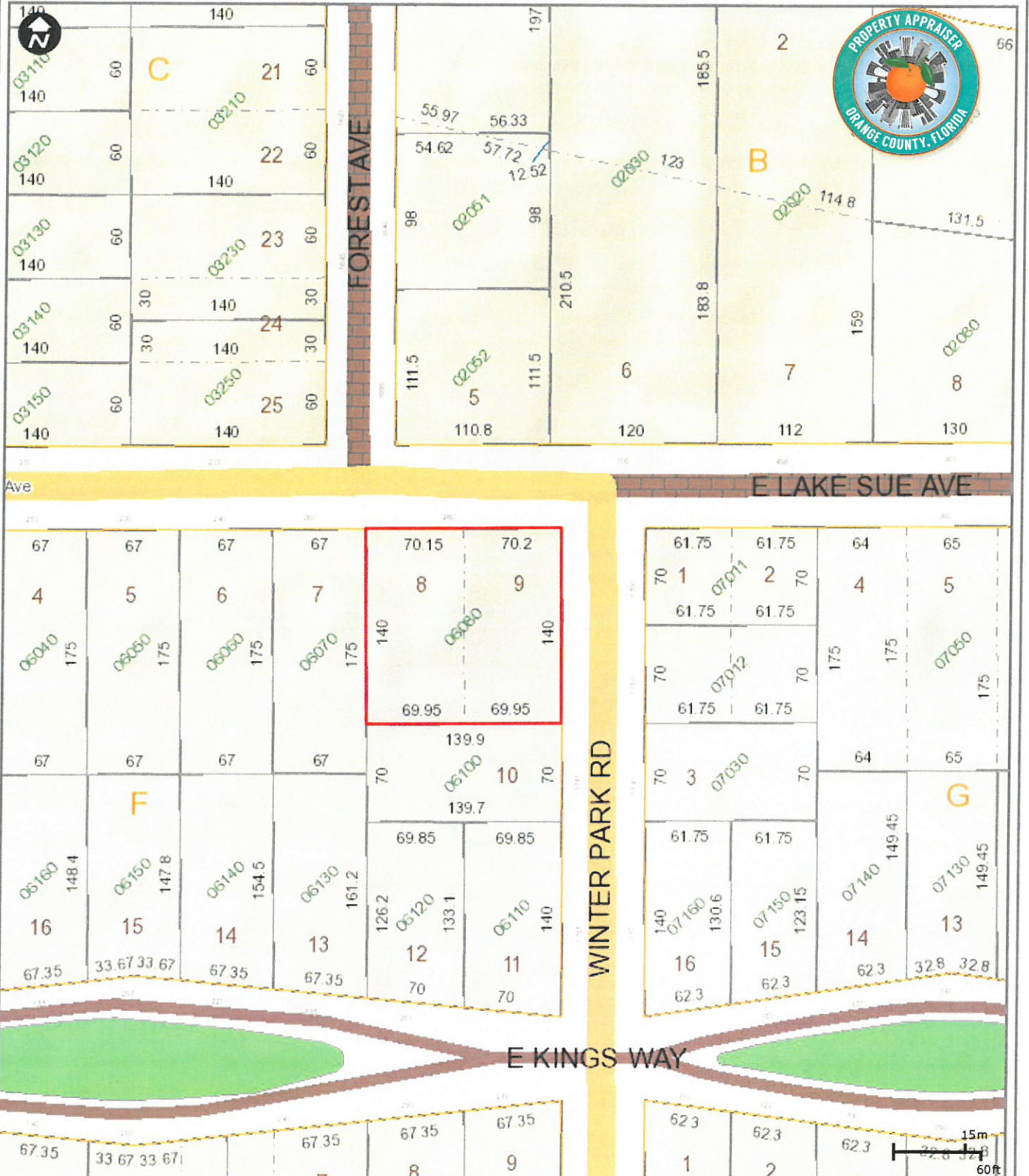
[Lot Split Test.pdf](#)

ATTACHMENTS:

[Lake Sue Site Plan and Front Elevations.pdf](#)

OCA Web Map

	Florida turnpike		Major Roads		Proposed Road		Residential		Commercial/Industrial Vacant Land		Parks		6 Lot Number
	Interstate 4		Public Roads		Brick Road		Agriculture		Agricultural Curtilage		Lakes and Rivers		06060 Parcel Number
	Toll Road		Gated Roads		Block Line		Commercial/Institutional		Hydro		Building		3106 Parcel Address
	Road Under Construction		Lot Line		Governmental/Institutional/Misc		Waste Land		E Block Number		111.9 Parcel Dimensions		



Created: 7/2/2021

This map is for reference only and is not a survey.





LOT CONFORMANCE TO SUBDIVISION CODE TEST

280 E Lake Sue Ave

City of Winter Park
Florida

LEGEND

-  Subject Site
-  Single-Family Lots
Within 500' of Site
(76 total)

NOTES

Average Lot Width = 80 ft
Median Lot Width = 67 ft
Average Lot Size = 12,856 sq ft
Median Lot Size = 10,596 sq ft





**280 E LAKE SUE AVE LOTS 1 & 2
WINTER PARK FL.**

SITE DATA:

LOT 1 AREA: 10,220 SF
MAX FAR (38%) 3,884 SF

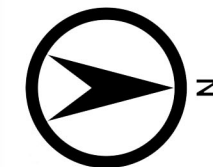
PROPOSED HOUSE: - 2 STORY
LIVING AREA: 3,168 SF
(PLUS 200 SF COND. ATTIC)

FAR: 3,884 SF
MAX IMPERVIOUS COVERAGE 50%

LOT 2 AREA: 9,380 SF
MAX FAR (38%) 3,564 SF

PROPOSED HOUSE: - 2 STORY
LIVING AREA: 2,840 SF
(PLUS 200 SF COND. ATTIC)

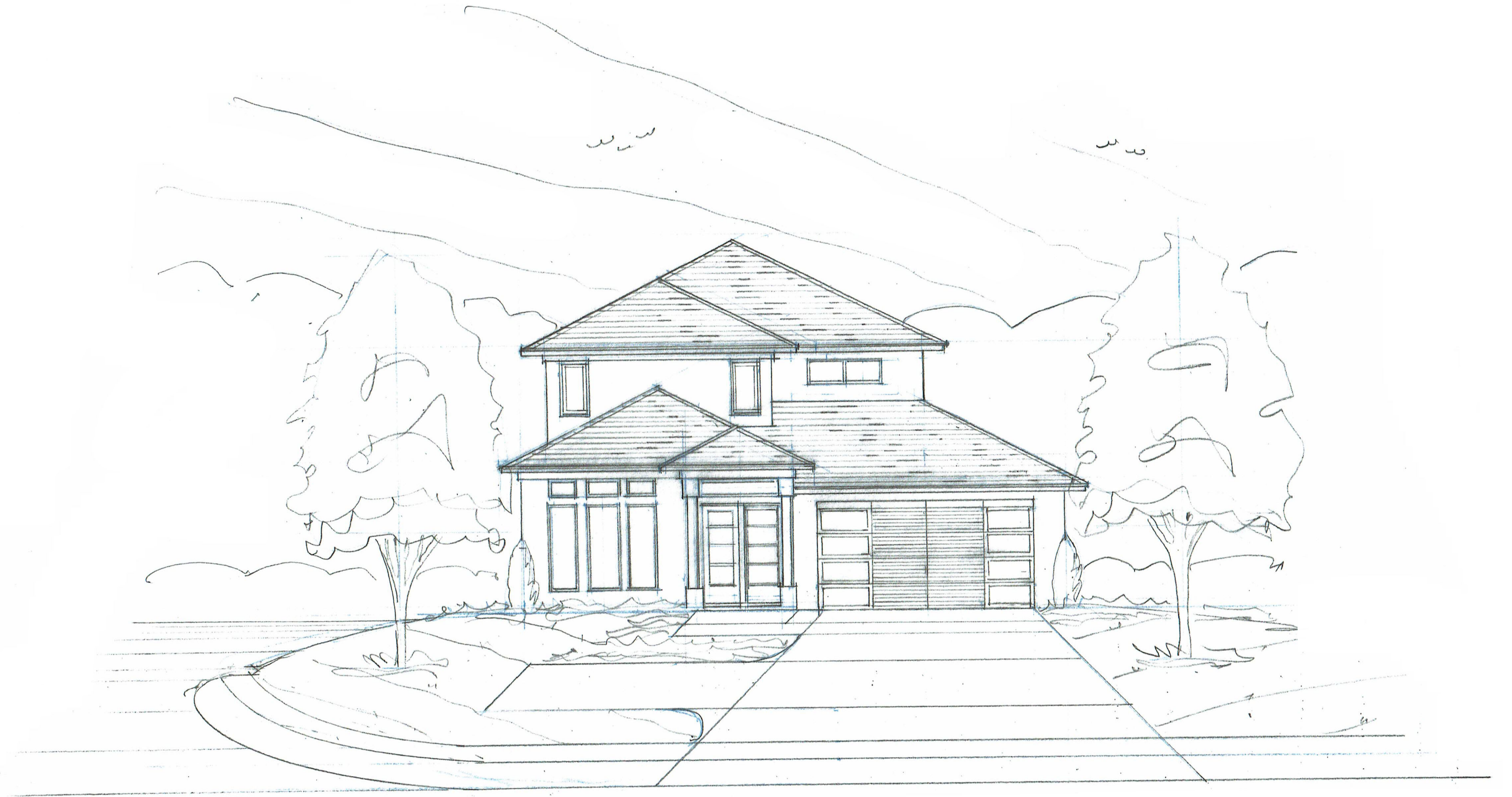
FAR: 3,564 SF
MAX IMPERVIOUS COVERAGE 50%



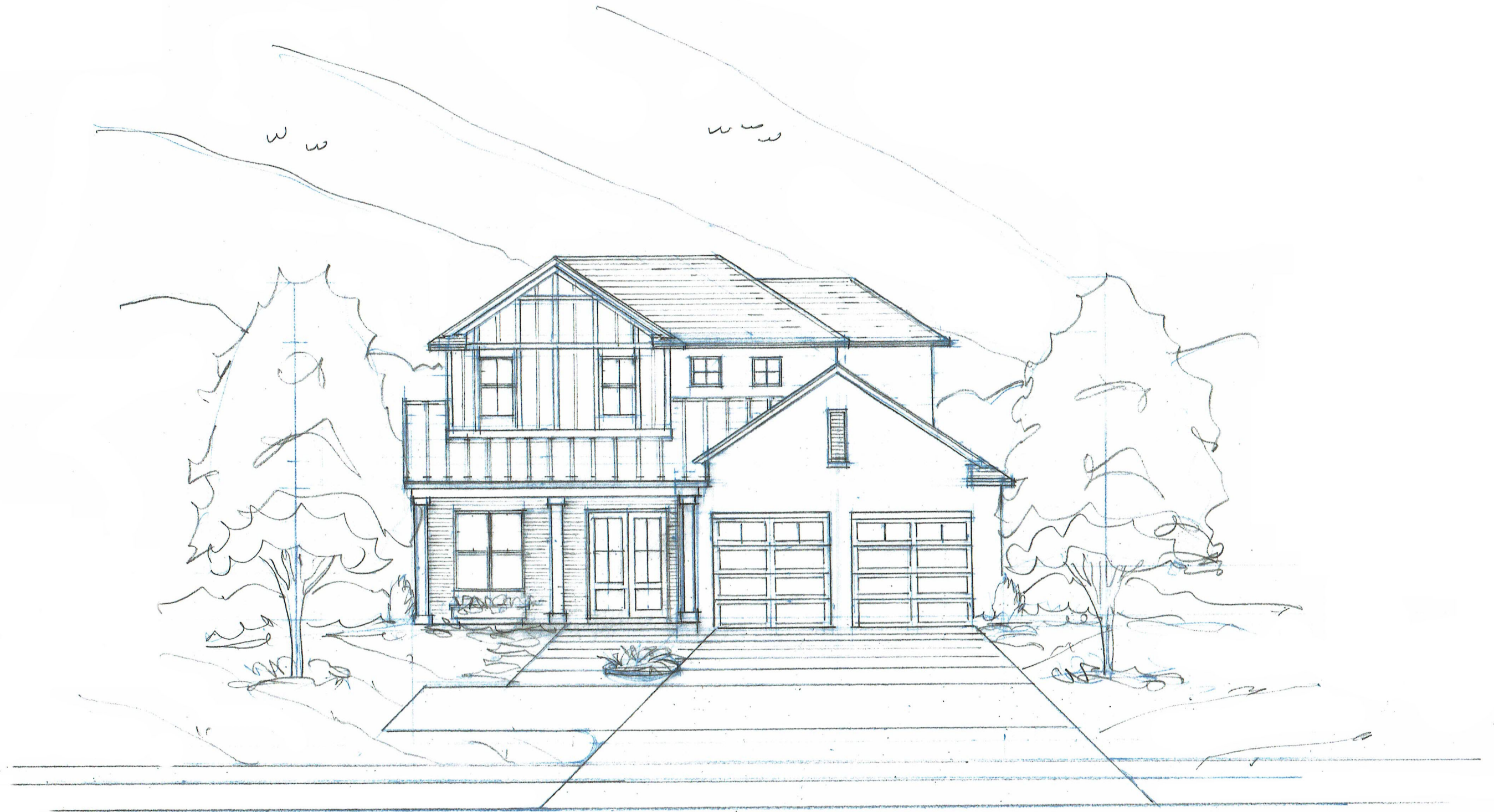
PREPARED BY:

**John Youngman
Architect**

**421 E SR 434 STE 1015
LONGWOOD FL.
407-497-0090**



**EAST LAKE SUE AVE.
LOT 1 FRONT ELEVATION**



**EAST LAKE SUE AVE.
LOT 2 FRONT ELEVATION**



Planning and Zoning Board

agenda item

item type	Public Hearings	meeting date	August 3, 2021
prepared by	Jeffrey Briggs	approved by	Bronce Stephenson
board approval	Completed		
strategic objective			

subject

CPA #21-05, RZ #21-04 Request of the City of Winter Park for:

item list

- An Ordinance amending Chapter 58, "Land Development Code", Article I, "Comprehensive Plan" future land use map so as to establish a commercial future land use on the annexed properties at 647/653 Harold Avenue and to indicate the annexation on the other maps within the comprehensive plan.
- An Ordinance amending Chapter 58, "Land Development Code", Article III, "Zoning" and the official zoning map so as to establish commercial (C-3) zoning on the annexed properties at 647/653 Harold Avenue.

motion / recommendation

Approval

background

The City of Winter Park, recently annexed two vacant parcels at 647/653 Harold Avenue, into the City. Now the City needs to establish a Commercial Future Land Use designation in the Comprehensive Plan and Commercial (C-3) zoning on this property.

These properties are in the same ownership and are proposed as one redevelopment site for a one-story office/showroom/warehouse building similar to other buildings in that area south of Fairbanks Avenue. These properties are now zoned C-3 in Orange County and are also designated "Commercial" in the Orange County Comprehensive Plan. Thus, there is no change in the future land use or zoning.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[Harold Avenue map.pdf](#)

ATTACHMENTS:

[Conceptual development Plan for 647 and 653 Harold.pdf](#)

ATTACHMENTS:

[Ord._Harold Lots_Comp. Plan FLU_updated.doc](#)

ATTACHMENTS:

[Ord. Harold - Zoning_updated.doc](#)



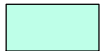
Annexation Request

Harold Avenue

City of Winter Park
Florida



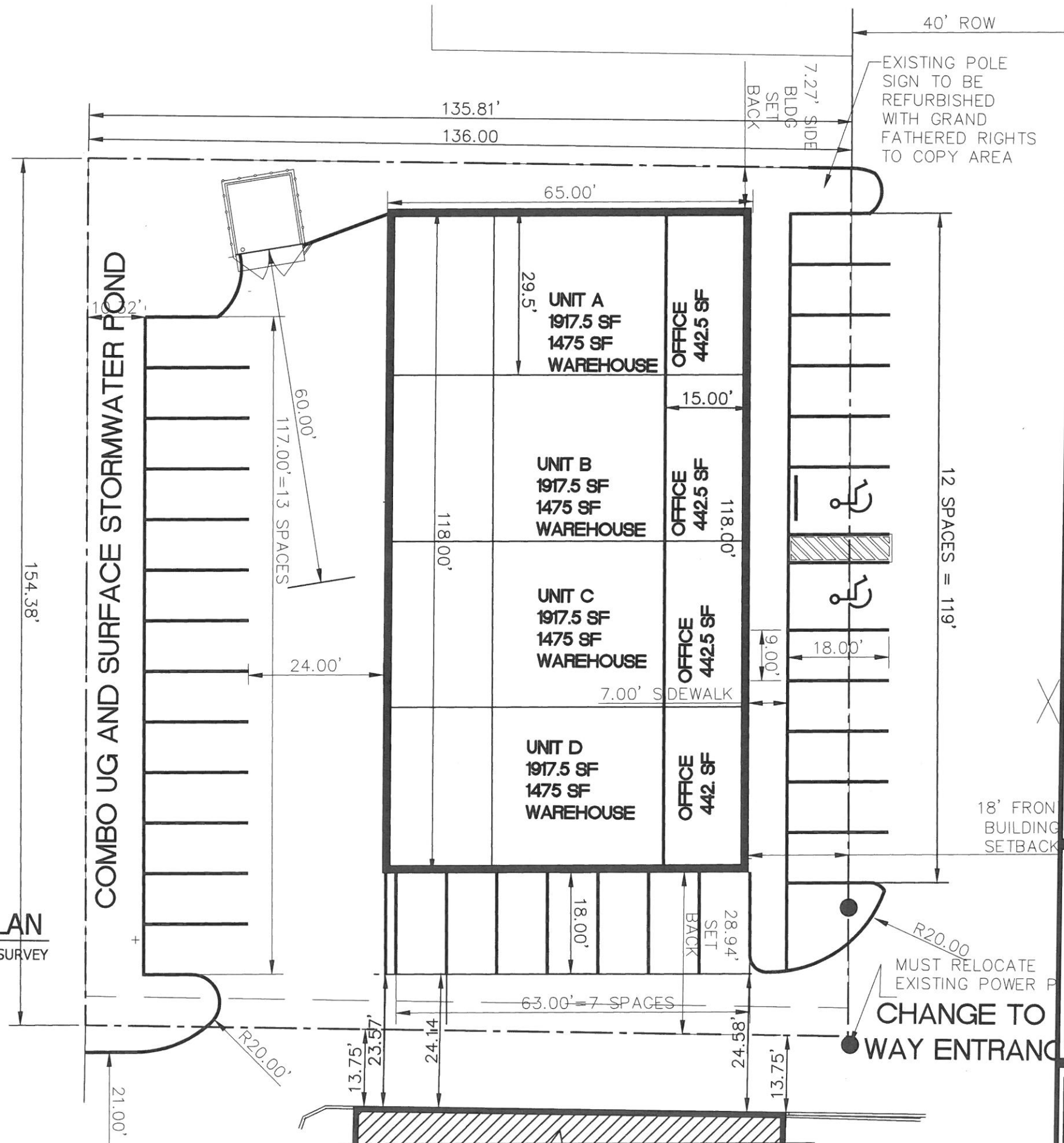
WP Boundary



Proposed Annexations



**PROPOSED BUILDING AREA TOTAL:
7670 SF = 65.0' x 118.0'**



PRELIMINARY ARCHITECTURAL SITE PLAN

THIS PASP IS NEITHER AN ENGINEERED SITE PLAN NOR A SURVEY



EDESIGN MANAGEMENT, LLC
 ARCHITECTURE
 PROJECT MANAGEMENT
 941 W MORSE BLVD.
 WINTER PARK, FL 32789
 FL 4260002398
 PH 407-970-9551
 FAX 407-982-7139
 SALES@EDESIGNLLC.US

REVISION NO.:

6757 HAROLD AVE FLEX SPACE BLDG
647 HAROLD AVE
ORANGE COUNTY FL

PROJ NO.: 18-048
DATE: 4-24-21
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH COMMERCIAL FUTURE LAND USE ON THE ANNEXED PROPERTY AT 647/653 HAROLD AVENUE AND TO INDICATE THE ANNEXATION ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the City of Winter Park has officially annexed the properties more particularly described below in compliance with Chapter 171, Florida Statutes, and

WHEREAS, the City Commission intends to amend its Comprehensive Plan to establish a municipal Comprehensive Plan future land use map designation as a small-scale amendment to the Comprehensive Plan, and

WHEREAS, on August 3, 2021, the Planning and Zoning Board held a public hearing on the proposed future land use map amendment set forth herein and made a recommendation to the City Commission concerning the same, and

WHEREAS, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and pursuant to and in compliance with law.

NOW THEREFORE BE IT ENACTED, AS FOLLOWS:

SECTION 1. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to establish a Commercial future land use designation on the annexed properties comprised of parcels at 647/653 Harold Avenue, as also identified by Orange County Tax Parcel ID #s: 12-22-29-5000-03-061, and 12-22-29-50000-03-081 and further described as:

LOTS 6 through 8, BLOCK "C", LAWNDAL ANNEX SUBDIVISION AS RECORDED IN PLAT BOOK "J", PAGE 50 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA

SECTION 2. This Ordinance shall become effective 31 days after its adoption unless timely challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. If timely challenged, this Ordinance will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance pursuant to Chapter 163, Florida Statutes.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2021.

Mayor Phillip Anderson

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH COMMERCIAL (C-3) ZONING ON THE ANNEXED PROPERTIES AT 647/653 HAROLD AVENUE, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the properties more particularly described herein has voluntarily requested annexation into the City of Winter Park and in compliance with Chapter 171, Florida Statutes, said property has been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to establish a municipal zoning designation on this property in compliance with the establishment of a similar Comprehensive Plan future land use designation for said property, and

WHEREAS, on August 3, 2021, the Planning and Zoning Board held a public hearing on the rezoning set forth herein and made a recommendation to the City Commission regarding such rezoning, and

WHEREAS, the City Commission finds that the rezoning set forth herein is consistent with the Comprehensive Plan and meets the requirements for rezoning under the City's Comprehensive Plan and land development regulations, and

WHEREAS, the establishment of municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

SECTION 1. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to establish Commercial (C-3) district zoning on the annexed parcels at 647/653 Harold Avenue, as also identified by Orange County Tax Parcel ID #s: 12-22-29-5000-03-061, and 12-22-29-50000-03-081.

LOTS 6 through 8, BLOCK "C", LAWNSDALE ANNEX SUBDIVISION AS RECORDED IN PLAT BOOK "J", PAGE 50 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA

SECTION 2. This Ordinance shall become effective immediately upon the effectiveness of the companion ordinance amending the City of Winter Park Comprehensive Plan to designate the property described in Section 1 of this Ordinance with the Commercial future land use.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2021.

Mayor Phillip Anderson

Attest:

City Clerk



Planning and Zoning Board

agenda item

item type Public Hearings	meeting date August 3, 2021
prepared by Jeffrey Briggs	approved by Bronce Stephenson
board approval Completed	
strategic objective	

subject

CPA #21-06 Request of the City of Winter Park for:

item list

- An Ordinance amending Chapter 58 “Land Development Code” Article I, “Comprehensive Plan” so as to add a new Property Rights Element including new Goals, Objectives, and Policies for this Element pursuant to House Bill 59: Growth Management.

motion / recommendation

Staff Recommends Approval

background

House Bill 57 became effective on July 1, 2021, which requires that every City and County in Florida must adopt a Private Property Rights Element. If the City does not comply, then no other future Comprehensive Plan amendments will be processed by the State or can be adopted, which most immediately would not allow the Comprehensive Plan amendments associated with the Orange Avenue Overlay to proceed.

House Bill 57 is prescriptive and outlines exactly what text must be included in the amendment. That then is the exact text within the proposed Ordinance which has been prepared by the City Attorney’s Office.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[HB 59.pdf](#)

ATTACHMENTS:

[Ordinance_-_Property_Right_Element_DL_rev_07-14-2021.doc](#)

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

1
2 An act relating to growth management; amending s.
3 163.3167, F.S.; specifying requirements for certain
4 comprehensive plans effective, rather than adopted,
5 after a specified date and for associated land
6 development regulations; amending s. 163.3177, F.S.;
7 requiring local governments to include a property
8 rights element in their comprehensive plans; providing
9 a statement of rights which a local government may
10 use; requiring a local government to adopt a property
11 rights element by the earlier of its adoption of its
12 next proposed plan amendment initiated after a certain
13 date or the next scheduled evaluation and appraisal of
14 its comprehensive plan; prohibiting a local
15 government's property rights element from conflicting
16 with the statement of rights contained in the act;
17 amending s. 163.3237, F.S.; providing that the consent
18 of certain property owners is not required for
19 development agreement changes under certain
20 circumstances; providing an exception; amending s.
21 337.25, F.S.; requiring the Department of
22 Transportation to afford a right of first refusal to
23 certain individuals under specified circumstances;
24 providing requirements and procedures for the right of
25 first refusal; amending s. 380.06, F.S.; authorizing

Page 1 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0059-05-er

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

26 certain developments of regional impact agreements to
27 be amended under certain circumstances; providing
28 retroactive applicability; providing a declaration of
29 important state interest; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

32
33 Section 1. Subsection (3) of section 163.3167, Florida
34 Statutes, is amended to read:

35 163.3167 Scope of act.—

36 (3) A municipality established after the effective date of
37 this act shall, within 1 year after incorporation, establish a
38 local planning agency, pursuant to s. 163.3174, and prepare and
39 adopt a comprehensive plan of the type and in the manner set out
40 in this act within 3 years after the date of such incorporation.
41 A county comprehensive plan is controlling until the
42 municipality adopts a comprehensive plan in accordance with this
43 act. A comprehensive plan for a newly incorporated municipality
44 which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and
45 all land development regulations adopted to implement the
46 comprehensive plan must incorporate each development order
47 existing before the comprehensive plan's effective date, may not
48 impair the completion of a development in accordance with such
49 existing development order, and must vest the density and
50 intensity approved by such development order existing on the

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effective date of the comprehensive plan without limitation or modification.

Section 2. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)–(5), the comprehensive plan shall include the following elements:

(i)1. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

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76
77 2. The right of a property owner to use, maintain,
78 develop, and improve his or her property for personal
79 use or for the use of any other person, subject to
80 state law and local ordinances.

81
82 3. The right of the property owner to privacy and to
83 exclude others from the property to protect the
84 owner's possessions and property.

85
86 4. The right of a property owner to dispose of his or
87 her property through sale or gift.

88
89 2. Each local government must adopt a property rights
90 element in its comprehensive plan by the earlier of the date of
91 its adoption of its next proposed plan amendment that is
92 initiated after July 1, 2021, or the date of the next scheduled
93 evaluation and appraisal of its comprehensive plan pursuant to
94 s. 163.3191. If a local government adopts its own property
95 rights element, the element may not conflict with the statement
96 of rights provided in subparagraph 1.

97 Section 3. Section 163.3237, Florida Statutes, is amended
98 to read:

99 163.3237 Amendment or cancellation of a development
100 agreement.—A development agreement may be amended or canceled by

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101 mutual consent of the parties to the agreement or by their
102 successors in interest. A party or its designated successor in
103 interest to a development agreement and a local government may
104 amend or cancel a development agreement without securing the
105 consent of other parcel owners whose property was originally
106 subject to the development agreement, unless the amendment or
107 cancellation directly modifies the allowable uses or
108 entitlements of such owners' property.

109 Section 4. Subsection (4) of section 337.25, Florida
110 Statutes, is amended to read:

111 337.25 Acquisition, lease, and disposal of real and
112 personal property.—

113 (4) The department may convey, in the name of the state,
114 any land, building, or other property, real or personal, which
115 was acquired under subsection (1) and which the department has
116 determined is not needed for the construction, operation, and
117 maintenance of a transportation facility. When such a
118 determination has been made, property may be disposed of through
119 negotiations, sealed competitive bids, auctions, or any other
120 means the department deems to be in its best interest, with due
121 advertisement for property valued by the department at greater
122 than \$10,000. A sale may not occur at a price less than the
123 department's current estimate of value, except as provided in
124 paragraphs (a)-(d). The department may afford a right of first
125 refusal to the local government or other political subdivision

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126 in the jurisdiction in which the parcel is situated, except in a
127 conveyance transacted under paragraph (a), paragraph (c), or
128 paragraph (e). Notwithstanding any provision of this section to
129 the contrary, before any conveyance under this subsection may be
130 made, except a conveyance under paragraph (a) or paragraph (c),
131 the department shall first afford a right of first refusal to
132 the previous property owner for the department's current
133 estimate of value of the property. The right of first refusal
134 must be made in writing and sent to the previous owner via
135 certified mail or hand delivery, effective upon receipt. The
136 right of first refusal must provide the previous owner with a
137 minimum of 30 days to exercise the right in writing and must be
138 sent to the originator of the offer by certified mail or hand
139 delivery, effective upon dispatch. If the previous owner
140 exercises his or her right of first refusal, the previous owner
141 has a minimum of 90 days to close on the property. The right of
142 first refusal set forth in this subsection may not be required
143 for the disposal of property acquired more than 10 years before
144 the date of disposition by the department.

145 (a) If the property has been donated to the state for
146 transportation purposes and a transportation facility has not
147 been constructed for at least 5 years, plans have not been
148 prepared for the construction of such facility, and the property
149 is not located in a transportation corridor, the governmental
150 entity may authorize reconveyance of the donated property for no

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151 consideration to the original donor or the donor's heirs,
152 successors, assigns, or representatives.

153 (b) If the property is to be used for a public purpose,
154 the property may be conveyed without consideration to a
155 governmental entity.

156 (c) If the property was originally acquired specifically
157 to provide replacement housing for persons displaced by
158 transportation projects, the department may negotiate for the
159 sale of such property as replacement housing. As compensation,
160 the state shall receive at least its investment in such property
161 or the department's current estimate of value, whichever is
162 lower. It is expressly intended that this benefit be extended
163 only to persons actually displaced by the project. Dispositions
164 to any other person must be for at least the department's
165 current estimate of value.

166 (d) If the department determines that the property
167 requires significant costs to be incurred or that continued
168 ownership of the property exposes the department to significant
169 liability risks, the department may use the projected
170 maintenance costs over the next 10 years to offset the
171 property's value in establishing a value for disposal of the
172 property, even if that value is zero.

173 (e) If, at the discretion of the department, a sale to a
174 person other than an abutting property owner would be
175 inequitable, the property may be sold to the abutting owner for

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the department's current estimate of value.

Section 5. Paragraph (d) of subsection (4) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(d) Any agreement entered into by the state land planning agency, the developer, and the local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before April 6, 2018, and may be amended pursuant to the processes adopted by the local government for amending development orders. Any such agreement or amendment may authorize the developer to exchange approved land uses, subject to demonstrating that the exchange will not increase impacts to public facilities. This paragraph applies to all such agreements and amendments effective on or after April 6, 2018.

Section 6. The Legislature finds and declares that this act fulfills an important state interest.

Section 7. This act shall take effect July 1, 2021.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT A NEW PROPERTY RIGHTS ELEMENT IN THE WINTER PARK COMPREHENSIVE PLAN IN COMPLIANCE WITH FLORIDA STATUTES.

WHEREAS, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments; and

WHEREAS, this Comprehensive Plan amendment meets the criteria established by Chapter 163 and 166, Florida Statutes; and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the Florida Legislature changed statutory provisions of chapter 163, Florida Statutes effective on July 1, 2021 to ensure that private property rights are considered in local decision-making by requiring the adoption of a Property Rights Element into the Comprehensive Plan of each municipality; and

WHEREAS, the City Commission of the City of Winter Park is complying with the Florida Legislative Mandate to update the Comprehensive Plan consistent with such statutory requirements by adopting a "Property Rights Element"; and

WHEREAS, the Winter Park Planning and Zoning Board, acting as the designated Local Planning Agency, has reviewed and recommended adoption of the proposed Comprehensive Plan amendment, having held an advertised public hearing on August 3, 2020, provided for participation by the public in the process, and rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the required Comprehensive Plan amendment and held advertised public hearings on August 25, 2021 and on _____, 2021 and provided for public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process.

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

SECTION 1. Comprehensive Plan Amendment. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" is hereby amended to adopt a new Property Rights Element as Chapter 10 of the Comprehensive Plan to read as follows (new language is underlined):

Chapter 10: PROPERTY RIGHTS ELEMENT

GOAL 10-1:

The purpose and overall goal for the Property Rights Element is to signify respect for judicially acknowledged and constitutionally protected private property rights, and to ensure that those rights are considered in the City of Winter Park's decision-making concerning land use and zoning matters.

Objective 10.1:

The following objective provides a framework for ensuring that private property rights are considered in local decision-making concerning land use and zoning matters.

Policy 10.1: The following rights shall be considered in decision-making by the City of Winter Park concerning land use and zoning matters:

- 1) The right of a property owner to physically possess and control their interests in property, including easements, leases, or mineral rights.
- 2) The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
- 3) The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- 4) The right of a property owner to dispose of his or her property through sale or gift.

SECTION 2. Codification. Section 1 of this Ordinance shall be incorporated into the Winter Park Comprehensive Plan. Any objectives, goals, policies, section, and paragraph number or letters 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 may be freely made.

SECTION 3. Severability. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION 4. Conflicts. If any ordinance or part thereof is in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION 5. Effective Date. The effective date of the comprehensive plan amendment ("Amendment") set forth in this Ordinance, if the Amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the comprehensive plan amendment package is complete. If timely challenged, this Amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. If a final order of noncompliance is issued by the Administrative Commission, this Amendment may nevertheless be made effective by the adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2021.

Mayor Phillip Anderson

Attest:

Rene Cranis, City Clerk