



city commission agenda

Regular Meeting

February 11, 2013
3:30 p.m.

Commission Chambers

commissioners				mayor	commissioners			
seat 1	Steven Leary	seat 2	Sarah Sprinkel	Kenneth W. Bradley	seat 3	Carolyn Cooper	seat 4	Tom McMacken

welcome

Welcome to the City of Winter Park City Commission meeting. The agenda for regularly scheduled Commission meetings is posted in City Hall the Tuesday before the meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the city's Web site at www.cityofwinterpark.org.

meeting procedures

Persons desiring to address the Commission MUST fill out and provide to the City Clerk a yellow "Request to Speak" form located by the door. After being recognized by the Mayor, persons are asked to come forward and speak from the podium, state their name and address, and direct all remarks to the Commission as a body and not to individual members of the Commission, staff or audience.

Comments at the end of the meeting under New Business are limited to three (3) minutes. The yellow light indicator will remind you that you have one (1) minute left to sum up. Large groups are asked to name a spokesperson. This period of time is for comments and not for questions directed to the Commission or staff for immediate answer. Questions directed to the City Commission will be referred to staff and should be answered by staff within a reasonable period of time following the date of the meeting. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you for participating in your city government.

1	Meeting Called to Order	
2	Invocation Reverend Steve May, First Baptist Church of Winter Park Pledge of Allegiance	
3	Approval of Agenda	
4	Mayor's Report <ul style="list-style-type: none">a. Presentation of checks from the Winter Park Chamber of Commerce to area schools from proceeds from the December 2012 pancake breakfast fundraiserb. "Employee of the Quarter" presentation to Earl Hoffman, Meter Systems Manager	30 minutes
5	City Manager's Report	Projected Time
6	City Attorney's Report	Projected Time

7	Non-Action Items	Projected Time
a.	Presentation on treatment of herbicide resistant hydrilla	15 minutes
8	Citizen Comments 5 p.m. or soon thereafter (if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting) (Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)	
9	Consent Agenda	Projected Time
a.	Approve the minutes of 1/28/2013.	5 minutes
b.	Approve the following contracts and formal solicitation:	
1.	Service agreement to Payment Service Network Inc. for RFP-15-2012, Utility Services/Electronic Bill Presentment and Payment and authorize the Mayor to execute the service agreement.	
2.	Piggybacking the Clay County contract #08/09-3 with MUSCO Sports Lighting, LLC for various equipment and amenities for parks and playgrounds and authorize the Mayor to execute the Piggyback Contract.	
3.	Award IFB-8-2013 to McClellan Industries for purchase of source-Transfer pad-mounted medium voltage switchgear; \$54,292.10; and authorize the Mayor to execute the contract.	
c.	Approve the disposal of 845 W. New England Avenue to the Hannibal Square Community Land Trust to develop five single-family homes that meet the affordable housing criteria set out by the City of Winter Park's Comprehensive Plan and conforms to the terms set out in the 2006 Memorandum of Understanding.	
10	Action Items Requiring Discussion	Projected Time
a.	Electric System Undergrounding Program	30 minutes
11	Public Hearings	Projected Time
a.	Resolution - Calling for a public hearing to discuss undergrounding of electric/CATV facilities for properties abutting Via Salerno/Via Capri	10 minutes
b.	<u>500 East Lake Sue Avenue:</u>	
-	Ordinance - Establishing a Single Family Residential Future Land Use designation to the annexed property (2)	10 minutes
-	Ordinance - Establishing Single Family (R-1AA) District zoning on the annexed property (2)	
c.	<u>Repeal of Supermajority needed for adoption of ordinances:</u>	10 minutes
-	Ordinance - Repealing the requirement for a supermajority vote of the City Commission to adopt ordinances; repealing Section 58-89(e) regarding rezoning ordinances; amending Section 58-95 regarding Community Redevelopment Area (2)	

d. Request of the City of Winter Park:

- **Ordinance** – Amending Chapter 58 “Land Development Code” Article I, “Comprehensive Plan” in the Future Land Use Element so as to add new policy text and a new Future Land Use category restricted and limited to parking lot use to correspond to the Parking Lot (PL) Zoning District (1)
- **Ordinance** – Amending Chapter 58, “Land Development Code”, Article III “Zoning” to amend Section 58-80 Parking Lot (PL) District so as to provide design standards for parking lots in proximity to residential property (1)

20 minutes

12 City Commission Reports

- a. Commissioner Leary
- b. Commissioner Sprinkel
- c. Commissioner Cooper
- d. Commissioner McMacken
- e. Mayor Bradley

Projected Time

10 minutes each

appeals & assistance

“If a person decides to appeal any decision made by the Commission 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.”



item type City Manager's Report

meeting date February 11, 2013

Below are issues of interest to the Commission and community that are currently being worked on by staff, but do not currently require action on the Commission agenda. These items are being tracked to provide the Commission and community the most up to date information regarding the status of the various issues. The City Manager will be happy to answer questions or provide additional updates at the meeting.

issue	update	date
Electric Undergrounding Project	Utilities Advisory Board has completed the special meetings to consider various policy issues. This will come to the Commission for action.	February 11, 2013
Lee Road Median Update	FDOT approval received and construction is being planned.	TBD
Fairbanks Improvement Project	<p>Contract has been awarded to Masci General Contractor, Inc.</p> <p>Progress Energy continuing to study transmission/distribution lines between I-4 and 17-92. FDOT has approved funding for PEF project engineering.</p> <p>Project website has been set up at www.cityofwinterpark.org/fairbanks</p>	<p><u>Construction Project</u> <u>On schedule</u> <u>Communication Notices</u></p> <ul style="list-style-type: none">• Force main work largely completed south of Lee Road (day work)• Contractor working on Fairbanks (night work).• Jackson lift station is largely complete. Gravity sewer is complete from Shoreview to Clay. Some soil contamination has been encountered.
Traffic Study Alford Inn	Study is complete. Staff will be arranging meetings with the residents on Alexander Place, with Jim Campesi, owner/rep. for of the Villa Siena condos and the Rollins College to vet the proposals and recommendation. Expect to be ready for City Commission agenda on March 11th.	March 2013
Tree Team Updates	Planning an educational session based on tree inventory study.	February 2013
Wayfinding Signs	All non-FDOT wayfinding signs are installed. Permitting of the FDOT signs continues. Private property agreements under development for nine (9) locations have been notified for permission.	

ULI Fairbanks Avenue TAP	Staff is working on the vision session.	April 2013
Post Office Discussions	Received letter from USPS on August 6, 2012 regarding right of first refusal. No action at this time.	
Organizational Support	Will be discussed along with preliminary FY14 budget	May/June 2013
Utility Billing/Recurring credit cards	New software is being implemented. Contract on February 11 agenda for approval. Project implementation and testing during March.	March 2013
Amtrak/SunRail Station	Groundbreaking scheduled for February 13 at 10:00 a.m. Currently negotiating contract and value engineering.	February 2013

Once projects have been resolved, they will remain on the list for one additional meeting to share the resolution with the public and then be removed.



Below is the status of development projects previously approved by the City Commission and others that may be of interest. There changes or updates since the last report on December 10th are shown [in blue](#).

[140 N. Orlando Avenue \(just north of Midas Muffler\): The new Carmel Café restaurant has begun their demolition, site development and building permit. That restaurant is owned by the same entity that developed the Outback chain.](#)

[2215 Aloma Avenue: New First Watch restaurant going into the Aloma Shopping center \(Publix\) in the location on the west side of the shopping center behind Mellow Mushroom pizza building in the space that was a Blockbuster Video which closed in 2010. They have applied for interior renovation building permit.](#)

[111 and 131 N. Orlando Avenue: \(Adventist Health Systems properties\) are under contract. The redevelopment plans for 36,000 sq. ft. of retail, restaurant and bank have been advertised for P&Z on February 5th and City Commission on February 25th.](#)

[550 N. Denning: \(behind the WP Village\) Atlantic Housing senior apartments and has applied for their site development permit. The architectural building permit application to follow soon for their 105 unit senior apartment project.](#)

[810 N. Orlando Avenue: TD Bank has the former BP gas station site \(now vacant\) at the corner of Webster and Orlando Avenues under contract. The redevelopment plans for a TD branch bank were approved by the City Commission on January 28th.](#)

[940 W. Canton: Apartments at Winter Park Village. Expect that 204 unit project to be back on the March P&Z and City Commission agendas for 'final' conditional use approval.](#)

[Ravaudage: Miller's Ale House \(1251 Lee Road\) closed on building pad on September 28th and obtained their building permit from Orange County. The permit has been transferred to Winter Park per the annexation. Construction continues and they hope to be open in late February.](#)

[401 N. Orlando Avenue \(ABC Liquors plans a new larger store\) were approved on November 26th by the City Commission. They applied for their site development permit on February 1st.](#)

[901 N. Orlando Avenue: Wawa Store – The FDEP issues have been resolved and Wawa has closed on the property. The building permit for the site development has now been issued and construction has begun.](#)

434 W. Swoope Avenue – A ten unit townhouse project that received the zoning approval from the City Commission in February, 2012. They have modified the project to be nine units in order to improve the floor plans and marketability [and have just applied for the building permit](#).

326 S. Park Avenue – former Spice restaurant – “Blu on the Avenue” [is now open](#).

941 W. Morse Blvd.: CNL Building (former State Office building) – Building permits have been issued and construction is underway.

100 Perth Lane – Dr. Bruce Breit (Women’s Care Florida) and WP Hospital - Conditional Use approved by the City on January 23rd to a new construct 22,000 sq. ft. medical office. Building permit has now been issued and construction on-going.

276 S. Orlando Avenue: Italio Modern Italian Kitchen restaurant. Permits have been issued and construction has started. It is to be a 130 seat restaurant on the vacant parcel, just south of the Mt. Vernon Motel where the previous restaurant burned down about three years ago.

200 E. Canton Avenue: Sestiere Santa Croce This is the former Rob Vega luxury condo (was to be 6 units) across from St. Margaret Mary. Permit has been issued to complete the exterior building shell/facade (Italian Venetian Mediterranean architecture). Permit issued for the first floor interior build-out which will be office space. Permit application now issued for the second and third floors which will be a residence for the building owner. (Despite the rumors to the contrary, it is not Paul McCartney)

600 N Orlando Avenue: Borders Books – Redevelopment approved by the City Commission on March 26th. The new Chase Bank is the linchpin to the project and the bank has a very long due diligence period which includes FDIC approval. All indications are that the project is moving ahead but the timing is not known.

For more information on these or other projects, please contact Jeff Briggs, Planning Director at jbriggs@cityofwinterpark.org or at (407) 599-3440.



city commission agenda item

item type	Non Action Item	meeting date	February 11, 2013
prepared by	Tim Egan	approved by	<input checked="" type="checkbox"/> City Manager
department	Public Works		<input type="checkbox"/> City Attorney
division	Division		<input type="checkbox"/> N/A
board approval	Lakes and Waterway Advisory Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	6-0 final vote

subject

Presentation on treatment of herbicide resistant hydrilla

motion | recommendation

N/A

background

Herbicide resistant hydrilla has become established in Florida, including Winter Park. Rotating herbicide types and modes of action is the best way to prevent and/or reverse resistance.

alternatives | other considerations

All other available/appropriate herbicides and other methods of control are currently being employed. The State is strongly recommending inclusion of these products in the City's management program.

fiscal impact

Public lake treatments are currently funded by FWC. Not using the new herbicides could jeopardize potential funding of \$200K - \$400K per year. On other city lakes individual treatment costs could be up to 50% higher than with current herbicides, but successful implementation could lower the frequency of treatments, offsetting the costs. With an estimated one treatment per year using these herbicides, average annual herbicide costs are not expected to be impacted.

long-term impact

These herbicides require long irrigation warnings (up to 120 days). Residents would have to decide whether or not to irrigate from the lake during treatments once every 2 to 4 years (see summary report).

strategic objective

Quality Environment - Improve lake quality by monitoring and maintaining clarity, vegetation, shoreline & overall health of lakes

Request for Authorization to Use New Systemic Herbicides for the Prevention of Herbicide Resistance

Summary Report

Introduction:

The Lakes division is charged with managing hydrilla, an invasive, exotic, aquatic plant, on lakes in Winter Park. This task has been complicated in recent years due to hydrilla's resistance to two common, aquatic herbicides and a lack of alternative products for use in controlling the plant. The EPA has approved several new herbicides for aquatic use. Two of these products are well suited for use in Winter Park's lakes, but come with lengthy irrigation restrictions. In order to prevent additional resistance problems, staff needs to implement a herbicide rotation program that makes use of all suitable herbicide types and modes of action, including the newly approved products.

Herbicide resistance:

Naturally tolerant individuals can occur within a population of plants that is generally susceptible to the herbicide in question. When the same herbicide is used exclusively over a long period of time, the result can be a higher percentage of tolerant individuals present within the population. When the percentage of tolerant plants exceeds those which are susceptible, the population is considered to be resistant. The best way to prevent herbicide resistance is to avoid using one control method or product too frequently through integrated pest management (combining chemical, biological and mechanical control methods) and rotation of herbicide modes of action.

How Winter Park has been affected:

Historically, Winter Park (and most other agencies in Florida) relied on two active ingredients, fluridone and endothall, for hydrilla control. Only one other product approved for aquatic use (diquat) was available and it was not regularly recommended for use at that time. Currently, fluridone tolerance is very high in all W.P. lakes that have been tested and we can no longer use that product effectively. Endothall tolerant plants have been found in the chain (Lakes Maitland and Minnehaha) and we can only use that product on those lakes in combination treatments with other products. Due to these resistance problems, Winter Park experienced a significant increase in hydrilla coverage and in management costs between 2004 and 2008. Integrated pest management was implemented in 2008 with the introduction of sterile grass carp and we have always implemented limited herbicide rotation using the products that were available. We are currently using five combinations of three active ingredients. Due to the long irrigation restrictions, two new products have not yet been included in the City's rotation, but in order to maximize our protection from further resistance, we need to start utilizing these herbicides.

New products that are now available and approved for aquatic use:

The new products that are now available are systemic herbicides. This type of herbicide is used at low rates (parts per billion ranges), but remain in the water column for long periods of time. They are typically used for whole lake or large area treatments. Because these products are relatively new in aquatic plant management, there are limited data available on how irrigating with treated water may impact non-target landscape plants. For this reason EPA has placed lengthy irrigation warnings on the products' labels. The warnings are based on concentration of the product in the lake and could range from 60 to 120 days at the rates they would be used in our lakes. In spite of the irrigation issues, it is

very important to have these modes of action available as part of our overall hydrilla management program. Including these products in our herbicide rotation will greatly reduce the chances of additional resistance, and could actually reduce or reverse the resistance problems we are already facing. The State of Florida is already using these products on a regular basis, and they are encouraging Winter Park to do the same.

Impacts to residents:

Manufacturers say that there is little risk to ornamental plants, but don't have the long term data to change the EPA label. While they will give us written statements to that effect, they will not accept open ended liability, which leaves the risk on the property owner should residents opt to continue irrigating through the warning period. Prior to the use of one of these products, residents would receive a notice informing them of the irrigation warnings on the herbicide label (this would be in addition to initial mailings to all lakefront residents that will explain the need for and ramifications of using these herbicides). The residents would have to decide whether or not to continue irrigating from the lake during the 60 – 120 day period (historically in Winter Park, the maximum irrigation restriction has been 14 days). It should be noted that this type of herbicide would probably be used on any individual lake only once every 2-4 years. There are no other restrictions (such as swimming or fishing) associated with these herbicides. Orange County and Florida Fish and Wildlife Conservation Commission (FWC) have already used these products in Central Florida with no reported damage to residential landscapes.

Other considerations:

Should the City decide not to use these products, there would be a greater risk for additional resistance problems which could impact our ability to effectively control hydrilla. It is also possible that the use of these products in a planned rotation could be mandated, either by EPA or FWC. The EPA has begun to include modes of action on herbicide labels and could use the labeling process to limit the frequency of use of certain products, or requiring the use of one of the new herbicides before an old one could be used again. FWC could also require the use of these products through the permitting process or through their funding mechanism for the Chain of Lakes. FWC currently funds the hydrilla management on all of our public access lakes and could withhold funding if they did not approve our work program – a potential funding difference of \$200,000 to \$400,000. By proactively incorporating these herbicides, Winter Park will not only be improving our hydrilla management program, but will help to maintain our state funding status and be able to maximize the information period for our residents.

Lakes and Waterways Advisory Board Recommendation:

The issues of herbicide resistance and the use of new systemic herbicides were brought before the Lakes and Waterways Advisory Board at their January meeting. By a unanimous vote, they recommended that the City Commission sanction the use of these products in Winter Park lakes, following a suitable public education program which would include the following components:

- Public outreach has already begun with a *Winter Park Waterways* newsletter article
- In-house testing of common ornamental plants will be performed and results passed on to affected residents (currently underway)
- Additional newsletter articles will be published outlining how these herbicides will be used and detailing the results of our irrigation study
- Direct mailing to lakefront residents prior to any proposed treatment that will provide the treatment date(s) and the specific irrigation warnings associated with that treatment.

REGULAR MEETING OF THE CITY COMMISSION
January 28, 2013

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was provided by Parks and Recreation Director John Holland, followed by the Pledge of Allegiance.

Members present:

Mayor Kenneth Bradley
Commissioner Steven Leary
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper
Commissioner Tom McMacken

Also present:

City Manager Randy Knight
City Attorney Larry Brown
City Clerk Cynthia Bonham
Deputy City Clerk Michelle Bernstein

Approval of the agenda

Motion made by Commissioner Cooper to accept the agenda; seconded by Commissioner Leary and approved by acclamation with a 5-0 vote.

Mayor's Report

a. Winter In the Park Holiday Window Contest awards presentation

CRA Director Dori Stone announced this year's Holiday Window Contest. The People's Choice Award was given to Capricci Ricci Salon. The Design Excellence Award was given to Rosey Wray's Roost. Winners received a plaque award and an electric utility credit.

Mayor Bradley congratulated the following:

Commissioners Cooper and McMacken on their re-election; Police Lieutenant Randy Durkee; and the Communications and Economic Development Departments who were honored at the Chamber's annual banquet.

City Manager's Report:

City Manager Knight announced that FDOT approved the Lee Road landscape median project. He noted that a majority of the Commission agreed to meet with the legislatures in Tallahassee on March 13/14, 2013. Final details are forthcoming.

City Manager Knight advised that last week he and City Clerk, Cynthia Bonham met with Attorney Brown to discuss the election filing process and as a result there may be some minor revisions that will be brought forward to the Commission for consideration. Mayor Bradley requested that a full report be provided to the

Commission within 60 days including a list of items that need to be filed or not filed. City Manager Knight acknowledged.

City Attorney's Report

Attorney Brown advised that there is still no ruling from the Federal court regarding the Bell case.

Attorney Brown advised that his office is in the process of requesting a legal opinion from the Division of Elections, in particular whether or not Florida law requires that the filing fees are to be paid out of a campaign account. He explained that the overall goal is to bring back an ordinance which clarifies the deadline and the required items needed for election filing.

Attorney Brown addressed Commissioner Sprinkel's comments regarding the two reports issued by his office; whether or not auditors can participate in political endorsements and general rules for participating in online blogs. Attorney Brown explained that during his review of the auditor's contract he did not find an opinion that expressly said giving an endorsement violates the standard of independence. He notified the Commission that if they participate in online blogs they should not reply back and forth.

Commissioner Cooper explained her position regarding the endorsement of James Moore & Company during her election campaign. She clarified that they provided a written recommendation with no monetary contributions. After a brief discussion, a majority of the Commission requested that the auditor, James Moore & Company address the issue of endorsing a candidate in a letter of explanation.

Non-Action Item – No items.

Consent Agenda

- a. Approve the minutes of 1/14/2013. – **PULLED FOR DISCUSSION, SEE BELOW**
- b. Approve the following purchases and contracts:
 1. PR 151213 to Winter Park Library for Contribution for Library Automated System; \$65,000.
 2. Credit card payment to Crop Production Services, Inc. for purchase of Aquathol K and Tribune (Diquat) for Hydrilla Treatment on Lake Killarney; \$99,042.
 3. Piggybacking the State of Florida contract 425-001-12-1 with Aurora Storage Products for office furniture and files and authorize the Mayor to execute the Piggyback Contract.
 4. Piggybacking the National Joint Powers Alliance contract 081209 with John Deere Company for landscaping equipment and authorize the Mayor to execute the Piggyback Contract.

5. Piggybacking the South Florida Water Management District contract 6000000526 for various herbicides and related adjuvants.
- c. Approve the fee waiver for ½ of parks rental not to exceed \$825 for the Michael Andrews and Swinger Head Concert on February 10, 2013.

Motion made by Commissioner McMacken to approve Consent Agenda items 'b.1-5' and 'c'; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Consent Agenda Item 'a' – Approve the minutes of 1/14/2013

Mayor Bradley recalled that the 90 day plan discussion included both annexations and enclaves and requested that the minutes be amended. **Motion made by Mayor Bradley to approve Consent Agenda item 'a' as amended; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.**

Action Items Requiring Discussion

- a. Review and acceptance of ULI recommendations for West Fairbanks Avenue

CRA Director Dori Stone provided a brief summary. She asked the Commission to approve the ULI TAP panel so that staff can continue their efforts on the West Fairbanks Avenue corridor which includes a visioning session with interested property and business owners along the corridor. Ms. Stone noted that staff recommends bringing in a professional facilitator for the visioning process and the costs would be determined upon Commission approval.

Motion made by Mayor Bradley for the acceptance of ULI report recommendations as well as convening a visioning process with the key stakeholders on Fairbanks Avenue to advance all of the recommendations; seconded by Commissioner Leary.

Ms. Stone answered questions. City Manager Knight addressed Commissioner Cooper's question pertaining to sewer impact fees.

No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- b. Public Art Advisory Board update regarding Art in Transit for SunRail proposal

Dana Thomas, Chairman of Public Art Advisory Board (PAAB), provided a PowerPoint presentation which included the proposal for the SunRail Art in Transit, the initial concept example and the eight responses for the call for artists. She

presented one prototype sample being proposed by artist Diane Boswell consisting of eight double sided three dimensional metal photographic panels to be installed on the SunRail platform. Ms. Thomas explained that the FDOT agreement will provide \$6,500; however, based on the eight proposals received, additional funding of \$19,500 would be needed. She commented that the PAAB has considered the options presented and is seeking input from the Commission to continue working with the artist, Diane Boswell.

Motion made by Commissioner McMacken to approve the proposal; seconded by Commissioner Sprinkel.

Following a brief discussion regarding warranties, the dollar amount budgeted and the estimated date of installation, Commissioner Leary recommended that the artist and the architect work together in sync. Mayor Bradley asked for clarification of the stained glass to be installed in the canopy gable of the Amtrak building.

Assistant Public Works Director Don Marcotte addressed the artwork in the train station. Mayor Bradley requested that this item come back to the Commission with a detailed list of all art that is planned for the Amtrak station, including free standing pieces and sculptures. City Manager Knight acknowledged.

No public comments were made.

Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

c. State Legislative priorities

City Manager Knight provided a brief summary regarding the list of priorities including the potential funding for land acquisition for, or construction of, a minor league baseball stadium at the old Harper-Shepherd field site or possibly at Ravaudage. City Manager Knight answered questions including a potential cost analysis to pave West Fairbanks Avenue.

Motion made by Commissioner Leary to approve the list of priorities including funding for public art; seconded by Commissioner Sprinkel. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

d. Schedule a work session to discuss the City Master Plan draft

Following a brief discussion, a majority of the Commission agreed on February 25 at 2:00 p.m. prior to regular Commission meeting.

Mayor Bradley added a couple of items to the list and asked for direction: 1) the two acre property at Progress Point (the bank and drive-thru area); and 2) the Orange County Pubic School Vo-Tech property. City Manager Knight encouraged the Commission to submit their items to him via email.

Following a brief discussion, a majority of the Commission requested that the master list of City owned properties be updated, re-distributed and posted to the City's website. A suggestion was made for staff to also create a list of City owned assets. City Manager Knight acknowledged.

Public Hearings

a. Request of Atlantic Housing Partners, LLLP:

ORDINANCE NO. 2903-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMP REHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL ON THE REAR PORTION OF THE PROPERTY AT 835 WEST CANTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2904-13: 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 CHANGE THE ZONING DESIGNATION OF SINGLE FAMILY (R-1A) DISTRICT TO MULTI-FAMILY (HIGH DENSITY R-4) DISTRICT ON THE REAR PORTION OF THE PROPERTY AT 835 WEST CANTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

Attorney Brown read both ordinances by title. Since this was a quasi-judicial proceeding, communications were disclosed. Commissioner Leary spoke with staff and the applicant's attorney. Mayor Bradley and Commissioners McMacken, Cooper and Sprinkel noted that no communications transpired since the first public hearing.

Motion made by Commissioner Sprinkel to adopt the first ordinance (comprehensive plan); seconded by Commissioner Leary.

Motion made by Mayor Bradley to adopt the second ordinance (zoning); seconded by Commissioner Sprinkel.

Lurlene Fletcher, 790 Lyman Avenue, spoke in opposition.

Commissioner Cooper shared concerns with encroaching on single family homes by changing this property from R-1A to R-4 which is the highest maximum density allowable so she would not be supporting this.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

b. Police and Fire Pension Ordinances:

ORDINANCE NO. 2905-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK POLICE OFFICERS' PENSION PLAN; AMENDING SECTION 74-201, DEFINITIONS; AMENDING SECTION 74-206, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 74-209, VESTING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2906-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE CITY OF WINTER PARK FIREFIGHTERS' PENSION PLAN; AMENDING SECTION 74-151, DEFINITIONS; AMENDING SECTION 74-156, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 74-159, VESTING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE. Second Reading

City Manager Knight provided a brief summary and asked that both ordinances be effective March 1, 2013 versus being effective immediately. He explained that since there have been several interpretation discussions within the departments this extra time would allow those individuals who would be impacted sufficient time to make a retirement type decision.

Attorney Brown read both ordinances by title. A simultaneous public hearing was held on this matter.

Motion made by Commissioner Cooper to adopt the first ordinance effective March 1, 2013 as implementation (police pension); seconded by Commissioner Sprinkel.

Motion made by Commissioner Leary to adopt the second ordinance effective March 1, 2013 as implementation (fire pension); seconded by Commissioner McMacken.

No public comments were made.

A brief discussion transpired regarding Union negotiations including the status of the contracts. City Manager Knight advised that the Police contract expired

September 30, 2012 and the Fire contract will expire on October 1, 2013. The City is currently in negotiations with both organizations and the length of the contract is to be decided; it can be anywhere from one to three years.

Upon a roll call vote on the first ordinance (police pension), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the second ordinance (fire pension), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Public Comment

Lurlene Fletcher, 790 Lyman Avenue spoke about the increase in development on the West side and would like to receive formal notification from the City regarding any type of improvements being requested.

A recess was taken from 5:08 p.m. to 5:29 p.m.

- c. Request of TD Bank: Conditional use approval to construct a branch bank with drive-in tellers on the property at 810 N. Orlando Avenue.

Planning Director Jeff Briggs provided background and advised that the Planning and Zoning Board voted unanimously (6-0) to recommend approval with the following two conditions: (1) that the proposed dumpster is enclosed with an architecturally compatible wall and that the landscape plan is modified to screen the two sides of the dumpster enclosure visible to the street; and (2) that the eastern property line concrete fence (from the adjacent building out to the street) either be repaired or removed and if removed that landscaping be added to that eastern landscape buffer area. Mr. Briggs answered questions regarding the dumpster.

Motion made by Commissioner McMacken to approve the conditional use request with the conditions that were asked for by staff (P&Z conditions); seconded by Commissioner Sprinkel.

No public comments were made.

Rebecca Wilson of the Lowndes, Drosdick, Kantor and Reed Law Firm, spoke on behalf of the applicant regarding the dumpster. She confirmed that they need a smaller dumpster than what is depicted and the final plans will illustrate that.

Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- d. ORDINANCE NO. 2896-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, ANNEXING THE PROPERTY AT 500 EAST LAKE SUE AVENUE; MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR THE AMENDMENT OF THE CITY OF WINTER PARK'S CHARTER, ARTICLE I, SECTION 1.02, CORPORATE BOUNDARIES TO PROVIDE FOR THE INCORPORATION OF THE REAL PROPERTY DESCRIBED HEREIN; PROVIDING FOR THE FILING OF THE REVISED CHARTER WITH THE DEPARTMENT OF STATE; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title. **Motion made by Commissioner McMacken to adopt the ordinance; seconded by Commissioner Sprinkel.** No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

- e. 500 East Lake Sue Avenue:

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 SINGLE FAMILY RESIDENTIAL FUTURE LAND USE ON THE ANNEXED PROPERTY AT 500 EAST LAKE SUE AVENUE AND TO INDICATE THE ANNEXATION OF THIS PROPERTY ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

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 SINGLE FAMILY (R-1AA) ZONING ON THE ANNEXED PROPERTY AT 500 LAKE SUE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read both ordinances by title. Since this was a quasi-judicial proceeding, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken noted that no communications were made.

Motion made by Commissioner Sprinkel to accept the first ordinance (comprehensive plan) on first reading; seconded by Commissioner McMacken.

Motion made by Commissioner Sprinkel to accept the second ordinance (zoning) on first reading; seconded by Commissioner McMacken.

No public comments were made.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

f. Repeal of Supermajority needed for adoption of ordinances:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 58-6 TO REVISE THE PROCEDURES FOR AMENDMENTS TO THE COMPREHENSIVE PLAN, REPEALING SECTION 58-7 REGARDING DEVELOPMENT AGREEMENTS ADOPTED PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AMENDING POLICY 1-1.1.3 AND REPEALING POLICY 1-1.1.5 OF THE CITY'S COMPREHENSIVE PLAN OF THE GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE ELEMENT TO REMOVE THE REQUIREMENT OF SUPERMAJORITY OF VOTES FOR ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.
First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA; AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" BY REPEALING THE REQUIREMENT FOR A SUPERMAJORITY VOTE OF THE CITY COMMISSION TO ADOPT ORDINANCES; REPEALING SECTION 58-89(e) REGARDING REZONING ORDINANCES; AMENDING SECTION 58-95 REGARDING COMMUNITY REDEVELOPMENT AREA; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.
First Reading

Attorney Brown read both ordinances by title.

Planning Director Jeff Briggs explained that the City Attorney has prepared a legal opinion indicating that the City Charter sets forth that all ordinances are adopted by the affirmative vote of a majority of the City Commission. As such, the code sections that require either four votes or a supermajority of the City Commission to adopt ordinances are in conflict with the City Charter. As the City Charter supersedes and controls the procedure for the adoption of ordinances, these two ordinances have been advertised to remedy and remove those conflicts.

The amendments repeal the following supermajority vote requirements;

1. Supermajority needed for an Ordinance to adopt Comp. Plan/Zoning changes if recommended for denial by P&Z and also for any Ordinance change to the text of the Future Land Use element. (Sec. 58-6 and Policy 1-1.1.5 and Sec. 58-89 (e).
2. Supermajority needed for an Ordinance to create or expand a CRA or CDD. (Policy 1-1.1.3 and Sec. 58-95).

It was explained that this conflict with City Charter only relates to the adoption of ordinances. There are provisions of our Code that require a supermajority for the adoption of certain types of conditional uses or to waive time limits for re-applications. Those are not in conflict with the City Charter. Mr. Briggs noted that the Planning and Zoning Board recommended approval (7-0) of both ordinances.

Motion made by Mayor Bradley to accept the first ordinance (comprehensive plan) on first reading; seconded by Commissioner Sprinkel.

Motion made by Mayor Bradley to accept the second ordinance (zoning) on first reading; seconded by Commissioner Sprinkel.

Attorney Brown provided legal counsel and explained the two different types of development agreements (home rule vs. statutory agreement) and the reasons why the proposed modifications are needed.

No public comments were made.

Upon a roll call vote on the first ordinance (comprehensive plan), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote on the second ordinance (zoning), Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

- g. RESOLUTION NO. 2119-13: A RESOLUTION OF THE CITY OF WINTER PARK SUPPORTING CENTRAL FLORIDA'S "OPEN FOR BUSINESS" INITIATIVE TO PROMOTE BUSINESS CLIMATE, GREAT SERVICE, JOB CREATION AND BUSINESS INVESTMENT THROUGH STREAMLINING PERMITTING PROCESSES; PROVIDING AN EFFECTIVE DATE.

Attorney Brown read the resolution by title. Building Director George Wiggins explained the intent of the resolution. He noted that participation in this process is totally voluntary and does not legally limit the City or our development and permitting approval process in any way, but instead allows us to continue to implement common sense methods to make our permitting systems easily accessible and as streamlined as possible.

Motion made by Mayor Bradley to adopt the resolution; seconded by Commissioner Sprinkel. Mr. Wiggins answered questions. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

City Commission Reports:

- a. Commissioner Leary – No items.

b. Commissioner Sprinkel

Commissioner Sprinkel asked for a status regarding the "Protect a Pet" box that was suggested by Elizabeth Watson. Director of Parks and Recreation John Holland noted that he met with the family and something is in the works.

Commissioner Sprinkel welcomed outside organizations such as the Eagle Scouts and Girl Scouts to attend Commission meetings and felt we should lift them up in every way possible.

Commissioner Sprinkel asked for a status regarding the conditional use request for New Hope Baptist Church that was approved on September 24, 2012 because no improvements have been made to the two modular buildings. She also felt they are unsafe since they have no skirting. Building Director George Wiggins provided a brief status and said they will address the safety issues with the church.

Commissioner Sprinkel asked that we find a special way to celebrate our Volunteer Boards since they are a very important asset to our City.

c. Commissioner Cooper

Commissioner Cooper mentioned the email received from the Parks and Recreation Department asking to revisit their decision on the use of Lake Island for \$100,000 and asked if there was an official process. City Manager Knight said there is a process and provided the details.

Commissioner Cooper felt that the language in the Writ of Mandamus that was filed last week by Vose Law Firm concerning the election process spoke inappropriately about the City Attorney and felt there should be a code of conduct between attorneys.

d. Commissioner McMacken - No items.

e. Mayor Bradley

Mayor Bradley asked for a follow up on last week's Century Link phone outage that affected 911 calls. He requested City Manager Knight and our public safety/emergency management personnel to approach Orange County and Century Link to discuss the after lessons learned. Fire Chief James White provided a follow up summary and acknowledged the request.

Mayor Bradley thanked staff for their outstanding efforts in making the following events a huge success: Annual Mayor/City Commission luncheon, the Martin Luther King Jr. Park dedication and the 11th Annual Unity Heritage Festival.

The meeting adjourned at 6:18 p.m.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham

DRAFT



city commission agenda item

item type	Consent Agenda	meeting date	February 11, 2013
prepared by department division	Purchasing Division	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

Contracts

	vendor	item background	fiscal impact	motion recommendation
1.	Payment Service Network, Inc.	Service Agreement for RFP-15-2012 Utility Services/Electronic Bill Presentment & Payment		Commission authorize the Mayor to execute the Service Agreement
The City Commission approve contract award on November 12, 2012. The City Attorney has reviewed and approved the Service Agreement language.				

Piggyback contracts

	vendor	item background	fiscal impact	motion recommendation
2.	MUSCO Sports Lighting, LLC	Piggyback Clay County contract #08/09-3 for Various Equipment and Amenities for Parks & Playgrounds	Total annual expenditure included in approved FY13 budget.	Commission approve piggybacking the Clay County contract #08/09-3 with MUSCO Sports Lighting, LLC and authorize the Mayor to execute the Piggyback Contract.
Clay County utilized a competitive bidding process to award this contract. The City Commission authorized us to piggyback this contract on March 26, 2012 for the term that expired January 13, 2013. The new contract term expires January 13, 2014.				

Formal Solicitations

	vendor	item background	fiscal impact	motion recommendation
3.	McClellan Industries	IFB-8-2013 Purchase of Source-Transfer Pad-Mounted Medium Voltage Switchgear	Interlachen Underground Capital Improvement Project from Morse to Lyman Amount: \$54,292.10	Commission approve award to McClellan Industries, subsequent Purchase Order or P-Card payment, and authorize the Mayor to execute the contract.
The City utilized a formal solicitation process to award this contract. A total of three (3) bids were received, McClellan Industries is the low bidder.				



city commission agenda item

item type	Consent Agenda	meeting date	February 11, 2013
prepared by	Dori Stone	approved by	<input checked="" type="checkbox"/> City Manager
department	ED/CRA		<input type="checkbox"/> City Attorney
division			<input type="checkbox"/> N/A
board approval	CRA Advisory Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	final vote

subject

Notice to Dispose of Property located at 845 W. New England

motion | recommendation

Staff recommends approval of the disposal of 845 W. New England Avenue to the Hannibal Square Community Land Trust to develop five single-family homes that meet the affordable housing criteria set out by the City of Winter Park's Comprehensive Plan and conforms to the terms set out in the 2006 Memorandum of Understanding.

background

The Hannibal Square Community Land Trust (HSCLT) is the only agency that has expressed interest in actively developing affordable housing on the property located at 845 New England Avenue. The property was purchased by the CRA and titled to the City in 2006. Following the process outlined in the 2006 Memorandum of Understanding, the staff has advertised a Notice to Dispose of the property and interested parties have had the opportunity to make proposals on the site. Both the CRA and the City Commission must review and approve the proposal before final transfer of the property can take place.

Proposals were due on November 12, 2012.

The HSLCT has proposed building five homes on the property with construction to commence on each home only when a buyer has been obtained.

The partnership of the HSCLT and the CRA has been a long one. A brief outline of major developments is outlined below.

2003

Business Plan - In carrying out the mission of the CRA Plan which calls for the preservation and promotion of affordable housing, the CRA initiated the goal of creating a Community Land Trust (CLT). CLTs had been in use around the country and provided an elegant way to provide perpetually affordable housing within a community. At the time Winter Park was experiencing rising housing values and there was concern about resident displacement and an inaccessibility of workforce housing. The CRA commissioned a 5 Year Business Plan that would include projects to help a prospective CLT be self-sustaining within 5 years.

Canton Park Redevelopment Committee – The CRA convened a committee of area stakeholders to begin looking at the possibility of creating a 10 home affordable housing development on city-owned property in Canton Park using the Community Land Trust (CLT) concept.

2004 - 2005

Canton Park Project – The 10 home project was built in partnership with 5 area developers and Art in Architecture. The project was forward funded by the CRA and further subsidy assistance was provided to the homeowners to assist with closing from the city's Affordable Housing Trust Fund.

HSCLT Incorporated – Concurrent with the Canton Park development the Hannibal Square Community Land Trust (HSCLT) was created and established as a non-profit served by an executive director and 9 member board. Once Canton Park was completed and sold the entire project was transferred to the HSCLT.

5-Year Business Plan – Commissioned by the City this Plan served as the basis for financial and technical partnership with the city and included recommendations for annual operating support (\$60K for 5 years) and land/funding grants (approx. \$2 million identified).

2006

\$1 Million Grant and Memorandum of Understanding – The CRA as part of the seeding process to create a self-sustaining CLT, provided \$1 million to the HSCLT to acquire and develop affordable housing. At the time an additional \$1.75 million was being contemplated but a state-wide legal battle on bond issuance delayed the ability to finance the additional amount. In addition to the cash grant the CRA entered an MOU detailing properties that the city had acquired for affordable housing needs that could be conveyed to the HSCLT as projects were brought forward and contemplated.

2007

West Comstock Development – As one of the parcels mentioned in the MOU the city conveyed lots for 4 homes to be built by the HSCLT in partnership with Palm Harbor Homes.

2008

Updated 5-Year Plan – Commissioned by the HSCLT as a requirement of the grant funding this Plan outlined their goals through 2012 and the former Executive Director of the nation's largest land trust (Burlington now called Champlain) was brought in to consult. The end result was a change in leadership of the HSCLT.

2009 – 2012

Virginia Ave. Project – HSCLT bought and renovated a property for affordable housing.

Habitat/HSCLT Joint Venture – The HSCLT partnered with Habitat to construct a home. HSCLT provided land and Habitat constructed a single family home.

Symonds Avenue – The HSCLT built a home and sold it at a market rate in an attempt to generate revenue for the organization.

New England 5-home Community Plan – HSCLT worked with city staff to develop a site plan for a property mentioned in the MOU and located at New England Ave.

This property was purchased by the CRA Agency and given to the City for affordable housing. It is consistent with the City's Comprehensive Plan to promote affordable housing in the City. No

other offers came in as part of the NOD. As such, staff recommends approval of the transfer of property to the HSCLT for the development of these five homes.

alternatives | other considerations

N/A

fiscal impact

The city/CRA has contributed substantial resources to the HSCLT over the years. Throughout the history of the partnership the issue of self-sustainability for the HSLCT has long been the primary objective of CRA and city funding. Below is a summary of financial support:

Affordable Housing Trust Fund: \$600,000. Consisted primarily of 5 years of \$60K per year operational support for the organization and down payment and closing costs associated with the Canton Park development.

CRA Grant: \$1,000,000. Provided for capital construction projects. Funds primarily used for the West Comstock development and other land acquisition.

Est. Legal Costs from the CRA: \$57,000. Related to document preparation.

Value of Land Provided: \$1,450,000. This is based on a \$100K per lot for Canton Park and \$150K per lot for West Comstock properties. Today those values are likely less however at the time of transfer that was an estimate of market value.

Total Land and Cash Investment: Approx. \$3.1 million.

long-term impact

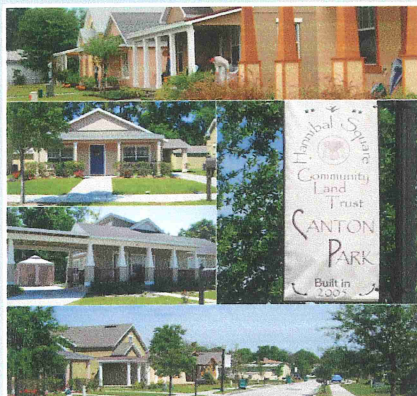
The development of these homes provides additional single-family residential units to the Winter Park downtown area. These homes will also provide ad-valorem revenue as they are constructed and added to the City's tax role.

strategic objective

Quality facilities and infrastructure.



Welcome to Hannibal Square Community Land Trust Inc.



CANTON PARK DEVELOPMENT

Ten (10) homes developed by HSCLT and built in the craftsman architectural style and include the following amenities includes:

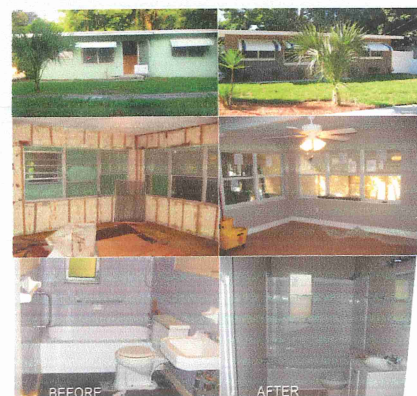
- Three bedrooms & two bathrooms
- Floor coverings
- Major appliances (refrigerator, oven, dishwasher, and microwave)
- Landscaping with sprinkler system
- Front or side covered porch
- Garage or carport



WEST COMSTOCK DEVELOPMENT

Four (4) modular homes built to "Green building" standards that are energy efficient & cost effective for its homeowners to maintain. Each home consists of:

- Approximately 1200 square feet
- Three (3) bedrooms & two (2) bathrooms
- Tiled & carpeted floors
- Ceiling fans
- Detached storage units
- Sod with sprinkler system
- Energy efficient appliances (oven, microwave, refrigerator, and dishwasher)



VIRGINIA AVE. RENOVATION

What is Hannibal Square Community Land Trust?

The Hannibal Square Community Land Trust was established as a 501(c) 3 not for profit member based corporation in Winter Park, Florida in November, 2004. Dedicated to preserving the quality and affordability of housing within the Winter Park Community Redevelopment Area, the Land Trust provides opportunities for low, very low and moderate income families to secure housing that is controlled by the residents on a long term basis. To achieve its goals, the Land Trust obtains real property which it then leased to qualified buyers on a 99 year ground lease. The buyer is able to build a home, removing the often prohibitive cost of the land from the equation. This creative approach to home ownership is modeled on the nationally successful land trust movement, an increasingly popular way to insure that communities like Winter Park maintain a diverse mix of housing opportunities.

How the Land Trust works

The Land Trust obtains real property which it then leases to qualified buyers on a 99 year ground lease. The buyer is able to build a home, removing the often prohibitive cost of the land from the equation. This creative approach to home ownership is modeled on the nationally successful land trust movement, an increasingly popular way to insure that communities like Winter Park maintain a diverse mix of housing opportunities.

Benefits of the Land Trust:

- Long term stewardship of housing
- Long term preservation of subsidies
- Perpetual affordability
- Reduced taxes

Homebuyer Selection Process & Qualifications

Priority is given to residents & employees in the Winter Park that are:

- First time home buyers
- Former residents
- Renters currently living in West Winter Park
- Orange, Seminole, or Osceola County residents

Qualified buyer must:

- Not have owned a home in the past 3 years
- Qualify for a conforming home loan
- Live in the home as your primary residence
- Attend a Free Home Buyer Educational Seminar
- Contribute the greater of \$1,000.00 or 1% of the sales price of the home
- Qualify based on family size and annual household income*

Household Size	Very Low (50% of Median)	Low (80% of Median)	Moderate (120% of Median)
1	\$20,400	\$32,600	\$48,960
2	\$23,300	\$37,250	\$55,920
3	\$26,200	\$41,900	\$62,880
4	\$29,100	\$46,550	\$69,840
5	\$31,450	\$50,300	\$75,480
6	\$33,800	\$54,000	\$81,120
7	\$36,100	\$57,750	\$86,640
8	\$38,450	\$61,450	\$92,280



• The homebuyer will own the buildings, structures, fixtures and improvements



• CLT owns and leases the land to a eligible home buyer

• Lenders finance the home purchase with leasehold mortgages



HSCLT / HABITAT WINTER PARK

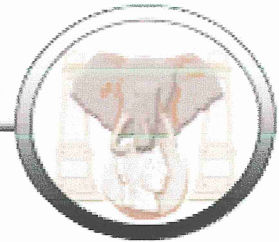
2011 Joint Venture Project



2011 SYMOND AVENUE

www.hannibalsquareclt.org

Hannibal Square Community Land Trust Inc.



2012-2013 Proposed New England Ave Development Summary

The Hannibal Square Community Land Trust (HSCLT) is proposing to build in accordance to the Notice of Intend to Dispose/MOU with the City of Winter Park/CRA the following project:

Building & Project Description

New England Avenue Development to be located at 845 W. New England Ave, Winter Park, 32789

Parcel ID #05-22-30-9400-45-041, described at TOWN OF WINTER PARK A/67 & B/86 & MISC Book 3/220 The S 75 ft of Lot 4 5 & 6 & W 5ft of S 75 ft of Lot 3 Blk 45

- \$372,360 OCPA land value; Zoned R-2;
- Approximate lot size 24,824
- Maximum of 5 single family modular/green Energy efficient homes
- \$548,277 –Total construction cost
- **Phase I** - New construction to include
 - 2 Workforce Affordable single family
- **Phase II** – 3 PRESOLD units
- Monet & Monet II floor plans (attached)
- Full size front porches
- Variation exterior finish (stucco/hardy board)
- 1173-1320 Living Square Feet

Target Marketing Plan

- **Income**- at or less than 120% of Orange County Housing & Community Development income guidelines(attached)
- **Sales Price** – NOT to exceed 120% of median home sale price for Metro Orlando Area
- **1st Time homebuyers** (haven't owned a home in the last 3 years) ; Veterans (Wounded Warrior program participants); Rollins College/Valencia Administrative, CWP essential city workers/employees, Nurses/1st yr. residents & administrative staff at Florida Hospital, Teachers & other qualified individuals
- Social Media outlets to include Website, Facebook, print & other links
- English/Spanish Homebuyer workshops – 1st Saturday of every month at the Winter Park CC facilitated by HUD certified counselors from HANDS & CFUL
- Winter Park & Orlando Housing Authority – Voucher recipients(moderate income families)
- HSCLT database of interested buyers

Construction & Mortgage Financing

Construction financing by Bank First & HSCLT. The construction financing to be paid off as the homes are sold to individual buyers. Projected funding sources for construction could include:

- Land Conveyance-CWP(CRA) Affordable housing
- HSCLT(amount of capital available towards financing based final construction cost)
- Bank FIRST lender for pre-approved home buyers 80% LTV; 30 yr fixed; 99 yr ground lease; portfolio mtg
- Construction financing by BankFIRST
- Down payment -OCDPA/HSCLT subsidies
- Corporate sponsorship

Proposed 2012-2013 Project Timeline

- June – Submitted concept & site plans for CWP Planning & CRA review
- Oct – 30 day Notice of Disposal
- Nov- Commission review
- Dec. – Permitting subject to CWP approval
- Dec - GROUND BREAKING
- Jan -Phase 1 (2 Models)
- Mar- GRAND OPENING –Phase I
- Apr – Phase II
- July - COMPLETION

LEGAL DESCRIPTION

THE WEST 5 FEET OF THE SOUTH 75 FEET OF LOT 3, AND THE SOUTH 75 FEET OF LOTS 4, 5, AND 6, BLOCK 45, WINTER PARK AS RECORDED IN PLAT BOOK A, PAGES 67 THROUGH 72, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA

SITE DATA

LOCATION ADDRESS:

845 WEST NEW ENGLAND AVENUE
WINTER PARK, FLORIDA

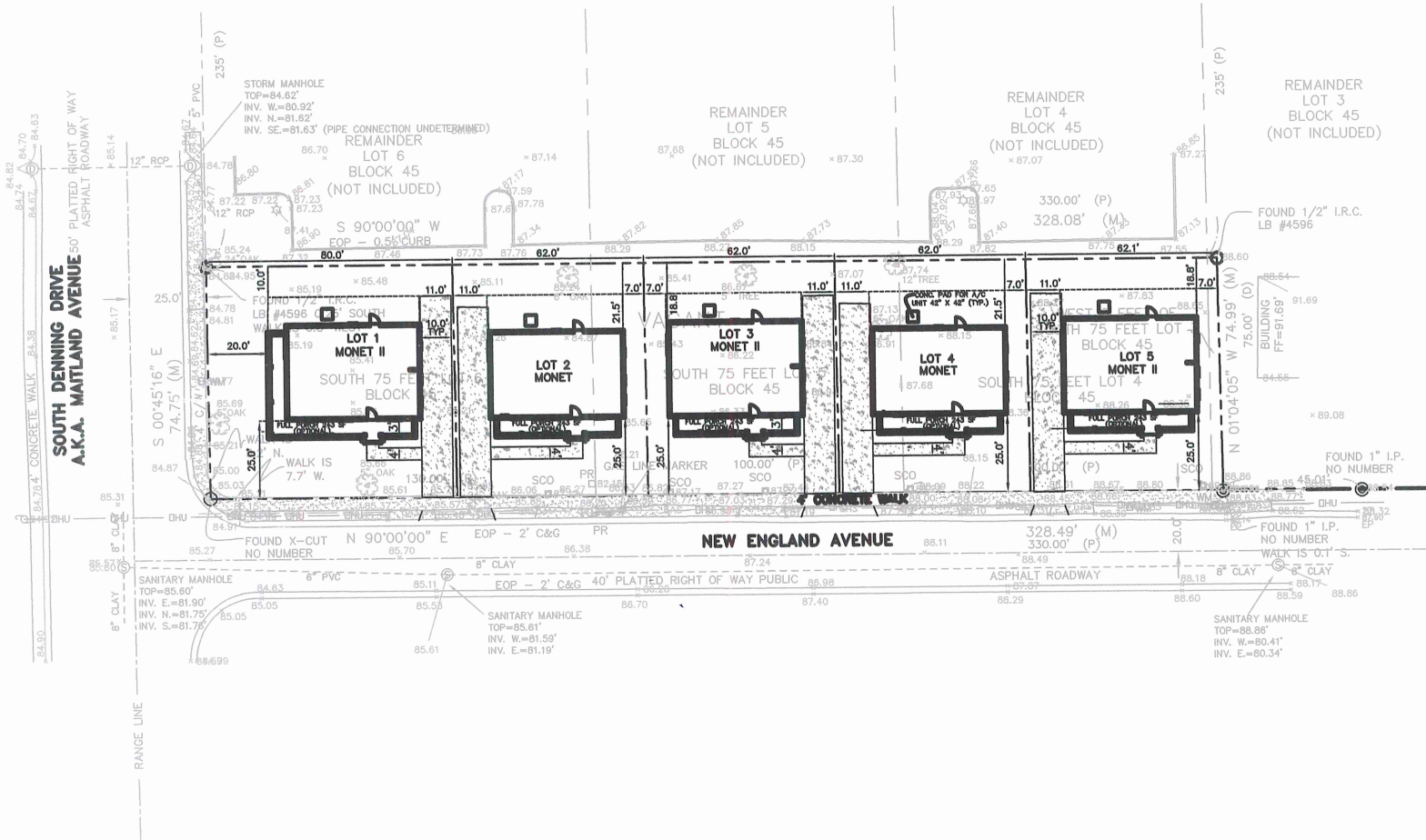
CURRENT ZONING: R-2:

PARCEL SIZE: 24,832 SF = 0.565 ± ACRES

EXISTING USE: VACANT LOT

PROPOSED USE: SINGLE FAMILY RESIDENCE

MAX. BUILDING HEIGHT : 30 FT



LOT SUMMARY AREA

LOT #	TOTAL AREA (SF)	GROSS BUILDING AREA (SF)	FULL PORCH AREA (SF)*	TOTAL BUILDING COVERAGE (GROSS BUILDING + PORCH)	OTHER IMPERVIOUS AREA DRIVEWAYS/SIDEWALKS (SF)	TOTAL IMPERVIOUS AREA (SF)
1	8,000	1,320	524	1,844	716	2,560
2	4,641	1,247	243	1,490	742	2,232
3	4,647	1,320	243	1,563	792	2,355
4	4,648	1,247	243	1,490	745	2,235
5	4,663	1,320	243	1,563	816	2,381

* FULL PORCH AREAS USED IN SETBACK/COVERAGE WORKSHEETS

SETBACK TABLE

	LOTS OVER 65' (LOT 1)	LOTS UNDER 65' (LOT 2-5)
FRONT (NEW ENGLAND AVE)	25'*	25'*
SIDE	10'	7' (11' W/ DRIVEWAY)
REAR (VACANT LOT)	10'	10'
SOUTH DENNING DRIVE	20'	N/A

* FRONT PORCHES WITHIN FRONT SETBACK



LOT 1 SIDE



LOT 1 FRONT



LOT 2



LOT 3

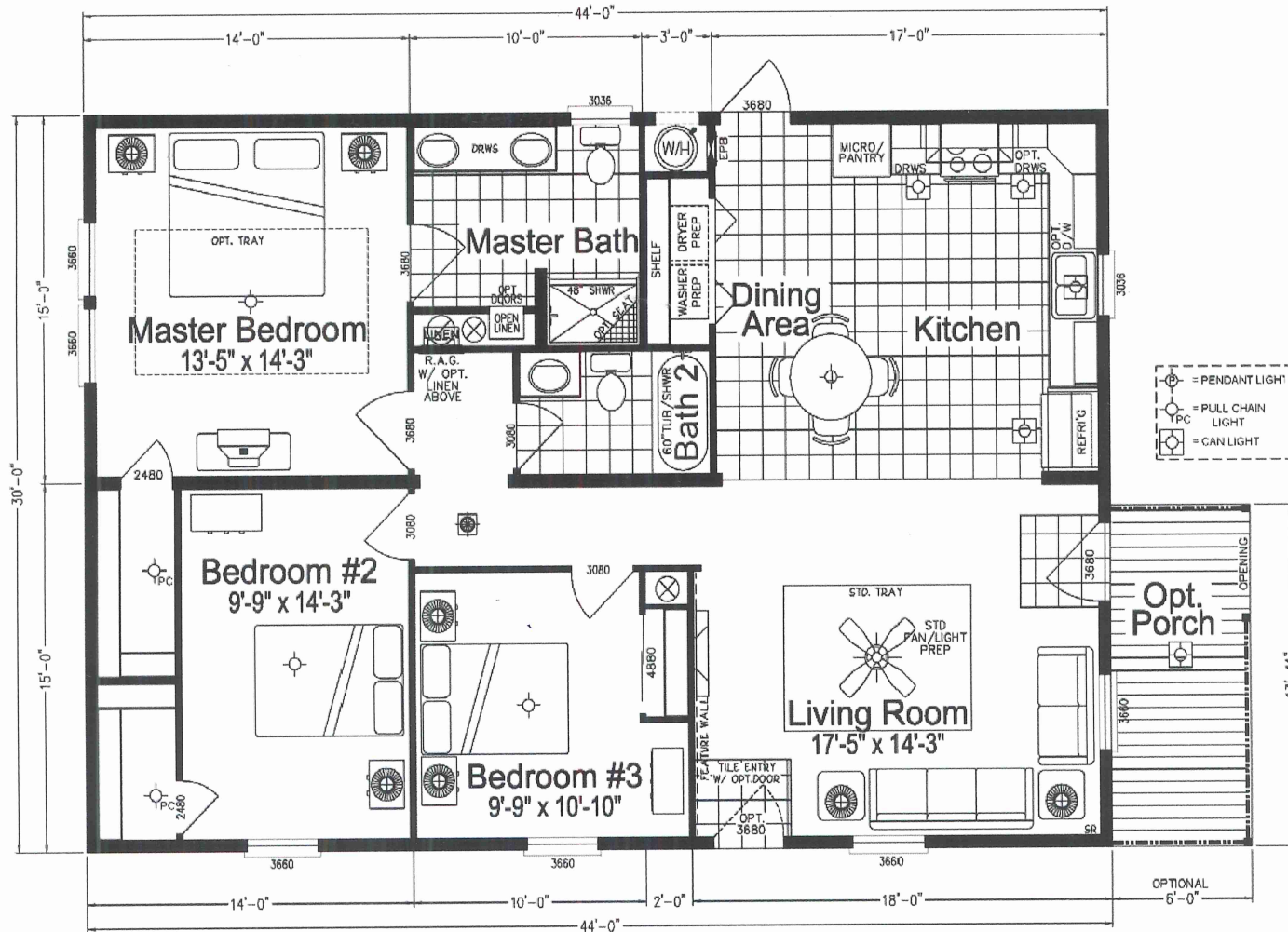


Lot 4

Lot 5

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Because Palm Harbor Homes has a continuous product updating and improvement process, specifications are subject to change without notice or obligation. Likewise, the floor plan shown is representative only and may vary from the actual home. Square footage calculations are based on nominal widths and all room dimensions are approximate subject to industry standards. R-values may vary in compressed areas



The "Monet II"
Model # MST3446J – Masterpiece Series
 Approx. Sq Ft. A/C 1320; Gross 1320
 Size 30' x 44'



Widths shown are actual floor size. Does not include overhangs..

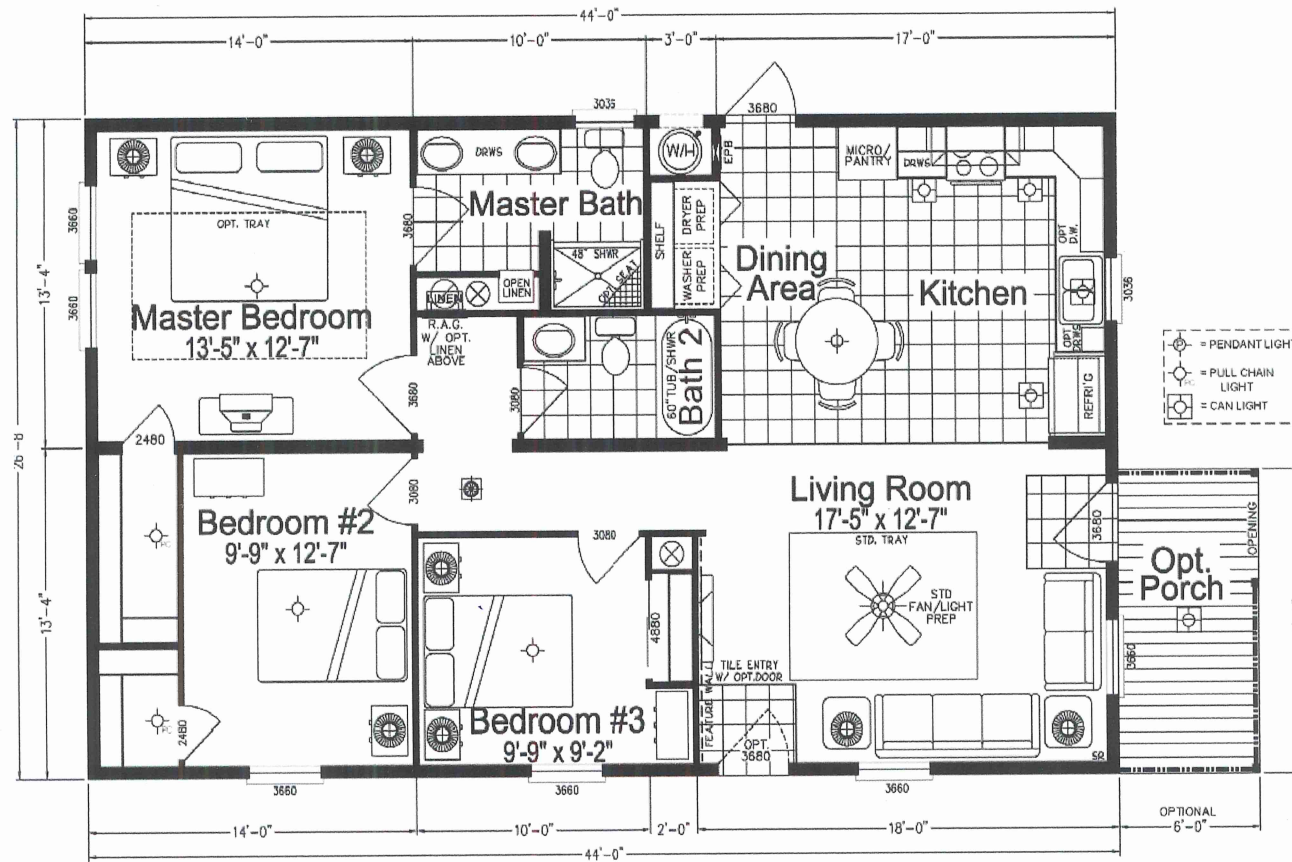
Plant City, Florida 1-800-729-4363

www.palmharbor.com

Revised: 08/19/10

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Because Palm Harbor Homes has a continuous product updating and improvement process, specifications are subject to change without notice or obligation. Likewise, the floor plan shown is representative only and may vary from the actual home. Square footage calculations are based on nominal widths and all room dimensions are approximate subject to industry standards. R-values may vary in compressed areas

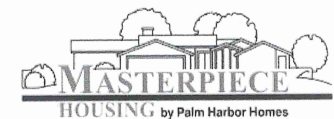


The "Monet"

Model # P3446J – Masterpiece Series

Approx. Sq Ft. A/C 1173; Gross 1247

Size 26.8' x 44'



Widths shown are actual floor size. Does not include overhangs..

Plant City, Florida 1-800-729-4363

www.palmharbor.com

Revised: 08/06/10



Orange County, Florida

2012

Income Limits Chart

Household Size	Income Category		
	Very Low (50% of Median)	Low (80% of Median)	Moderate (120% of Median)
1	\$20,400	\$32,600	\$48,960
2	\$23,300	\$37,250	\$55,920
3	\$26,200	\$41,900	\$62,880
4	\$29,100	\$46,550	\$69,840
5	\$31,450	\$50,300	\$75,480
6	\$33,800	\$54,000	\$81,120
7	\$36,100	\$57,750	\$86,640
8	\$38,450	\$61,450	\$92,280

Median Income: \$58,200

Prepared December 2011 (effective December 1, 2011)
by the

Orange County Housing and Community Development Division

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this ^{18th} day of ~~November~~^{December}, 2006, by and between the Hannibal Square Community Land Trust, INC., a Florida not for profit corporation (the "CLT"), the Winter Park Community Redevelopment Agency, a body corporate and politic created pursuant to Part III of Chapter 163 of the Florida Statutes (the "CRA"), and the City Of Winter Park, a Florida municipal corporation (the "City").

PREAMBLE

WHEREAS, the City and the CRA entered into that certain Grant Agreement with the CLT dated 12/18, 2006 (the "Grant Agreement") for, among other reasons, the purchase and acquisition of real property within the Winter Park Community Redevelopment Area (the "Area") for purposes of providing affordable housing to very low, low, and moderate income families; and

WHEREAS, among the goals of the CRA are to increase housing opportunities by diversifying the available housing stock and providing more opportunities for home ownership; and improving housing conditions and appearances to achieve more stable and secure residential neighborhoods which create higher values for the owners; and

WHEREAS, it is an objective of the CRA to increase public participation and community leadership of the residents to foster solutions to neighborhood problems, including issues of housing affordability; and

WHEREAS, it is also an objective of the CRA to increase the opportunities for its citizens to purchase or rent affordable, decent, safe, and sanitary housing by encouraging the rehabilitation, revitalization, and redevelopment of the existing housing stock; and

WHEREAS, it is a policy of the CRA to encourage innovative housing development which result in lower costs and to also continue to work with non-profit organizations to provide home building programs for families who do not qualify through conventional lending institutions; and

WHEREAS, it is also a policy of the CRA to provide for the acquisition of lots within the Area as a way to lower the cost for the construction of affordable housing; and

WHEREAS, the CRA Plan contemplates the use of tax increment revenue and bonds as a funding source for affordable housing property acquisition and miscellaneous residential programs; and

WHEREAS, it is a policy of the CRA to encourage innovative housing development which result in lower costs and to also continue to work with non-profit organizations, such as the CLT, to provide home building programs for families who do not qualify through conventional lending institutions; and

WHEREAS, the CLT is desirous of acquiring, developing and rehabilitating certain real property within the Area owned by the City consistent with the goals and objectives of the CRA Plan and as part of a community land trust model, and further desires to partner with the CRA in order to address the affordable housing needs of the Area; and

WHEREAS, the City and CRA are desirous of encouraging, supporting and facilitating partnership opportunities with tax-exempt non-profit or governmental organizations in addressing the affordable housing needs of the City within the CRA Area; and

WHEREAS, on February 7, 2005, the CRA approved staff policy recommendation to consider for redevelopment the hereafter defined properties for the economic benefit of the CLT in an effort to promote the economic stability and self-sustainability of the CLT; and

WHEREAS, in furtherance of the City's and CRA's aforementioned desires, the CRA is contemplative of making future grants to the CLT, whether it be in the form of money or real property, to facilitate the acquisition, development, and rehabilitation of real property, for purposes of providing affordable housing to very low, low, and moderate income families, consistent with the goals and objectives of the CRA Plan and as part of a community land trust model and to further the expansion, economic stability and self-sustainability of the CLT; and

WHEREAS, the CLT is desirous of acquiring, developing and rehabilitating real property within the CRA Area consistent with the foregoing intentions and as part of a community land trust model and further desires to partner with the CRA in order to address the housing needs of the Area; and

WHEREAS, the parties agree to enter into this MOU for the purpose of memorializing the parties' understanding as it pertains to foregoing intentions and for the purpose of establishing general principles and guidelines to be utilized as a framework prior to entering into future agreements; and

WHEREAS, this MOU and any future agreement entered into between the parties is subject to the provisions of Chapter 163 of the Florida Statutes, the Winter Park City Code, and all other applicable laws and shall, to the extent CRA funds are utilized, be consistent with the CRA Plan.

UNDERSTANDING OF THE PARTIES

The following represents the understanding of the parties as of the date of this MOU:

1. **Incorporation of Preamble.** The parties to this MOU warrant to one another that the Preamble to this MOU is true and correct and is incorporated herein by this reference as if fully set forth below and made a part hereof.
2. **Redevelopment of Specific Real Property.** The CRA is considering requesting the conveyance of the following City owned properties located within the Area to the CLT for redevelopment to the economic benefit of the CLT in accordance with the above-stated intentions, purposes and goals:

- (a) Pennsylvania / Garfield Property
Block 23, Parcel #140
 - (b) 845, 851 and 859 West New England Avenue.
Block 45, Parcel #41, 51, 52
 - (c) 634, 642 and 644 West Comstock Avenue
Block 73, Parcel #22, 30
3. **Proposals by the CLT.** In order to be considered as a recipient of the conveyance of any of the above-described properties, the CLT shall be required to submit a written proposal to the CRA detailing the proposed use and development of said property. Any conveyance of the above-described properties to the CLT shall be made in the sole discretion of the City and the CRA and shall be subject to the CRA's approval of the proposal submitted by the CLT in accordance with the requirements of Section 163.380, Florida Statutes.
 4. **Notice of Disposal.** Should the City decide to convey any or all of the above-described properties to the CLT, a Notice of Disposal shall be made in accordance with Section 163.380, Florida Statutes.
 5. **Impact on Present Grant Agreements.** It is the understanding of the parties to this MOU that any conveyance of the above-described properties from the City to the CLT shall not affect the grant monies given by the CRA to the CLT in the Grant Agreement.
 6. **Additional Property.** Subject to the provisions of Paragraphs 3 and 4 above, the CRA will consider requesting the City to convey the property located at 321 Hannibal Square West (Block 50, Parcel 160) to the CLT.
 7. **Purpose and Intent.** The parties to this MOU understand and acknowledge that this MOU is a good faith understanding of the intentions of the parties as of the date of its execution. The parties specifically acknowledge that this MOU is not a contract. None of the parties hereto have given or received consideration in or in connection with or as a result of this MOU. All parties specifically acknowledge that no meeting of the minds has occurred.
 8. **No Joint Venture.** Notwithstanding anything in this MOU to the contrary, the parties to this MOU agree that they are performing the actions outlined in this MOU as independent agencies and not as joint venturers.
 9. **Appropriations.** This instrument is neither a fiscal nor a funds obligation document. Nothing contained herein shall be construed as binding the City or the CRA to expend in any one fiscal year any sum in excess of appropriations made by the City Commission or the CRA Agency, respectively, or as involving the City or the CRA in any contract or other obligation for the further expenditure of money in excess of or in advance of receipt of appropriation or other funds. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws,

regulations and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this instrument for the purpose herein expressed, the day and year first above written.

**HANNIBAL SQUARE
COMMUNITY LAND TRUST, INC.,**
a Florida non-profit corporation

By: Mary Daniels, President
MARY DANIELS, President

**CITY OF WINTER PARK, a Florida
municipal corporation**

By: David Strong, Mayor
DAVID STRONG, Mayor

ATTEST:

Cindy Bonham
CINDY BONHAM, City Clerk

**CITY OF WINTER PARK
COMMUNITY REDEVELOPMENT
AGENCY, a body corporate and politic
created pursuant to Part III of Chapter 163,
Florida Statutes**

By: David Strong, Chairman
DAVID STRONG, Chairman

ATTEST:

Cindy Bonham
CINDY BONHAM, CRA Clerk



city commission agenda item

item type	Action Items Requiring Discussion	meeting date	February 11, 2013
prepared by department division	Jerry Warren, Director Electric Department	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Utilities Advisory Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	9-0 final vote

subject

Electric System Undergrounding Program

motion | recommendation

- 1) Do Not include funding of city-wide decorative lighting in electric system undergrounding budget;
- 2) Allow city electric customers the option of retaining overhead electric service wires instead of requiring that they be placed underground and paid for by the customer;
- 3) The priority of placing overhead electric lines underground should be determined by the methodology previously approved by the City Commission and should not be adjusted to reflect pruning of electric system right-of-way trees;
- 4) Reduce electric rates and implement a .812¢/kWh undergrounding surcharge to fund electric system undergrounding (an .812¢/kWh surcharge is designed to provide the \$3.5 million budgeted for electric system undergrounding during fiscal year 2013).
- 5) Implement a cost based acceleration mechanism to allow developers and PLUG-IN projects to allow the acceleration of underground projects without adversely consuming resources allocated to undergrounding overhead wires identified on the City's priority list.
- 6) Adopt a 15 year objective to underground all electric system overhead wires.

background

Last Spring, electric department staff inventoried all overhead electric system wires to determine the number of tree conflicts, to determine the type of construction (i.e. single phase, two-phase, three-phase, feeder), and the level of visibility, type of road, rear lot, etc. Additionally each line segment was evaluated based on reliability experience. Taking these factors into consideration, a priority ranking of 75 resulting projects was determined to place underground all of the electric systems' overhead wires. During the fiscal 2013 budget hearings, the City Commission approved the expenditure of \$3.5 million of capital funds to begin the undergrounding process.

During the fall, the Utilities Advisory Board addressed 6 policy issues associated with the undergrounding program. The six issues are:

1. Whether the undergrounding program should fund the installation of decorative streetlights City wide;

2. Whether City electric customers should be forced to place overhead electrical service wires underground and pay for that installation;
3. Whether “recent” tree pruning should affect the prioritization of undergrounding of overhead electric wires;
4. How the undergrounding program should be funded;
5. Whether a mechanism should be implemented to allow the acceleration of undergrounding projects by developers or PLUG-IN neighborhoods;
6. Adopting a specific goal for completion of the undergrounding program

Decorative Street lighting. Decorative street lighting is expensive and is estimated to cost \$16 million on a citywide basis. \$16 million translates into approximately 4 years of undergrounding. The Utilities Advisory Board (UAB) and staff believe that the existing mechanisms for decorative lighting are adequate and the funding of decorative lights should not be provided by the undergrounding program.

Electric Service Wires. The placing of overhead electric wires underground city-wide is estimated to cost approximately \$25 million which represents the funding for approximately 6 years of undergrounding. Traditionally placing overhead service wires underground has been the responsibility of the customer. The UAB and staff believe that forcing the customer to place service wires underground will be a financial burden on many customers and therefore determined that allowing the option to retain the overhead service wires is the best strategy.

Should Tree Pruning Affect the Undergrounding Priority List. Questions were raised whether tree pruning should alter the undergrounding priority list. The thinking behind the question is that pruning would improve the reliability of the line segment in question and would therefore alter the priority list. Staff concluded that if one could retrospectively alter the reliability of a line segment from pruning that it could indeed affect the prioritization score. Tree conflicts, however account for 40% of the scoring weight and pruning would not affect the potential of conflicts since the potential of tree conflicts does not have a temporal element. In other words the number of conflicts does not try to predict whether the conflict would occur this year or three years from now. A tree conflict is a tree conflict. The biggest concern is that other factors out of control of the electric department could alter the needs for pruning and/or the speed of undergrounding which could cause a change in the timing of required pruning. The UAB concluded it was mostly a political consideration and therefore chose to take no position. Staff believes that altering the priority of undergrounding as a result of pruning would tend to shift pruning to other neighborhoods and worst case could create a situation where the higher priority projects could require pruning again before undergrounding could be completed.

Undergrounding Program Funding. Undergrounding is an expensive proposition and can cost \$1 million per mile or more. Specialized equipment is used for directional boring and crews with specialized skills are required. Stable funding is preferred to insure the most cost effective and timely undergrounding program. The UAB considered four approaches 1) funding from current revenues, 2) funding from a temporary undergrounding surcharge, 3) funding by the use of borrowed funds, and 4) funding from a temporary increase of property taxes. Staff and the UAB recommends the use of a temporary surcharge and believes that approach offers the most advantages.

Implementation of a Mechanism to Accelerate Undergrounding. With a priority list to underground the entire overhead electric system, it begs the question whether developers and/or others should have a mechanism to advance projects. In other words if the lines adjacent to the CNL project are scheduled for undergrounding two years from now on the priority list and CNL wants it undergrounded now, should the Electric Department require full payment from the developer when the City would otherwise fund it in its entirety two years from now. The UAB and staff concluded that a cost based accelerating mechanism is warranted.

Such a mechanism should be structured such that none of the financial, equipment, or personnel resources reserved for projects on the undergrounding priority list would be adversely impacted.

Adopting a specific timeframe for the Completion of Undergrounding. The UAB and staff believe there are community advantages to adopt a specific timeframe for the completion of undergrounding. It gives the community focus and excitement as it considers the allocation of limited resources and deals with the ugh factor caused by construction and the associated traffic congestion. After balancing the required financial resources, the impacts on the community and the electric department's ability to cost effectively manage an undergrounding program, the UAB and Staff recommend the adoption of a 15 year objective to complete the undergrounding program.

Staff is prepared to make a presentation to discuss the six issues identified above and to address the recommendations for each.

Attachments: PowerPoint Presentation Undergrounding Policy Issues



Undergrounding Policy Issues

City Commission Meeting
February 11, 2013

Undergrounding Major Policy Issues



Program Elements

1. Should decorative lighting be included as a part of the undergrounding program? (UAB voted no)
2. Should customers be required to underground and pay for their electric service wires as a part of the undergrounding program? (UAB initially voted yes but re-voted and changed to no)
3. Should the recent pruning of line segments affect the undergrounding schedule? (UAB took no position)



Major Policy Issues (cont'd)

Program Elements

4. How should the undergrounding program be funded to create stability and certainty. (UAB still considering/leaning toward a surcharge)
5. Should projects (i.e. commercial & PLUG-IN) have mechanisms available to advance projects? (UAB voted yes, favors a mechanism that in which developer funds increases in cost, and cost of money for advancing project)
6. What should our objective be for completion, e.g. 10 years, 12, years, etc? (UAB suggested 15 years)



Street lights

Historically decorative lights have primarily come from:

- **City Streetscape projects**
- **Neighborhood votes/assessments**
 - **Non-ad valorem assessments on tax bill**
 - **Increases to monthly electric bill**

Should Decorative street lighting be included in undergrounding program?



1. Only advantage is you get maximum aesthetic benefits up front
2. Major disadvantage is decorative street lighting is expensive (\$16 million = 4 years of undergrounding)
3. Suggested approach is wire for underground and continue current decorative lighting approaches



Undergrounding Budget

Undergrounding Item	Planning Budget
Underground primary and secondary	\$29-39 million
City wide decorative street lighting	16 million
Undergrounding customer's services	25.0 million
Total undergrounding budget	\$70-80 million
FY 2013 Revenues available	\$4 million (9.4%)
Years to fund (\$4million per year)	17 – 20 years

Undergrounding Budget w/o decorative lighting



Undergrounding Item	Planning Budget
Underground primary and secondary	\$29 - 39 million
Undergrounding customer's services	25.0 million
Total undergrounding budget	\$54 - 64 million
FY 2013 Revenues available	\$4 million (9.4%)
Years to fund (\$4million per year)	13 – 16 years



Customer Electric Services

Logical Options:

1. **Require Services be place underground.**
2. **Give customers the option of retaining overhead services. Means some poles and wires will remain.**

Customer Electric Services (cont'd)





Customer Electric Services (cont'd)

Initial thinking: Assess customers Base price:

- 1) 200 amp \$3,000**
- 2) 320/400 amp \$4,000**
- 3) >400 amp actual, but not less than \$5,000**
- 4) Payment Plan for 200 amp (320/400 amp)**
 - a. Twenty year plan \$18/mo (\$24)**



Customer Electric Services (cont'd)

Approximately 1,100 households have income less than \$35,000/yr. and cannot afford to underground service:

Options:

- a. Smaller service size with discounted pricing? Most services are 200 amp
- b. Add surcharge to high consumption kWh blocks to fund. 1¢ > 1,000 residential yields ~\$800K per year
- c. Based on needs evaluation, electric department funds from revenues?
- d. Grant funding? CRA money not available.
- e. Other ideas?



Customer Electric Services (cont'd)

Other Communities that have undergrounding programs have found:

- That forcing the undergrounding of a customer's service is extremely unpopular.
- Best strategy is to not force the issue and let education and experience provide influence.
- As undergrounding of the system progresses, customers jump on the bandwagon because it is a) not cool to be overhead and b) electric service wires are repaired last after a storm.



Customer Electric Services (cont'd)

Suggested Strategy:

- Offer cost based discounts when the primary is being placed underground in front of a home.
- In the end, allow the customer to retain overhead service poles.
- Provide fair pricing mechanisms.
- Don't consume revenues needed for undergrounding electric wires with undergrounding customers' electric service wires.
- Readdress as undergrounding approaches completion.

Undergrounding Budget W/O Electric Service Wires



Undergrounding Item	Planning Budget
Underground primary and secondary	\$29 - 39 million
FY 2013 Revenues available	\$4 million (9.4%)
Years to fund (\$4million per year)	7- 10 years

Should “Recent” Tree Pruning Affect UG Priorities?



- Undergrounding priority formula based on tree density, visibility, reliability, circuit type.
- Question has been raised if recent pruning should be factored into prioritization? Would deferring underground projects already pruned avoid pruning other circuits? Theoretically, yes.
- Interruption of undergrounding program by as few as two years or tree growth could force pruning the neighborhoods that complained the most vocally about pruning and were the genesis of the prioritization formula.

Should Recent Tree Pruning Affect UG Priorities (cont'd)



- Practical effect is likely to shift pruning to other neighborhoods.
- Clear objective is to underground ASAP. Shifting has no effect on overall undergrounding schedule. Funding availability will.
- UAB concluded that the issue is mostly a political issue and declined to take a position.
- Logical choices:
 - Defer recently pruned projects by 2 years
 - Do not change priority determined by formula



Program Funding

Current funding & low retail rates due to:

1. City's wholesale power arrangement
2. Low natural gas prices

Issues:

1. Current wholesale power arrangement lasts only through the end of 2013. Seminole agreement recently extended. ITN on street for balance.
2. No assurance that low natural gas prices advantage continues for duration of undergrounding program.
3. Directional boring requires expensive equipment (currently under lease) and skilled crews. Volatility of revenue sources could create demobilization/remobilization issues.



Program Funding (cont'd)

Rational Options:

1. Pay-as-you-go system revenues @ existing rates
2. Pay-as-you-go with dedicated surcharge
3. Borrow Money
4. Fund with temporary increase in property taxes



Program Funding (cont'd)

1. Pay-as-you-go system revenues @ existing rates
 - Takes advantage of current competitive margins
 - Interruption of revenue stream can be caused by:
 - Rate competition/loss of favorable power supply arrangements
 - Policy decisions to fund other priorities
 - Creates program uncertainty:
 - Staffing pressures
 - Equipment pressures
 - Material pressures
 - Flexible can be adjusted as required



Program Funding (cont'd)

2. Pay-as-you-go with dedicated surcharge
 - Creates greater certainty in revenues to fund undergrounding
 - Community understands purpose of surcharge and presumably would be less concerned about rate differentials created by surcharge
 - Not intended to increase current rates
 - Surcharge in effect only for duration of undergrounding program
 - Flexibility is not lost, can be adjusted as required



Program Funding (cont'd)

3. Borrow Money

- Creates certainty in revenues to fund undergrounding
- Significantly increases cost of undergrounding program. \$70 million of funding creates \$5 million per year in debt service for 20 years = \$100 million.
- Debt service must be paid without regard to financial ability or rate competitiveness. Not flexible = most risky approach.
- UAB and staff rejected = Not Recommended



Program Funding (cont'd)

- Fund with temporary increase in property taxes:
 - Creates certainty in revenues to fund undergrounding
 - Property taxes are deductible from US federal income taxes. Results in significant federal support of local undergrounding program
 - Flexible can be adjusted if required
 - Politically so unpopular, UAB determined unacceptable, Not recommended



Program Funding (cont'd)

- Current thinking (staff and UAB)
 - Reduce retail rates down by the amount budgeted for undergrounding \$3.5 million. (~ 10% decrease in total rates) then add an undergrounding surcharge
 - No net change to customers' electric bills

Mechanism to Advance Projects



Should projects (i.e. commercial & PLUG-IN) have mechanisms available to advance projects?

- If predetermined mechanisms do not exist, requests to advance projects become political decisions on a project by project basis
 - May not include appropriate premiums/increases UG costs
 - Creates risk of delaying other prioritized projects
 - Defeats purpose of project priority list
 - Creates uncertainty for developers

Mechanism to Advance Projects (cont'd)



Objectives of Mechanism

- Does Not cause delay of prioritized UG projects:
 - Does not consume funding appropriated for prioritized UG projects
 - Does not consume other resources (design, construction, inspection) required for prioritized UG projects
- Creates certainty for developers, PLUG-INS

Mechanism to Advance Projects (cont'd)



- Hire outside contractors to design, construct, and inspect to avoid loss of priority of other projects. Developer pays costs associated with advancing project:
 - Charge fee for contracted engineering/design.
 - Bid out project construction – charge contractor premium, if any. (difference in bid price and City's cost to construct)
 - Charge Contractor inspection fee

Mechanism to Advance Projects (cont'd)



Cash flow options:

- If City provides cash flow to fund construction, developer to pay 4% annual carrying charge (stops when City reaches project's previous priority)
- If developer provides cash flow to fund construction bears his own carrying costs. City reimburses base cost portion when project reaches previous priority.



Example - Advance Project 2 yrs

Element	Estimated Cost
Increase in cost of Engineering Design	\$4,000
Bid Price of project	\$270,000
Premium to Contract out project	\$20,000
Inspection fees	\$6,000
Total Required Developer Funding	\$30,000
Annual Carrying cost (\$250,000)	\$10,000



Program Time Line

- What should our objective be for completion, e.g. 10 years, 12, years, etc?
 - Must reflect other policy issues such as funding of customer services, funding source, etc.
 - Suggest schedule be aggressive to promote focus and excitement. This is particularly important if funding vehicle is temporary such as surcharges and property taxes
 - Must balance overall community Ugh factor (traffic congestion caused by construction)



Next Steps

- Additional UAB discussion/consideration?
- City Commission discussion/input
- City Commission Agenda Item at upcoming meeting



city commission public hearing

item type	Public Hearing	meeting date	February 11, 2013
prepared by department division	Terry Hotard Electric Utility	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A		
		final vote	

subject

Undergrounding of Electric/CATV Facilities
Notice of Intent Resolution
Via Salerno/Via Capri

motion | recommendation

Approve resolution calling for a public hearing pertaining to the undergrounding of electric/CATV facilities in the area of Via Salerno and Via Capri. Staff recommendation is to approve resolution calling for the Public Hearing.

summary

Winter Park Electric's PLUG-IN program was approved by the city commission to provide neighborhoods with a method of accelerating the undergrounding of neighborhood overhead facilities. Through the PLUG-IN Program the city provides homeowners within the Neighborhood Electric Assessment District (NEAD) a 50% match of the electric undergrounding. Bright House Network has agreed to a 5% contribution. Homeowners have the option of a onetime lump sum or 10 year repayment schedule. Annual assessment will be placed on the property tax bill. 90% (66% required) of the 10 homeowners within the VIA SALERNO/VIA CAPRI NEAD have voted in favor of this project.

board comments

N/A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO SECTION 197.3632, FLORIDA STATUTES, CALLING FOR A PUBLIC HEARING TO DISCUSS ALL ASPECTS OF THE UNDERGROUNDING OF ELECTRIC/CATV FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ABUTTING VIA SALERNO AND VIA CAPRI; WHICH IMPROVEMENTS ARE TO BE PAID IN PART BY SPECIAL ASSESSMENTS LEVIED AGAINST ALL PROPERTIES WITHIN THE ABOVE DESCRIBED AREA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission enacted Ordinance 2249 to provide for the creation of assessment areas and authorize the imposition of assessments to fund the construction of local improvements to serve the property located therein and Ordinance 2249 provides that the City may elect to use the method for imposition and collection of assessments in Florida Statutes § 197.3632; and

WHEREAS, the City Commission of the City of Winter Park, Florida, in Resolution No. 2117-12, has determined, and does hereby also determine, to make and fund certain public improvements, consisting of undergrounding the electric/CATV facilities within the municipal boundaries of the City of Winter Park; specifically, properties abutting Via Salerno/Via Capri; all of the aforesaid public improvements and municipal services to be hereinafter referred to as the "Project," as authorized by Ordinance 2249, home rule power, and Section 197.3632, Florida Statutes; and

WHEREAS, the cost and expense of the Project is to be met in whole or in part by special assessments; and

WHEREAS, the Project will provide a special benefit to all property by improving and enhancing the properties' aesthetics and safety, thus enhancing the value, use and enjoyment of the properties; and

WHEREAS, the City Commission hereby finds and determines that the assessments to be imposed in accordance with this Initial Assessment Resolution provide an equitable method of funding construction of the Project by fairly and reasonably allocating the cost to specially benefitted property equally to each property based upon the benefit attributable to each benefitted property in the manner hereinafter described; and

WHEREAS, Section 197.3632, Florida Statutes, requires that a public hearing be conducted with respect to the special assessment roll, which has heretofore been filed with the City Clerk of the City of Winter Park, which assessment roll shows the lots and lands assessed and the amount of the benefit to and the assessment against each lot or parcel of

land, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided.

NOW, THEREFORE, be it resolved by the City Commission of the City of Winter Park, Florida as follows:

Section 1. The City Commission of the City of Winter Park hereby calls a Public Hearing at 5:00 p.m. on January 28, 2013, or as soon as possible thereafter, in City Commission Chambers, City Hall, 401 Park Avenue South, Winter Park, Florida for the purpose of affording owners of the property to be assessed, or any other persons interested therein, to appear and be heard as to the propriety and advisability of making and funding such improvements as to the cost thereof, as to the manner of payment therefore, and as to the amount thereof to be assessed against each property so improved or benefited.

Section 2. The area to be improved and benefited by the undergrounding of electric/CATV facilities are those properties abutting Via Salerno/Via Capri. The description of each property to be assessed abutting Via Salerno/Via Capri and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the City Clerk.

Section 3. The estimated capital cost for the Project is \$37,772. One half of this amount (\$18,886) will be funded through the imposition of assessments against property located in the Neighborhood Electric Assessment District (NEAD) area in the manner set forth in Exhibit A hereof.

Section 4. The Electric Department is hereby directed to prepare a final estimate of the Capital Cost of the Project and to prepare the preliminary Assessment Roll in the manner provided in Ordinance 2249. The Electric Department shall apportion the Project cost among the parcels of real property abutting Via Salerno/Via Capri as reflected on the Tax Roll in conformity with Exhibit A. The estimate of Capital Cost and the Assessment Roll shall be maintained on file in the offices of the Electric Department and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the assessment for each property can be determined by use of a computer terminal available to the public.

Section 5. Assessments will be imposed and collected on the ad valorem tax bill in the manner authorized by Section 197.3632, Florida Statutes. The assessment shall be computed for each parcel.

Section 6. The aforesaid public hearing shall be conducted as provided, and for the purposes recited, in Section 197.3632, Florida Statutes.

Section 7. This notice shall be published as provided in Section 197.3632, Florida Statutes.

Section 8. Twenty (20) days notice in writing of the time and place of the aforesaid public hearing shall be given to the property owners of the properties to be assessed, which notice shall include the amount of the assessment. The notice shall be served by mailing a copy to each of such property owners at their last known address, the names and addresses of such property owners to be obtained from the records of the property appraiser or from such other sources as the Electric Director deems reliable, proof of such mailing to be made by the affidavit of the Electric Director, said proof to be filed with the City Clerk.

Section 9. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or application of this Resolution.

Section 10. This Resolution shall become effective immediately upon its passage and adoption.

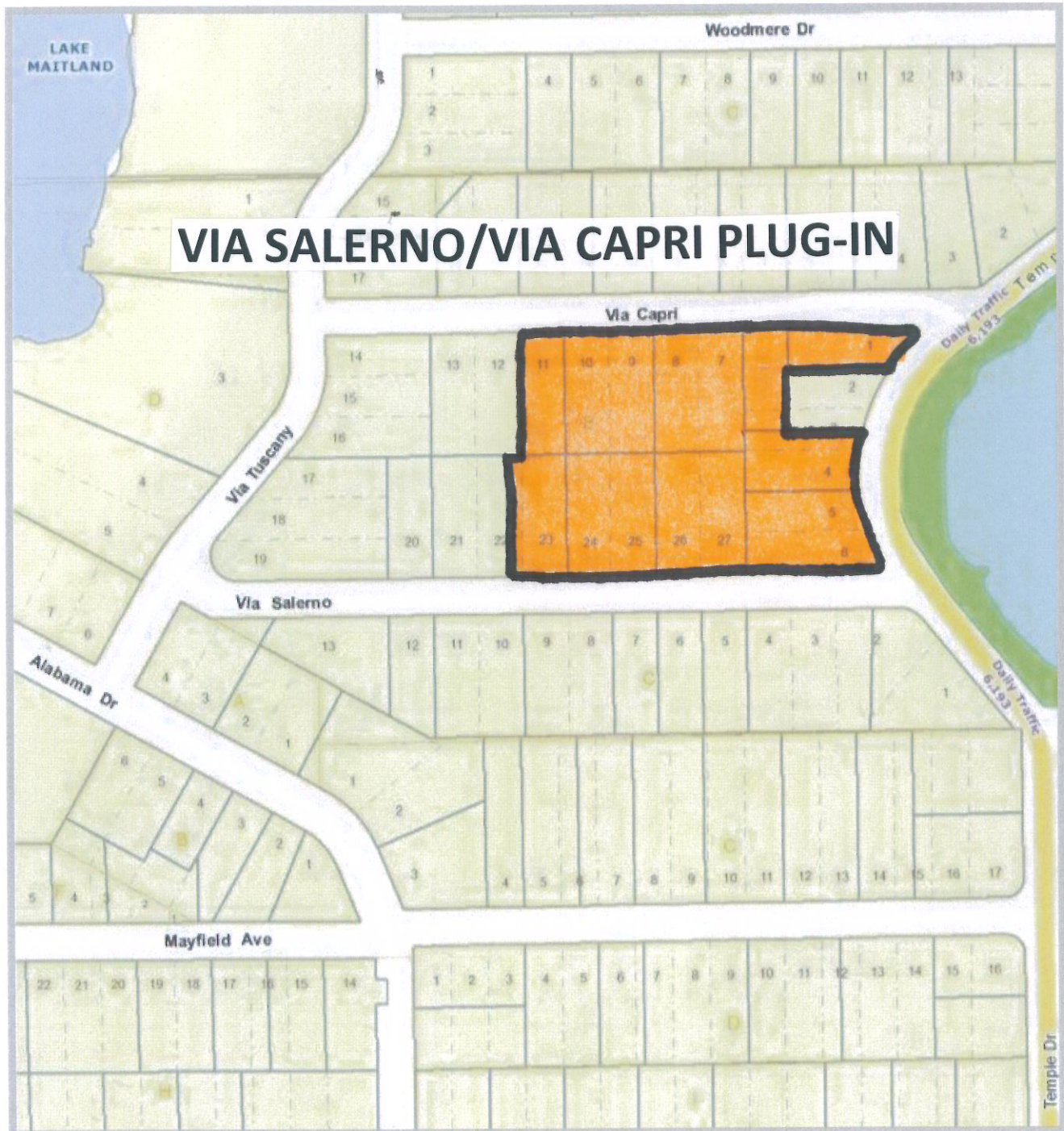
ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the 14th day of January 2013.

Kenneth W. Bradley, Mayor

Attest: _____
Cynthia S. Bonham, City Clerk



OCA Web MAP



Parcel ID: 302132453806010 (Rng-Twn-Sec format)

0 100 ft

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

Created on 1/25/2013, Copyright 2007. Orange County Property Appraiser.

Via Salerno-Via Capri PLUG-IN - EXHIBIT 'A'		MAILING ADDRESS	PARCEL
ADDRESS	OWNER		
1247 Via Salerno	Eric/Susan Rosoff		32-21-30-1416-02-050
1431 Temple Dr	David/Julie Oshins		32-21-30-1416-02-040
1250 Via Capri	Shelly Heistand	P.O. Box 819	32-21-30-1416-02-011
1231 Via Salerno	Scott/Carrie Callahan		32-21-30-1416-02-260
1215 Via Salerno	Sue Gross		32-21-30-1416-02-240
1181 Via Salerno	Bob/Inevett Hahn		32-21-30-1416-02-221
1210 Via Capri	Matthew/Sandra McKeever		32-21-30-1416-02-070
1176 Via Capri	David/Margaret McIntosh		32-21-30-1416-02-090
1152 Via Capri	Thomas/Marilyn Burke		32-21-30-1416-02-110
1234 Via Capri	Jeffrey/Gail Rosenker		32-21-30-1416-02-012

EXHIBIT 'A'

PLUG-IN Project: Via Salerno/Via Capri

	City of Winter Park <u>Electric</u>	Bright House Networks <u>Cable TV</u>	<u>Total</u>
Cost to Underground	\$37,772	\$4,181	\$41,953
Property Owner Share (%)	50.0%	95.0%	
Total amount to be funded by property owners (\$)	\$18,886	\$3,972	\$22,858
Total voting parcels (1)	10	10	10
Cost of undergrounding per parcel	\$1,888.00	\$397.00	\$2,285.00
Property Owner Payment Options			
Up-Front Assessment			
Applicable Discount	3%	0%	
Net Up-Front Assessment	\$1,831.00	\$397.00	\$2,228.00
Ten-Year Payment Plan			
Applicable interest rate	4.25%	3.25%	
Annual Assessment	\$236.00	\$47.00	\$283.00

Notes:

(1) There are 13 residential parcels participating in this PLUG-IN



city commission **public hearing**

item type	Public Hearing	meeting date	February 11, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	6-0 final vote

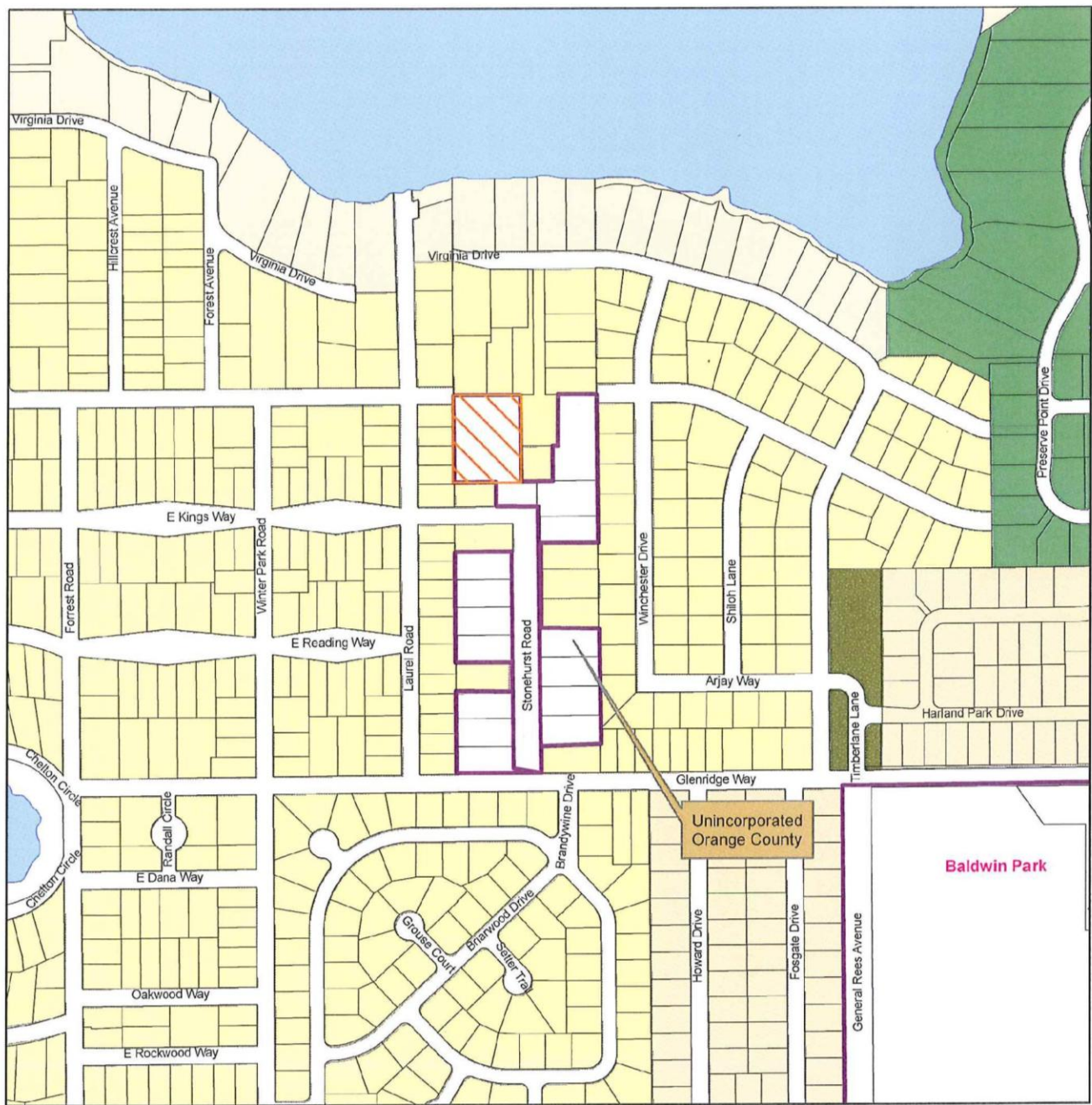
Subject: **Second Reading of the Ordinances to establish Single Family FLU and Zoning on the annexed property at 500 Lake Sue Avenue.**

P&Z Board Recommendation:

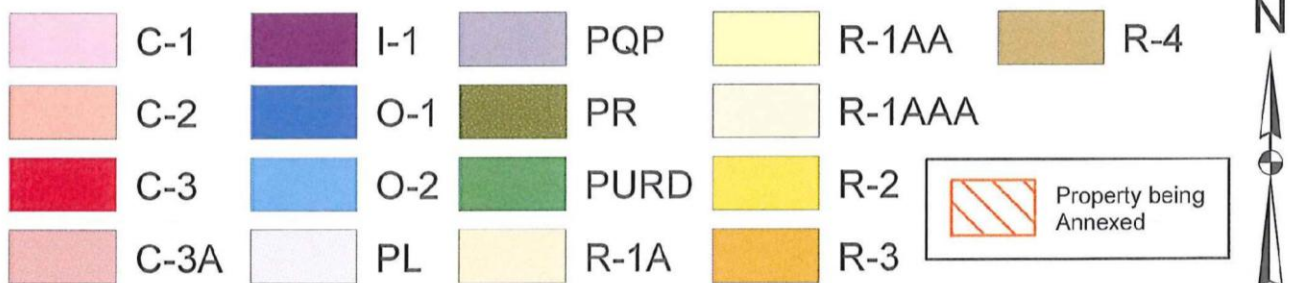
The Planning and Zoning Board voted unanimously (6-0) to approve these two ordinances.

Summary:

Mr. Jeff Faine is the recent purchaser of the vacant property at 500 E. Lake Sue Avenue. He has made a voluntary request for annexation and the City needs to establish a single family FLU designation on the Comprehensive Plan maps and single family (R-1AA) zoning on this property being annexed into the City. The property now has the same single family FLU and zoning in Orange County, so there is no change.



WP Zoning



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 SINGLE FAMILY RESIDENTIAL FUTURE LAND USE ON THE ANNEXED PROPERTY AT 500 EAST LAKE SUE AVENUE AND TO INDICATE THE ANNEXATION OF THIS PROPERTY ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the property 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 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, 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 Rule 9J-5, Florida Administrative Code 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 I, "Comprehensive Plan" future land use plan map is hereby amended so as to establish a Single Family Residential future land use designation on the annexed property at 500 Lake Sue Avenue and that all other maps in the Comprehensive Plan shall also be amended to reflect the addition and annexation of this property into the City of Winter Park, said property being more particularly described as follows:

500 East Lake Sue Avenue: PROPERTY TAX ID# 17-22-30-4788-00-007

Per the REPLAT OF PART OF LAKE VIRGINIA SHORES as recorded in Plat Book "Q", Page 53 of the Public Records of Orange County, Florida: BEGIN AT THE NW COR SEC 17 22 30 THEN RUN SOUTH 298 FT; THEN EAST 231 FT; THEN NORTH 298 FT; THEN WEST 231 FT TO POB.

SECTION 2. This ordinance shall become effective 31 days after adoption but shall not become effective if this Ordinance is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. In that case it 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 with 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 _____, 2013.

Mayor

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 SINGLE
FAMILY (R-1AA) ZONING ON THE ANNEXED PROPERTY
AT 500 LAKE SUE AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN.**

WHEREAS, the owner of the property 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, 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 Single Family (R-1AA) district zoning on the annexed property at 500 Lake Sue Avenue, more particularly described as follows:

500 East Lake Sue Avenue: PROPERTY TAX ID# 17-22-30-4788-00-007

Per the REPLAT OF PART OF LAKE VIRGINIA SHORES as recorded in Plat Book "Q", Page 53 of the Public Records of Orange County, Florida: BEGIN AT THE NW COR SEC 17 22 30 THEN RUN SOUTH 298 FT; THEN EAST 231 FT; THEN NORTH 298 FT; THEN WEST 231 FT TO POB.

SECTION 2. This ordinance shall become effective 31 days after adoption. If this Ordinance or the related companion Ordinance amending the Comprehensive Plan for this property is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption, it 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 with 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 _____, 2013.

Attest:

Mayor

City Clerk



CITY OF WINTER PARK Planning & Zoning Board

**Regular Meeting
City Hall, Commission Chambers**

**January 8, 2013
7:00 p.m.**

MINUTES

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

Approval of minutes – December 4, 2012

Motion made by Tom Sacha and seconded by Peter Gottfried, seconded by to approve the December 4, 2012, meeting minutes. Motion carried unanimously with a 6-0 vote.

REQUEST OF THE CITY OF WINTER PARK TO: AMEND THE "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH A SINGLE FAMILY RESIDENTIAL FUTURE LAND USE DESIGNATION TO THE ANNEXED PROPERTY AT 500 EAST LAKE SUE AVENUE.

REQUEST OF THE CITY OF WINTER PARK TO: AMEND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH SINGLE FAMILY (R-1AA) DISTRICT ZONING ON THE ANNEXED PROPERTY AT 500 EAST LAKE SUE AVENUE.

Planning Director Jeffrey Briggs presented the staff report and explained that Mr. Jeff Faine is the recent purchaser of the vacant property at 500 E. Lake Sue Avenue. He has made a voluntary request for annexation and thus the City needs to establish a single family FLU designation on the Comprehensive Plan maps and single family (R-1AA) zoning on this property being annexed into the City. The property now has the same single family FLU and zoning in Orange County so there is no change. He noted that this property is part of the "Stonehurst Drive" enclave so the City was pleased to annex one more property. The owners will soon start a new single family home on this vacant lot. Staff recommended approval. Mr. Briggs responded to Board member questions and concerns.

No one wished to speak in favor of or in opposition to the request. Public hearing closed.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to approve the request to establish the comprehensive plan future land use map designation of single family residential on the annexed property at 500 East Lake Sue Avenue. Motion carried unanimously with a 6-0 vote.

Motion made by Mr. Krecicki, seconded by Mr. Sacha to approve the request to establish R-1AA single family zoning on the annexed property at 500 East Lake Sue Avenue. Motion carried unanimously with a 6-0 vote.



city commission public hearing

item type	Public Hearing	meeting date	February 11, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

Subject: New text in Yellow: Second Reading of the "Zoning" Ordinance to Repeal the Supermajority needed for the adoption of Ordinances.

On January 28, 2013, the City Commission adopted at first reading, two ordinances to remedy the supermajority conflict with the City Charter. The Comprehensive Plan amendment ordinance must go to the State of Florida DOE for comment prior to second reading per Chapter 163, Florida Statutes. The Zoning ordinance can be adopted now on second reading.

The two ordinances adopted on first reading were prepared by the City Attorney's office and the Planning staff to:

1. Amend the Comprehensive Plan and Zoning Code to remove the code provisions where four votes or a supermajority are required for the adoption of an Ordinance, and to;
2. Amend the Land Development Code to remove the code provisions for Development Agreements adopted pursuant to Chapter 163, Florida Statutes.

Planning Board Recommendation:

The Planning and Zoning Board recommended approval (7-0) of both Ordinances:

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

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

Summary:

City Charter Conflict with the Supermajority Vote:

The City Attorney, Larry Brown, has prepared a legal opinion which is attached. In that opinion, Mr. Brown indicates that the City Charter sets forth that all Ordinances are adopted by the affirmative vote of a majority of the City Commission. As such, the code sections that require either four votes or a supermajority of the City Commission to adopt Ordinances are in conflict with the City Charter. As the City Charter supersedes and controls the procedure for the adoption of Ordinances, these two ordinances have been advertised to remedy and remove those conflicts.

The amendments repeal the following supermajority vote requirements;

1. Supermajority needed for an Ordinance to adopt Comp. Plan/Zoning changes if recommended for denial by P&Z and also for any Ordinance change to the text of the Future Land Use element. (Sec. 58-6 and Policy 1-1.1.5 and Sec. 58-89 (e).
2. Supermajority needed for an Ordinance to create or expand a CRA or CDD. (Policy 1-1.1.3 and Sec. 58-95).

It is important to point out that this conflict with City Charter only relates to the adoption of Ordinances. There are provisions of our Code that require a supermajority for the adoption of certain types of Conditional Uses or to waive time limits for re-applications. Those are not in conflict with the City Charter.

Repeal of the Chapter 163 Development Agreement Provisions:

In 1991 when the City adopted the Comprehensive Plan pursuant to Chapter 163, Florida Statutes, the City also adopted the provisions set forth in Chapter 163 for Development Agreements. These provisions are in the Article I, "Comprehensive Plan" section 58-7 of the Code. However, since 1991, the City has never adopted a Development Agreement pursuant to Chapter 163, Florida Statutes. One primary reason is that these Development Agreements expire after 10 years and the City typically desires the promises and commitments to have much longer terms.

Instead the City consistently utilizes the adopted provisions for Development Agreements set forth in the Article III, "Zoning" section of the Code, which are Sections 58-89(j) and 58-90(f). These Development Agreements have longer terms or run with title to the land and do not expire after 10 years.

Over the years these conflicting provisions have caused much confusion, as we just experienced with the 1997 YMCA Development Agreement. We wind up with conflicting legal opinions causing unnecessary confusion. The problem is compounded by the fact that when you search the City Code via Muni-Code (which is what everyone does) it immediately takes you to the Comp. Plan Section 58-7 provisions and not to the Zoning Code provisions. The only solution to this confusion is to repeal the Section 58-7 provisions that the City has not used in the past 22 years.



BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

Attorneys at Law

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P.O. Box 2873
Orlando, Florida 32802-2873
Phone (407) 425-9566
Fax (407) 425-9596

Usher L. Brown
Board Certified Civil Trial Law
Board Certified Education Law
ulbrown@orlandolaw.net

September 10, 2012

Randy Knight, City Manager
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email & regular U.S. Mail

Re: Legal Opinion Concerning Section 2.11 of the City Charter

Dear Randy:

This in response to your request for a legal opinion concerning whether or not provisions in the Municipal Code that require the vote of four members of the City Commission (i.e., a super majority) are in conflict with Section 2.11 of the City Charter. For the reasons stated hereinafter, I have concluded that there is a conflict between the Charter and such ordinances, and the provisions in the Charter should supercede and control the procedure for adoption of ordinances.



DISCUSSION

Section 2.11 of the City Charter provides in relevant part that "a proposed ordinance shall be adopted when it ... has received the affirmative vote of a majority of the City Commission physically present on at least two separate days at either regular or special meetings of the Commission." A majority of the Commission is three Commissioners. A quorum for a meeting exists when there are at least three members physically present at the meeting. Therefore, an ordinance may pass under the Charter on two votes that are physically present (assuming a quorum and only two affirmative votes of Commissioners are cast), or on the affirmative vote of three.

The Charter provision must be construed to lead to a reasonable result in accordance with the plain language used. The plain language of Section 2.11 of the Charter provides that if three Commissioners are physically present, then, assuming all

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other legal requirements are met, the ordinance may be adopted by a vote of a majority physically present.

There are several sections in the Municipal Code that require a super majority or four votes in order to adopt specific types of ordinances. I have previously provided you a memorandum that identifies a number of these sections that call for a vote of four Commissioners. An example is Section 58-89 concerning zoning changes. Subsection 58-89(f) contains a four vote requirement, and states in relevant part the following:

"In case of a recommendation of denial by the Planning & Zoning Commission, such amendment shall not become effective except by the favorable vote of four members of the City Commission. In cases when the Planning & Zoning Commission recommends approval of a zoning map amendment on a lesser portion of the property than originally requested or imposes conditions upon or limitations upon a recommendation for approval reducing the intensity or density of use of said property, it shall require the favorable vote of four members of the City Commission to adopt such zoning map amendment to a greater portion of the property or to increase the density or intensity of use of said property above that recommended by the Planning & Zoning Commission."

There are other examples in the Municipal Code, but the referenced section is illustrative of several provisions which require a super majority in order to enact an ordinance.

A municipal charter is "the paramount law of the municipality, just as the state constitution is the charter for the state." See, e.g., *City of Miami Beach v. Fleetwood Hotel Inc.*, 261 So.2d 801, 803 (Fla. 1972); *Clark v. North Bay Village*, 54 So.2d 240, 242 (Fla. 1951). It has been held that the charter acts as the local government's constitution, and therefore ordinances must be in accordance with the charter. *Hollywood, Inc. v. Broward County*, 431 So.2d 626, 609 (Fla. 4th DCA 1983), *rev. den'd.* 440 So.2d 352 (Fla. 1983).

There may not be a conflict between an ordinance and a charter provision. Attorney General Opinion (AGO) 2002-77 (November 12, 2002). In this Opinion, the Attorney General held that a "charter provision and the existing ordinance may coexist unless there is a conflict between the two provisions, in which case the charter provision would prevail." In AGO 2002-77, the issue was whether a citizen initiative that would amend the charter of the City of Northport to include a tree protection provision could be enacted given the fact that there was an existing city ordinance dealing with the same subject of tree protection. The Attorney General held that if the citizens of Northport approved the charter amendment to include a tree protection provision, then the charter provision and the existing ordinance could coexist "unless there is a conflict between the two provisions, in

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Page 3

which case the charter provision would prevail."

The Attorney General further held that an inconsistent or conflicting provision of a charter or a constitution "operates to amend, supersede, or modify" the inferior law. The inferior law is a statute in the case of conflict with the Constitution. And, the inferior law is an ordinance in the case of conflict with a charter. *Id.*

Another example of the application of this rule is found in the appellate decision *West Palm Beach Golf Commission v. Callaway*, 604 So.2d 880 (Fla. 4th DCA 1992). In this case the court held that certain ordinances empowering the local golf commission to hire and fire employees conflicted with a charter provision, and declared the ordinances in conflict with the charter were invalid.

The question then becomes whether or not ordinances of the City of Winter Park that require four votes or a super majority conflict with Charter Section 2.11. The Florida Supreme Court recently stated the test for determining whether a local law conflicts with a superior law. *Sarasota Alliance for Fair Elections, Inc. (SAFE) v. Browning*, 28 So.3d 880 (Fla. 2010). In this case, the Court invalidated certain proposed amendments to the charter of Sarasota County because those amendments to the charter conflicted with state statutes governing the procedures for conducting state and local elections.¹

The Supreme Court held that the test of whether or not "a local government enactment and state law [conflict] is whether one must violate one provision in order to comply with the other. Putting it another way, a conflict exists when two legislative enactments cannot coexist." *Id.*, at 888.

Therefore, if conduct satisfies the requirements of the superior law, yet violates the inferior law, then the inferior law is in conflict and should not stand. Specific examples from the *Sarasota County* case illustrate how this test is to be applied.

The proposed Sarasota charter amendments included a requirement that for each local election an independent auditing firm would be required to complete audits of the election results before the results could be certified. The Court held that this proposed amendment conflicted with state law, which provides that the Supervisor of Elections certifies election results, and because the independent auditing firm would not be subject to the administrative rules promulgated by the Division of Elections pursuant to Florida's Election Code. "Thus, two separate entities could be handling the ballots during the same time period and employing different methods in ascertaining the results to be certified if the

¹ The Court held the state statutes did not expressly preempt the Sarasota charter amendments, and further held that implied preemption is disfavored. However, certain of the charter amendments were found to conflict with state law.

SAFE amendment is put into operation." *Id.* at 890. If the Supervisor of Elections complied with state law in certifying the election results in Sarasota, she would be in violation of the local law. The superior and inferior laws therefore could not coexist.

Turning now to the Winter Park Charter provision, the plain language provides "that a proposed ordinance shall be adopted when it has ... received the affirmative vote of a majority of the City Commission physically present." This language imposes a mandate because it uses the word "shall" when it refers to the fact that Winter Park ordinances shall be adopted when approved by an affirmative vote of a majority physically present. A member of the Commission is entitled to have his or her legislative program enacted in accordance with the Charter, and where the Charter mandates that the legislative program is enacted upon an affirmative vote of a majority, an ordinance that requires a super majority is, in my opinion, in clear conflict with the Charter mandate. To use the term that the Supreme Court used in *SAFE v. Browning*, the ordinance and the charter provision cannot "coexist", because a mandatory right to enact on a simple majority is in conflict with a requirement in an ordinance calling for a super majority.

I am certainly aware that this opinion may be viewed as controversial by some. During my tenure I have become aware that there are citizens who may prefer the super majority requirement because they believe this makes it more difficult for development that they oppose to occur in the City. That is a political or policy argument, and I offer no opinion whether or not a super majority requirement is advantageous to the City. My role is limited to expressing a legal opinion concerning whether or not there is a conflict between ordinances requiring a super majority vote and the provision in Section 2.11 mandating enactment of an ordinance if it receives the affirmative vote of a majority. A superior law (i.e., the Charter) mandating a simple majority is in conflict with, and cannot coexist with, an inferior law (i.e., an ordinance) that requires a super majority. The Charter must prevail under Florida law.

This conflict may only be resolved if the citizens of Winter Park approve an amendment to the Charter that requires a super majority vote under such circumstances as set out in the amendment. Amendments to a municipal charter are accomplished pursuant to the procedures in Section 166.031, Florida Statutes. This statute provides that the governing body of a municipality may, by ordinance, or the electors of the municipality may, by petition signed by at least 10% of the registered electors, submit to the electors the question of the amendment at a referendum election. Absent such an amendment in the Charter authorizing a super majority vote, the conflict remains in my opinion.

Because the question is controversial, some may call for the City to request an Attorney General opinion. That is an option, although the Attorney General may decline to issue an opinion. On this question, refer to the Attorney General's website and link to the page entitled "Frequently Asked Questions About Attorney General Opinions". There you will see that opinions generally are not issued on questions requiring an interpretation only of local codes, ordinances or charters.

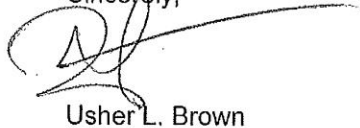
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The Attorney General does have discretion, however, to issue an opinion "notwithstanding any other provision of law". Section 16.01(3), Florida Statutes.

If an opinion from the Attorney General is requested by a majority of the City Commission or the City Manager, I will phrase the question to the best of my ability to implicate questions of state law in addition to local law, but I want to advise you of the possibility that under the statute the Attorney General may interpret the question as one strictly under local law, and then may exercise her discretion and refuse to issue an opinion. See, AGO 98-27, fn. 1 (March 31, 1998) ("You also asked about several provisions of the city charter. This office is authorized to render opinions regarding the interpretation of state law. See, Section 16.01(3), Florida Statutes. As discussed in this Office's Statement Concerning Attorney General Opinions, opinions are not issued on questions involving the interpretation of local charters, codes, or ordinances.")

Please contact me if you have any further questions regarding this.

Sincerely,

A handwritten signature in black ink, appearing to be "Usher L. Brown", written over a horizontal line.

Usher L. Brown

ULB:tla

G:\Docs\Cities\Winter Park\Legal Opinion Letters\2012 opinion - conflict between charter provision and ordinances calling for super majority vote\ltr.city manager re super majority vote and conflicts between charter provision & ordinances.wpd

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA; AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" BY REPEALING THE REQUIREMENT FOR A SUPERMAJORITY VOTE OF THE CITY COMMISSION TO ADOPT ORDINANCES; REPEALING SECTION 58-89(e) REGARDING REZONING ORDINANCES; AMENDING SECTION 58-95 REGARDING COMMUNITY REDEVELOPMENT AREA; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2.08(d) of the Charter of the City of Winter Park ("Charter") provides that a quorum of the City Commission shall exist when a majority of the Commissioners are present; and

WHEREAS, Section 2.01 of the Charter provides that the City Commission consists of five (5) members, and therefore, a majority of the City Commission consists of three (3) members; and

WHEREAS, Section 2.11 of the Charter provides that a proposed ordinance shall be adopted when it has received the affirmative vote of a majority of the City Commission physically present on at least two (2) separate days at either regular or special meetings of the Commission; and

WHEREAS, when only three (3) Commissioners are in attendance at a meeting of the City Commission, an ordinance may pass on two (2) votes of the Commissions that are physically present;

WHEREAS, the Charter must be construed to lead to a reasonable result in accordance with the plain language of its provisions; and

WHEREAS, certain provisions of the City Code of the City of Winter Park ("Code"), in their current form, require an affirmative vote of a supermajority of four (4) votes of the Commissioners in order to pass;

WHEREAS, a conflict therefore exists between those provisions of the Code requiring an affirmative vote of a supermajority of the Commissioners in order to pass an ordinance, and Section 2.11 of the Charter, which requires only a majority of the Commissioners physically present in order to pass an ordinance; and

WHEREAS, the municipal charter is the paramount law of the municipality;

and

WHEREAS, if a conflict exists between a municipal charter and an ordinance, the charter provision will prevail; and

WHEREAS, in order to remedy this conflict and achieve consistency between certain Code provisions and the City Charter, the City desires to amend certain sections of its Code to eliminate the supermajority requirement to pass an ordinance.

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

Section 1. Incorporation of Recitals as Legislative Findings. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Commission. The City Commission finds and determines that there is competent substantial evidence to support the findings and determinations made in this Section.

Section 2. Revisions to Chapter 58, Land Development Code. That Section 58-89(e) of Chapter 58 "Land Development Code" of the Code of Ordinances is hereby repealed in its entirety.

Section 3. Revisions to Chapter 58, Land Development Code. That Chapter 58 "Land Development Code", Section 58-95 of the Code of Ordinances is hereby amended by amending the definition of "Community redevelopment area" as follows (underlined type indicates additions, ~~strikeout type~~ indicates deletions, and * * * indicates omitted text):

Sec. 58-95. - Definitions.

* * *

Community redevelopment area (CRA) means an area designated by the City of Winter Park and Orange County as an area for residential and commercial redevelopment with goals for affordable housing, blight elimination, enhanced safety and corridor enhancement pursuant to adopted CRA plans. Per the policies of the comprehensive plan, prior to the creation of a new CRA or expansion of the existing CRA there shall be a public notice requirement to all households in the city to inform residents of the proposal, the need for such action and the plans or actions contemplated as a result, ~~and a supermajority (four votes) of the city commission is required for approval.~~

* * *

Section 4. 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 5. Codification. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

Section 6. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 7. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon its passage and adoption.

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 _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

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

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

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

1. Amend the Comprehensive Plan and Zoning Code to remove the code provisions where four votes or a supermajority are required for the adoption of an Ordinance, and
2. Amend the Land Development Code to remove the code provisions for Development Agreements adopted pursuant to Chapter 163, Florida Statutes.

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

The amendments repeal the following supermajority vote requirements;

1. Supermajority needed for an Ordinance to adopt Comp. Plan/Zoning changes if recommended for denial by P&Z and also for any Ordinance change to the text of the Future Land Use element. (Sec. 58-6 and Policy 1-1.1.5 and Sec. 58-89 (e).
2. Supermajority needed for an Ordinance to create or expand a CRA or CDD. (Policy 1-1.1.3 and Sec. 58-95).

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

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

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

He summarized by stating that the Planning and Zoning Board does not really have discretion with regards to the supermajority issue. The City Charter is the City's Constitution and all the other codes must conform to those Charter provisions. There is discretion as to the repeal of the Development Agreement section. But the recent history with the YMCA shows us that to have conflicting provisions for development agreements in the Code needs to be remedied.

No one wished to speak concerning the request. Public Hearing closed.

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

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



city commission public hearing

item type	Public Hearing	meeting date	February 11, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

Subject: Comp. Plan Amendment to establish a "Parking Lot" future land use category and adopt wall and landscape buffer standards.

This public hearing is a city staff generated request to amend the Comprehensive Plan to add a new Future Land use category for parking lots to correspond to the city's parking lot (PL) zoning district and to include the recently adopted parking lot buffering and screening standards with the parking lot (PL) zoning district.

Planning and Zoning Board Recommendation:

Motion made by Mr. Krecicki, seconded by Mr. Sacha to approve the request to add a new policy text and future land use category for parking lot use. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Krecicki, seconded by Mr. Sacha to approve the request to amend the parking lot district to provide design standards for parking lots in proximity to residential property. Motion carried unanimously with a 7-0 vote.

Summary:

The need for these ordinances arose in 2012 when the City was asked to rezone 1210 Dallas Avenue for expanded parking for the Regions Bank property. The City has a Parking Lot (PL) zoning district just for such occasions. The PL zoning only allows surface parking lots and the land cannot be used in the future for an office or commercial building, unless rezoned again. So this Parking Lot (PL) zoning district is just for that use as a surface parking. The problem is that the City does not have a corresponding Future Land Use (FLU) designation in the Comprehensive Plan. So in the case of 1210 Dallas Avenue, the City had to establish an 'office' future land use designation as the City could not permit the parking in the previous single family residential FLU designation.

The concern is that when the City grants office FLU which in effect says the land can be used for an office building the City is granting PL zoning which says that it can only be used for parking. These are in conflict. There needs to be a corresponding future land use designation for the Comprehensive Plan (just like we have for the Zoning Map) so that when neighbors are promised that the only future use will be as a parking lot, the City can enforce that promise.

Need for the Comp. Plan FLU Designation:

The need for this new FLU designation for parking lots was highlighted in the Urban Land Institute's Technical Assistance Panel program in June. The consensus and agreement is that for the north side of West Fairbanks to redevelop, the City will need to annex and rezone the residential properties directly behind. The ULI team confirmed that as part of their recommendations.

The draft West Fairbanks Design Standards outline how that would be done. The specific details on the buffer walls, landscaping, restrictions on access, etc. are detailed for such future parking lot expansions. The method to accomplish this will be a rezoning to the PL zoning district. By having the Parking Lot future land use designation, when the City promises those neighbors that the land across the street from their homes will only be used for a surface parking lot and not for commercial or office buildings then the Comp. Plan FLU category will support that use and limitation.

Need for the Parking Lot (PL) Zoning Ordinance:

The City has codified into the Landscape Code the landscape and buffer wall design standards which were patterned after the YMCA parking lot. The staff's experience is that citizens, developers and attorneys look at the Zoning Code. Landscape architects look at the landscape regulations. Even though it is redundant, the staff believes the City needs to repeat the screen wall and landscape buffering requirements already adopted by the City in the landscape regulations to be also included within the Parking Lot (PL) zoning district as well.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 58 "LAND DEVELOPMENT CODE"
ARTICLE I, "COMPREHENSIVE PLAN" IN THE FUTURE LAND USE
ELEMENT SO AS TO ADD NEW POLICY TEXT AND A NEW FUTURE LAND
USE CATEGORY RESTRICTED AND LIMITED TO PARKING LOT USE TO
CORRESPOND TO THE PARKING LOT (PL) ZONING DISTRICT, PROVIDING
FOR CODIFICATION, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.**

WHEREAS, the Winter Park City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09, and

WHEREAS, the City Commission desires an amendment to the Comprehensive Plan in order to provide clarification on the use of properties when limited to parking uses, and such amendment 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.

WHEREAS, the Winter Park Planning and Zoning Commission, 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 October 2, 2012, 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 proposed Comprehensive Plan amendment and held advertised public hearings at which the City Commission has 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. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan", is hereby amended to create a new Future Land Use category on the Future Land Use Map and that a new Policy 1-2.3.8 is hereby added to the Future Land Use Element on Page 1-7 of the Goals, Objectives and Policies to read as follows:

Policy 1-2.3.8: Parking Lots. This land use designation includes those lands designated for use as surface parking only to be used by adjacent commercial, office, institutional, or multi-family building(s) and as such the land is limited and restricted to such use as a surface parking lot only. This designation is intended to be used in proximity to residential properties in order to allow use of the land for surface parking lots but be limited and restricted to that use. As this designation does not permit buildings there is no applicable floor area ratio or residential density.

SECTION 2. 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 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance.

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 _____, 2013.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA
AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE",
ARTICLE III "ZONING" TO AMEND SECTION 58-80 PARKING
LOT (PL) DISTRICT SO AS TO PROVIDE DESIGN STANDARDS
FOR PARKING LOTS IN PROXIMITY TO RESIDENTIAL
PROPERTY; PROVIDING FOR CONFLICTS, SEVERABILITY
AND EFFECTIVE DATE.**

WHEREAS, the City Commission desires to provide further development standards for surface parking lots when located proximate to residential properties; and

WHEREAS, the zoning text amendment is consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the such parking use and such 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; and

WHEREAS, the City Staff recommends this Ordinance, and the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at their October 2, 2012 meeting; and

WHEREAS, the City Commission of the City of Winter Park held a duly noticed public hearing on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby 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.

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

SECTION 1. PL Text Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning", Section 58-80 "Parking Lot (PL) District, subsection (e) (6) is hereby amended to read as follows:

Sec. 58-80. Parking Lot (PL) District.

(a) *Purpose and intent.* This district is established to provide areas for public or private parking lots within a zoning district that limits the permitted use only to surface parking and does not otherwise permit any other residential or nonresidential structures or buildings. This parking lot district then may be used to commit land to only a use as a surface parking lot. This zoning district may be utilized in any comprehensive plan future land use designation in the event of future redevelopment. Above grade parking garages or decks are prohibited.

(b) *Permitted uses.* The following is the only permitted use:

(1) Surface parking lots including storm-water retention facilities but not parking garages or decks.

(c) *Development standards.*

(1) All parking lots shall meet the requirements of this article in terms of the design and construction, and other requirements as specified in the off-street parking and loading regulations and shall meet such other technical requirements as required by the city for traffic safety and visibility.

(2) For surface parking lots, development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(3) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(4) The development of parking lots or vehicle use areas on properties fronting on streets across from residential properties must be developed with a landscape and wall buffer so as to be in harmony with the existing residential properties. In order to accomplish this, the following mandatory design criteria for this landscape and wall buffer is required:

(a) A minimum ten (10') foot setback from the property line to such parking lot or vehicle use area must be provided from the street front property line across the street from the residential properties, and a five (5') high stucco masonry wall with a neutral color must be provided at this ten (10') foot setback with six (6') columns placed every twenty to thirty (20 - 30') feet along the length of the wall. Staggering the wall to provide articulation at setbacks greater than ten (10') is permitted.

(b) Within the required ten (10') foot setback, a landscape buffer shall be provided which shall consist of a minimum of seven gallon plantings spaced every (30) inches of podocarpus, viburnum or florida anise planting so as to create a continuous hedge buffer, along with a minimum of 65 gallon ligustrum, japanese blueberry or magnolia trees spaced every thirty (30) feet apart among the hedge plantings. In addition, the exterior landscape area shall have one gallon groundcover spaced 18 inches apart of either asian jasmine, ground mound lantana or yellow bulbine. As a substitute for the hedges the exterior face of the wall may be planted with wandering fig in order to

create a "green wall" within two years from the time of planting, with the hedging material planted simultaneously to provide a buffer until the vine has substantially covered the wall after which the hedging material may be removed. An in- ground irrigation system shall be provided in order to ensure that all planting materials will grow and thrive.

- (c) Solid waste containers, trash containers, storage enclosures or any other structures shall not be constructed or placed in locations that are substantially visible to the residential properties on the opposite side of the street.

(4) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

SECTION 2. 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 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall become immediately effective upon its passage and adoption.

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 _____, 2013.

Mayor

Attest:

City Clerk

WEST FAIRBANKS AREA DESIGN STANDARDS



Corner Treatment

Properties fronting on a street corner shall recognize this special opportunity to provide architectural interest and special treatment at the corner location. These properties have two public facades, which gives the chance for special architectural treatment and detailing that will have the highest impact and visibility, at the corner location.

Parking Arrangement and Access

Parking access to properties along Fairbanks Avenue should be from side streets if frontage is available on a side street. If side street frontage is not available or if conditions warrant, a driveway will be allowed from Fairbanks Avenue, providing the driveway and open space surrounding it is minimized. The intent is to maintain the building street wall without large voids for access driveways. The goal in this parking arrangement is to decrease the visibility of parking from the street as much as possible, by having parking behind the building.

Any future parking garages should also be constructed away from Fairbanks Avenue and be accessed from side streets whenever possible. They should also be designed in an architectural style that is compatible with its building counterpart.



Development Standards for the North Side of Fairbanks Avenue

Building To Be Situated Near the Front of Lot

It is required to have future buildings on the north side of Fairbanks Avenue constructed toward the Fairbanks Avenue frontage in order to have the visually appealing architecture of the building dominate the visual reception of the property rather than to have the parking along the frontage as the dominate visual function. As the building is situated near the front of the property, the necessary parking is then located behind the building or on the side where it is not as readily visible. In addition, all building areas and footprints must be located on the front ninety (90) feet of the property that is zoned commercial and may not extend to any part or portion of a property zoned (PL) which is exclusively for parking.

Parking for the Buildings on the North Side of Fairbanks Avenue

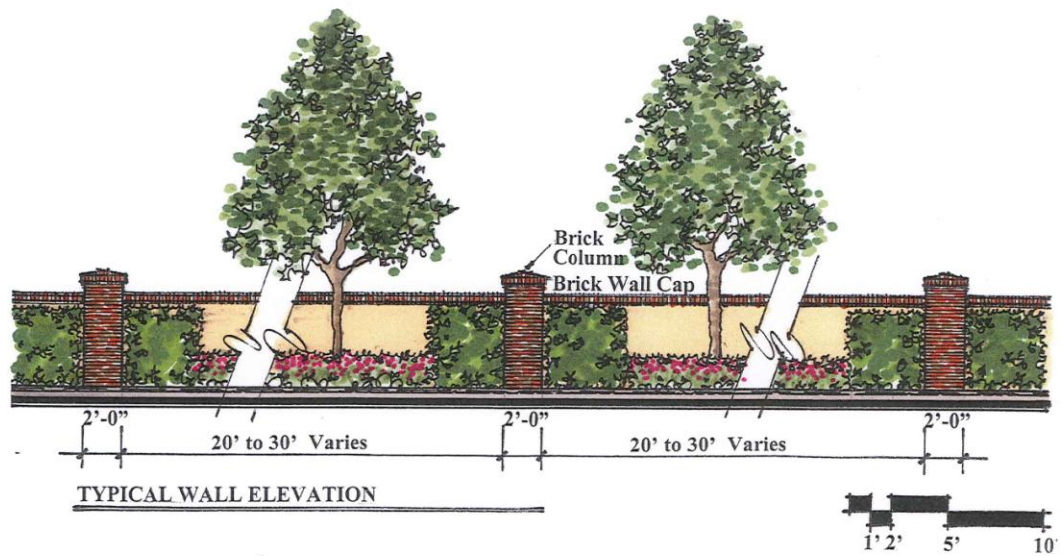
In order to encourage and facilitate redevelopment along the north side of Fairbanks Avenue, the most critical element to foster such redevelopment is to provide the opportunity for the expansion of parking in order to provide the economic incentive for such redevelopment. To that end, it is a policy of the City to encourage land use and zoning changes along the south side of Karolina Avenue and in other similarly situated locations to the city's Parking Lot (PL) zoning in order to accomplish these redevelopment goals.

Landscape and Wall Buffer Requirements for the Expanded Parking for Buildings on the North Side of Fairbanks Avenue

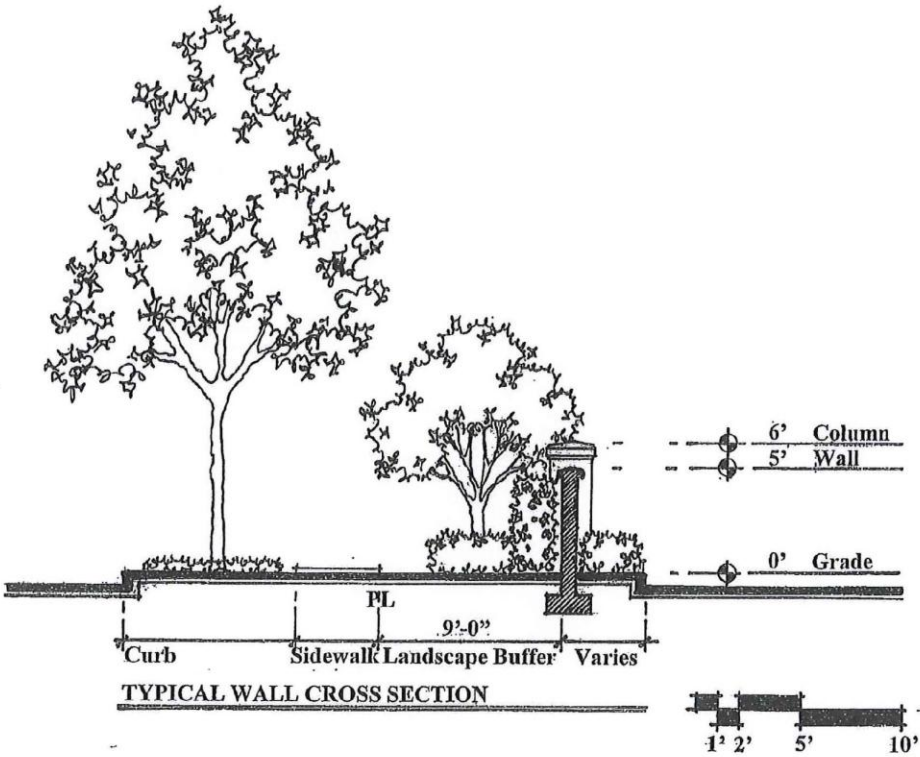
The use of properties fronting on Karolina Avenue or in similar situations abutting residential must be done in harmony with the existing adjacent residential properties or those located across and on the north side of Karolina Avenue. This is critical to the success of this redevelopment. To that end, the following mandatory design elements shall be adhered to as exists at the YMCA along Palmer Avenue and as shown in the accompanying picture:

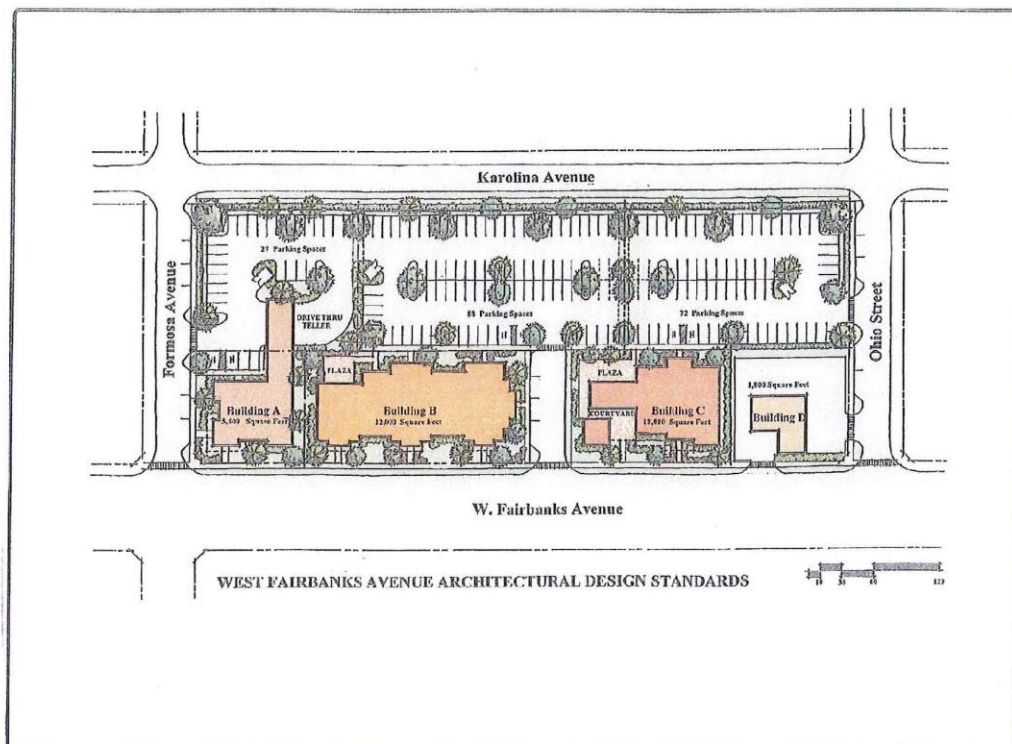
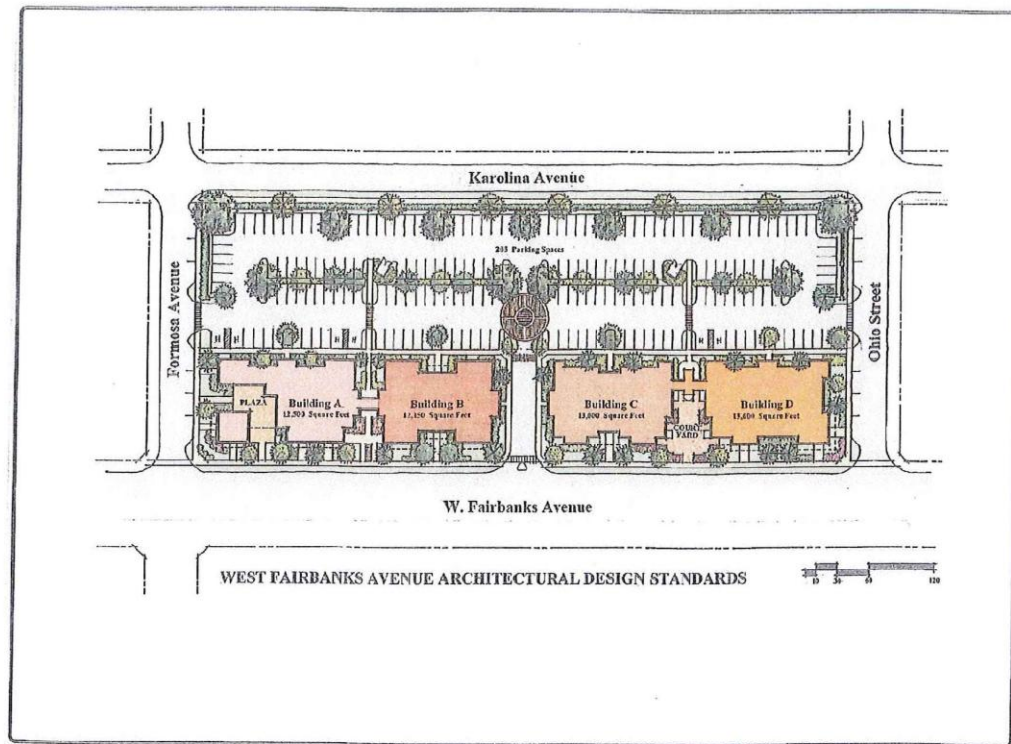
1. There shall be a consistent ten (10') foot setback from the north property line to such parking and all such parking shall be screened by an architecturally attractive stucco block wall of five (5') feet in height with additional one foot columns placed every twenty to thirty (20 - 30') feet.
2. On the exterior, north side of the stucco block screen wall there shall be an irrigated landscape buffer that shall consist of line of minimum of seven gallon podocarpus, viburnum or florida anise hedges spaced every thirty (30) inches apart that shall be interspersed with a minimum 65 gallon ligustrum, japanese bluberry or magnolia trees spaced every thirty (30) feet apart. In addition, the exterior landscape area shall have one gallon groundcover spaced 18 inches apart of either asian jasmine, ground mound lantana or yellow bulbine. As a substitute for the hedges the exterior face of the wall may be planted with wandering fig in order to create a "green wall" within two years from the time of planting.
3. There shall be no driveways or vehicular access permitted onto Karolina Avenue under any circumstances. There shall be no dumpsters, trash or storage enclosures or any other structures constructed or placed in locations that are visible to the residential properties on the opposite side of Karolina Avenue.
4. The vehicular access from such parking shall only be from Fairbanks Avenue or to any intervening side street. In order to encourage this shared access arrangement to and from the side streets, the City shall as a condition of approval of such land use changes, require an access easement for each property that would permit interior properties to travel via traffic aisles or alley, to and from the intervening side streets.





CROSS SECTION OF THE LANDSCAPE AND WALL BUFFER







Public Hearing

NOTICE OF COMPREHENSIVE PLAN AMENDMENT TO ESTABLISH A PARKING LOT FUTURE LAND USE DESIGNATION

NOTICE IS HEREBY GIVEN that the Winter Park City Commission will hold a Public Hearing on Monday, February 11, 2013 at 5:00 p.m., in City Hall Commission Chambers, located at 401 South Park Avenue in the City of Winter Park, Florida, to consider the adoption of a Comprehensive Plan amendment to establish a new Parking Lot Future Land Use designation to match the City's Parking Lot (PL) zoning district.

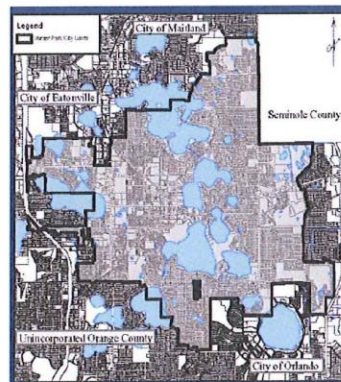
Copies of the proposed ordinance and Comprehensive Plan are available for inspection in the Planning Department in City Hall, Monday through Friday, from 8 a.m. to 5 p.m., as well as on the city's official web site at www.cityofwinterpark.org.

All interested parties are invited to attend and be heard with respect to the adoption of the proposed amendments. Additional information is available in the Planning Department so that citizens may acquaint themselves with each issue and receive answers to any questions they may have prior to the hearing.

Pursuant to the provisions of the Americans with Disabilities Act: any person requiring special accommodation to participate in this meeting, because of disability or physical impairment, should contact the Planning Department at 407-599-3324 at least 48 hours in advance of this hearing.

Pursuant to §286.0105 of the Florida Statutes: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings, and they need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

PUBLISH: February 3, 2013 ORLANDO SENTINEL





CITY OF WINTER PARK Planning & Zoning Board

Regular Meeting
City Hall, Commission Chambers

October 2, 2012
7:00 p.m.

MINUTES

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

PUBLIC HEARINGS:

REQUEST OF THE CITY OF WINTER PARK TO: AMEND THE COMPREHENSIVE PLAN" FUTURE LAND USE ELEMENT SO AS TO ADD NEW POLICY TEXT AND A NEW FUTURE LAND USE CATEGORY FOR PARKING LOT USE TO CORRESPOND TO THE PARKING LOT (PL) ZONING DISTRICT.

REQUEST OF THE CITY OF WINTER PARK TO: AMEND SECTION 58-80 PARKING LOT (PL) DISTRICT TO PROVIDE DESIGN STANDARDS FOR PARKING LOTS IN PROXIMITY TO RESIDENTIAL PROPERTY.

Planning Director Jeffrey Briggs presented the staff report and explained that the public hearing is a city staff generated request to amend the Comprehensive Plan to add a new Future Land use category for parking lots to correspond to the city's parking lot (PL) zoning district and to include the recently adopted parking lot buffering and screening standards with the parking lot (PL) zoning district. He explained that this issue arose earlier in the year when the City was asked to rezone 1210 Dallas Avenue for expanded parking for the Regions Bank property. The City has a Parking Lot (PL) zoning district just for such occasions. The PL zoning only allows surface parking lots and the land cannot be used in the future for an office or commercial building, unless rezoned again. So this Parking Lot (PL) zoning district is just for that use as a surface parking. The problem is that the City does not have a corresponding Future Land Use (FLU) designation in the Comprehensive Plan. So in the case of 1210 Dallas Avenue, the City had to establish an 'office' future land use designation as the City could not permit the parking in the previous single family residential FLU designation.

The concern is that when the City grants office FLU which in effect says the land can be used for an office building the City is only granting PL zoning which says that it can only be used for parking. These are in conflict. There needs to be a corresponding future land use designation for the Comprehensive Plan (just like we have for the Zoning Map) so that when neighbors are promised that the only future use will be as a parking lot, the City can enforce that promise.

The need for this new FLU designation for parking lots was highlighted in the Urban Land Institute's Technical Assistance Panel program in June. The consensus and agreement is that for the north side of West Fairbanks to redevelop, the City will need to annex and rezone the residential properties directly behind. The ULI team confirmed that as part of their recommendations. He explained that the draft of the West Fairbanks Design Standards outline how that would be done. The specific details on the buffer walls, landscaping, Planning & Zoning Board

restrictions on access, etc. are detailed for such future parking lot expansions. The method to accomplish this will be a rezoning to the PL zoning district. By having the Parking Lot future land use designation, when the City promises those neighbors that the land across the street from their homes will only be used for a surface parking lot and not for commercial or office buildings then the Comp. Plan FLU category will support that use and limitation.

He summarized by stating that the City has codified into the Landscape Code the same landscape and buffer wall design standards which were patterned after the YMCA parking lot. The staff's experience is that citizens, developers and attorneys first look at the Zoning Code, thus duplication is helpful. Landscape architects look at the landscape regulations. Even though it is redundant, the staff believes the City needs to repeat the screen wall and landscape buffering requirements already adopted by the City in the landscape regulations to be also included within the Parking Lot (PL) zoning district as well. Staff recommended approval. Mr. Briggs responded to Board member questions and concerns.

No one wished to speak concerning this request. Public Hearing closed.

Motion made by Mr. Krecicki, seconded by Mr. Sacha to approve the request to add a new policy text and future land use category for parking lot use. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Krecicki, seconded by Mr. Sacha to approve the request to amend the parking lot district to provide design standards for parking lots in proximity to residential property. Motion carried unanimously with a 7-0 vote.

There was no further business. Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Lisa M. Smith,
Recording Secretary

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" IN THE FUTURE LAND USE ELEMENT SO AS TO ADD NEW POLICY TEXT AND A NEW FUTURE LAND USE CATEGORY RESTRICTED AND LIMITED TO PARKING LOT USE TO CORRESPOND TO THE PARKING LOT (PL) ZONING DISTRICT, PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Winter Park City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09, and

WHEREAS, the City Commission desires an amendment to the Comprehensive Plan in order to provide clarification on the use of properties when limited to parking uses, and such amendment 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.

WHEREAS, the Winter Park Planning and Zoning Commission, 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 October 2, 2012, 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 proposed Comprehensive Plan amendment and held advertised public hearings at which the City Commission has 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. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan", is hereby amended to create a new Future Land Use category on the Future Land Use Map and that a new Policy 1-2.3.8 is hereby added to the Future Land Use Element on Page 1-7 of the Goals, Objectives and Policies to read as follows:

Policy 1-2.3.8: Parking Lots. This land use designation includes those lands designated for use as surface parking only to be used by adjacent commercial, office, institutional, or multi-family building(s) and as such the land is limited and restricted to such use as a surface parking lot only. This designation is intended to be used in proximity to residential properties in order to allow use of the land for surface parking lots but be limited and restricted to that use. As this designation does not permit buildings there is no applicable floor area ratio or residential density.

SECTION 2. 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 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance.

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 _____, 2013.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK,
FLORIDA AMENDING CHAPTER 58, "LAND
DEVELOPMENT CODE", ARTICLE III "ZONING" TO AMEND
SECTION 58-80 PARKING LOT (PL) DISTRICT SO AS TO
PROVIDE DESIGN STANDARDS FOR PARKING LOTS IN
PROXIMITY TO RESIDENTIAL PROPERTY; PROVIDING
FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.**

WHEREAS, the City Commission desires to provide further development standards for surface parking lots when located proximate to residential properties; and

WHEREAS, the zoning text amendment is consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the such parking use and such 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; and

WHEREAS, the City Staff recommends this Ordinance, and the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at their October 2, 2012 meeting; and

WHEREAS, the City Commission of the City of Winter Park held a duly noticed public hearing on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby 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.

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

SECTION 1. PL Text Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning", Section 58-80 "Parking Lot (PL) District, subsection (e) (6) is hereby amended to read as follows:

Sec. 58-80. Parking Lot (PL) District.

(a) *Purpose and intent.* This district is established to provide areas for public or private parking lots within a zoning district that limits the permitted use only to surface parking and does not otherwise permit any other residential or nonresidential structures or buildings. This parking lot district then may be used to commit land to only a use as a surface parking lot. This zoning district may be utilized in any comprehensive plan future land use designation in the event of future redevelopment. Above grade parking garages or decks are prohibited.

(b) *Permitted uses.* The following is the only permitted use:

(1) Surface parking lots including storm-water retention facilities but not parking garages or decks.

(c) *Development standards.*

(1) All parking lots shall meet the requirements of this article in terms of the design and construction, and other requirements as specified in the off-street parking and loading regulations and shall meet such other technical requirements as required by the city for traffic safety and visibility.

(2) For surface parking lots, development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(3) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(4) The development of parking lots or vehicle use areas on properties fronting on streets across from residential properties must be developed with a landscape and wall buffer so as to be in harmony with the existing residential properties. In order to accomplish this, the following mandatory design criteria for this landscape and wall buffer is required:

(a) A minimum ten (10') foot setback from the property line to such parking lot or vehicle use area must be provided from the street front property line across the street from the residential properties, and a five (5') high stucco masonry wall with a neutral color must be provided at this ten (10') foot setback with six (6') columns placed every twenty to thirty (20 - 30') feet along the length of the wall. Staggering the wall to provide articulation at setbacks greater than ten (10') is permitted.

(b) Within the required ten (10') foot setback, a landscape buffer shall be provided which shall consist of a minimum of seven gallon plantings spaced every (30) inches of podocarpus, viburnum or florida anise planting so as to create a continuous hedge buffer, along with a minimum of 65 gallon ligustrum, japanese blueberry or magnolia trees spaced every thirty (30) feet apart among the hedge plantings. In addition, the exterior landscape area shall have one gallon groundcover spaced 18 inches apart of either asian jasmine, ground

moundlantana or yellow bulbine. As a substitute for the hedges the exterior face of the wall may be planted with wandering fig in order to create a “green wall” within two years from the time of planting, with the hedging material planted simultaneously to provide a buffer until the vine has substantially covered the wall after which the hedging material may be removed. An in- ground irrigation system shall be provided in order to ensure that all planting materials will grow and thrive.

(c) Solid waste containers, trash containers, storage enclosures or any other structures shall not be constructed or placed in locations that are substantially visible to the residential properties on the opposite side of the street.

(4) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

SECTION 2. 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 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall become immediately effective upon its passage and adoption.

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 _____, 2013.

Mayor

Attest:

City Clerk