



city commission agenda

Regular Meeting Commission Chamber

April 22, 2013
3:30 p.m.

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 Senior Pastor Walter Jackson, First Baptist Church of Winter Park Pledge of Allegiance	
3	Approval of Agenda	
4	Mayor's Report a. First Baptist Church of Winter Park's 100 th Anniversary b. Employee of the Quarter - Sam Cruz, Wastewater Plant Operator c. Winter Park Historical Association Update d. Proclamation – North American Occupational Safety and Health Week	30 minutes
5	City Manager's Report	Projected Time 10 minutes
6	City Attorney's Report	Projected Time

7	Non-Action Items	Projected Time
	a. Financial Report – February 2013	10 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 4/8/13. b. Approve the following purchase, contract and formal solicitation: <ol style="list-style-type: none"> PR 152050 for undergrounding of electric (IFB-1-2008) with Heart Utilities of Jacksonville; \$62,164.19. Piggybacking the Florida Sheriff's Association contract 11-10-1202 for Fire Rescue vehicles and other fleet equipment with Braun Industries, Inc., blanket purchase order for the purchase, and authorize the Mayor to execute the Piggyback Contract. Award IFB-19-2013, Security, Access, and Monitoring at the Public Safety Complex, to Integrated Systems of Florida; \$48,000. c. Approve the membership of the Development Review Committee (DRC) for the Ravaudage project Planned Development (PD) to consist of the City Manager or Assistant City Manager and the department heads of Planning, Economic Development, Police, Fire, Public Works, Building, Water/Sewer Utilities, Electric Utilities and Parks and Recreation.	5 minutes
10	Action Items Requiring Discussion	Projected Time
	a. Surplus of Blake Yard property	30 minutes
11	Public Hearings	Projected Time
	a. <u>Request of Trustco Bank:</u> <ul style="list-style-type: none"> Conditional use approval: To add a drive-thru bank teller lane to the existing office building at 950 N. Orlando Avenue, zoned C-3. 	20 minutes
	b. <u>Request of the Jewett Orthopaedic Clinic on the properties at 930, 950 and 960 Minnesota Avenue:</u> <ul style="list-style-type: none"> Ordinance – Changing the future land use designations of Medium Density Residential to Parking Lot Future Land Use (1) Ordinance – Changing the Medium Density Multi-Family Residential (R-3) District zoning to Parking Lot (PL) District (1) 	20 minutes
	c. Resolution -Executing a Local Agency Program Agreement with Florida Department of Transportation for the design of the Brookshire Elementary School neighborhood sidewalks (Brechin Drive, Dunblane Drive, Kimbrace Place)	10 minutes
	d. Ordinance – 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	10 minutes

requirement of supermajority of votes for ordinances (2) **THIS HEARING MUST BE HELD AFTER 5:00 P.M.**

- e. **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 (2) **THIS HEARING MUST BE HELD AFTER 5:00 P.M.**

10 minutes

12 City Commission Reports

Projected Time

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

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 April 22, 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
Lee Road Median Update	Investigating Palm Tree option with FDOT	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. PEF has draft engineering agreement.</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 complete.• Jackson lift station is largely complete.• Gravity sewer is complete.• Streetlight conduit and pole foundations being installed.• Decorative lights have been ordered.• Mast arm foundations and poles being installed.• Contractor working on installing laterals. Work will begin at I-4 and progress to the East.
Tree Team Updates	Individual educational sessions based on tree inventory study are currently being scheduled with City Commission.	May 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.	Installation of Phase 2 scheduled for month of May.
ULI Fairbanks Avenue TAP	Staff is working on the vision session.	May 2013
Post Office Discussions	Work session with Congressman Mica held on April 15, 2013. Staff to develop a plan based on information revealed at meeting.	

Organizational Support	Will be discussed along with preliminary FY14 budget	May/June 2013
Utility Billing/Recurring credit cards	Staff is coordinating efforts between the new bill payment and presentment program and the City's cash receipting and utility billing application.	May 2013
Amtrak/SunRail Station	Site clearing and underground utilities construction underway.	April 2013
Quiet Zones	FDOT consultant reviewing concept plans.	April 2013
Wholesale Power Supply	Ongoing negotiations with multiple suppliers.	May/June 2013
Territory Negotiations	Ongoing discussions with Progress Energy/Duke	May/June 2013
New Hope Baptist Church Project	Barrier maintained and electrical inspection conducted for interior restroom. Designer has addressed re-location of one of the accessibility ramps for better access. Awaiting installation of skirting around buildings. Storm water and landscape plan approved.	
Downtown Parking Study	Draft has been received and is being reviewed. Additional information has been requested of consultant. Anticipate bringing back to Commission in June.	June 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.

Financial Report

For the Month of February (42% of fiscal year lapsed) Fiscal Year 2013

General Fund

The General Fund budget was amended in March to reflect projected shortfalls in certain revenue sources. The attached financial report is for February and does not reflect the effect of the March adjustment. Analysis of General Fund revenues shows them to be on track in total with the March revised estimates. Staff will continue to monitor revenues and propose adjustments if necessary.

Community Redevelopment Agency Fund

The CRA was credited with tax increment revenue from both the City and County in December. The decrease in comparison to the prior year is due to the 2.05% decrease in valuation.

The large debt service expenditure and debt proceeds revenue are from the refunding of the 2003-1, 2003-2, 2005-1 and 2005-2 CRA revenue notes. This refunding is expected to result in annual savings of approximately \$60,000 without extending the maturity of the debt.

Water and Sewer Fund

Water sales in terms of thousands of gallons are very similar to the same level as last fiscal year.

Revenues in total are projected to be on track with budget. Sewer revenues will exceed the budget estimate and water revenues will be short of the annual estimate.

Projections for annual sales in both dollars and gallons take into consideration the seasonality of water usage trends.

Expenditures are projected to be within budget and net revenues are estimated to be 2.04 times debt service.

Electric Services Fund

Electric sales in kWh are projected to be 17M short of our original estimate. The total projection of 413,447,145 is very close to our final total for the previous fiscal year of 413,795,957.

The benefits of our favorable bulk purchase contracts are evident throughout this report. Our cost of purchasing electricity declined from \$0.0815/kWh in FY 2010 to \$0.0553 in FY 2012.

Both fuel revenues and fuel expenses show a decline as a result of lower natural gas prices. We endeavor to keep fuel costs at breakeven for our customers. In May 2009, the City Commission approved a policy providing for quarterly adjustments to fuel rates to keep them as close to costs as possible. This report shows those costs and revenues have been fairly consistent beginning with FY 2010. Fuel cost recovery rates were adjusted upward effective April 1, 2013 to keep pace with fuel costs.

Annualized sales in terms of both kWh and dollars take into consideration the seasonality of electric sales.

Bottom line for the five months ended February 28 is a positive \$1,754,543 and debt service coverage remains strong at 2.92. The auction rate security bonds outstanding figure of \$15,585,000 reflects the \$700,000 purchased by the City as approved by the City Commission in this past January.

Investment Report

This two page report summarizes the City's cash and investment holdings as of February 28. The overall portfolio has a blended rate of return of 1.46%. All investment holdings were within the parameters of the City's current Investment Policy as of February 28.

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
General Fund
Fiscal YTD February 28, 2013 and 2012
42% of the Fiscal Year Lapsed

	Fiscal YTD February 28, 2013						Fiscal YTD February 29, 2012			
	Actual		Budget				Actual	Budget		
	YTD	YTD %	Original Annual	Adjusted Annual *	Prorated Adj. Annual	Variance from Prorated Adj. Annual	YTD	Adjusted Annual	Prorated Adj. Annual	Variance from Prorated Adj. Annual
Revenues:										
Property Tax	\$ 11,388,753	193%	\$ 14,174,500	\$ 14,174,500	\$ 5,906,042	\$ 5,482,711	\$ 11,975,592	\$ 14,265,000	\$ 5,943,751	\$ 6,031,841
Franchise Fees	355,013	77%	1,103,800	1,103,800	459,917	(104,904)	296,361	1,132,500	471,875	(175,514)
Utility Taxes	2,095,110	71%	7,048,216	7,048,216	2,936,757	(841,647)	2,183,167	7,022,000	2,925,833	(742,666)
Occupational Licenses	451,080	229%	472,000	472,000	196,667	254,413	435,111	459,500	191,458	243,653
Building Permits	664,469	119%	1,340,500	1,340,500	558,542	105,927	557,305	1,249,050	520,438	36,867
Other Licenses & Permits	9,785	109%	21,500	21,500	8,958	827	7,275	21,000	8,750	(1,475)
Intergovernmental	1,223,133	48%	6,179,928	6,179,928	2,574,970	(1,351,837)	1,738,965	6,206,702	2,586,126	(847,161)
Charges for Services	1,948,925	93%	5,010,068	5,010,068	2,087,528	(138,603)	1,903,874	4,939,600	2,058,167	(154,293)
Fines and Forfeitures	540,828	101%	1,287,600	1,287,600	536,500	4,328	265,820	1,220,200	508,417	(242,597)
Miscellaneous	101,468	36%	683,381	683,381	284,742	(183,274)	199,629	556,457	231,857	(32,228)
Fund Balance	-	-	-	606,788	252,828	(252,828)	-	636,911	265,380	(265,380)
Total Revenues	18,778,564	119%	37,321,493	37,928,281	15,803,451	2,975,113	19,563,099	37,708,920	15,712,052	3,851,047
Expenditures:										
City Commission	10,280	102%	24,077	24,077	10,031	(249)	11,184	22,376	9,323	(1,861)
Legal Services - City Attorney	130,801	131%	240,236	240,236	100,098	(30,703)	118,349	240,236	100,098	(18,251)
Legal Services - Other	-	0%	60,000	60,000	25,000	25,000	48,122	110,000	45,833	(2,289)
Lobbyists	37,545	76%	118,000	118,000	49,167	11,622	22,524	116,000	48,333	25,809
City Management	196,266	94%	501,161	501,383	208,910	12,644	185,740	487,729	203,220	17,480
City Clerk	75,590	76%	237,843	238,145	99,227	23,637	73,142	239,071	99,613	26,471
Communications Dept.	161,999	84%	461,681	463,095	192,956	30,957	160,534	447,427	186,428	25,894
Information Technology Services	489,358	95%	1,212,642	1,241,789	517,412	28,054	648,314	1,353,592	563,997	(84,317)
Finance	334,402	97%	830,673	831,058	346,274	11,872	325,930	808,588	336,912	10,982
Human Resources	94,047	90%	249,430	250,789	104,495	10,448	113,196	357,576	148,990	35,794
Purchasing	55,840	60%	211,301	225,011	93,755	37,915	70,687	206,965	86,235	15,548
Planning & Community Development	210,254	63%	675,441	804,180	335,075	124,821	221,988	807,043	336,268	114,280
Building	399,410	97%	1,375,881	992,095	413,372	13,962	504,690	1,292,765	538,652	33,962
Public Works	2,768,751	95%	6,804,278	6,967,130	2,902,972	134,221	2,619,832	7,119,001	2,966,250	346,418
Police	4,689,811	88%	12,739,143	12,794,807	5,331,170	641,359	4,489,223	12,186,252	5,077,605	588,382
Fire	4,141,576	97%	9,858,414	10,224,777	4,260,323	118,747	3,738,769	9,345,829	3,894,095	155,326
Parks & Recreation	2,621,741	91%	6,576,086	6,880,503	2,866,876	245,135	2,492,168	6,586,218	2,744,258	252,090
Organizational Support	655,650	102%	1,536,560	1,536,560	640,233	(15,417)	687,172	1,550,212	645,922	(41,250)
Non-Departmental	-	-	224,000	150,000	62,500	62,500	-	397,500	165,625	165,625
Total Expenditures	17,073,321	92%	43,936,847	44,543,635	18,559,846	1,486,525	16,531,564	43,674,380	18,197,657	1,666,093
Revenues Over/(Under) Expenditures	1,705,243	-62%	(6,615,354)	(6,615,354)	(2,756,395)	4,461,638	3,031,535	(5,965,460)	(2,485,605)	5,517,140
Operating transfers in	3,454,114	96%	8,655,392	8,655,392	3,606,413	(152,299)	3,279,307	8,432,000	3,513,333	(234,026)
Operating transfers out	(850,016)	100%	(2,040,038)	(2,040,038)	(850,016)	-	(1,027,725)	(2,466,540)	(1,027,725)	-
Other Financing Sources/(Uses)	2,604,098	94%	6,615,354	6,615,354	2,756,397	(152,299)	2,251,582	5,965,460	2,485,608	(234,026)
Total Revenues Over Expenditures	\$ 4,309,341		\$ -	\$ -	\$ 2	\$ 4,309,339	\$ 5,283,117	\$ -	\$ 3	\$ 5,283,114

* As adjusted through February 28, 2013

The City of Winter Park, Florida
Monthly Financial Report - Budget vs. Actual
Community Redevelopment Fund
Fiscal YTD February 28, 2013 and 2012
42% of the Fiscal Year Lapsed

	Fiscal YTD February 28, 2013						Fiscal YTD February 28, 2012			
	Actual		Budget				Actual	Budget		
	YTD	YTD %	Original Annual	Adjusted Annual *	Prorated Adj. Annual	Variance from Prorated Adj. Annual	YTD	Adjusted Annual	Prorated Adj. Annual	Variance from Prorated Adj. Annual
Revenues:										
Property Tax	\$ 2,003,379	238%	\$ 2,024,000	\$ 2,024,000	\$ 843,333	\$ 1,160,046	\$ 2,090,102	2,107,423	\$ 878,093	\$ 1,212,009
Intergovernmental	-	0%	-	-	-	-	-	-	-	-
Charges for services	147,441	0%	175,940	175,940	73,308	74,133	132,365	162,000	67,500	64,865
Miscellaneous	38,177	362%	25,300	25,300	10,542	27,635	40,383	25,000	10,417	29,966
Fund Balance	-	0%	37,478	55,845	23,269	(23,269)	-	1,039,263	433,026	(433,026)
Total Revenues	2,188,997	230%	2,262,718	2,281,085	950,452	1,238,545	2,262,850	3,333,686	1,389,036	873,814
Expenditures:										
Planning and Development	463,896	152%	715,435	733,802	305,751	(158,145)	253,301	605,283	252,201	(1,100)
Capital Projects	-	0%	-	-	-	-	298,000	1,145,980	477,492	179,492
Debt service	7,043,812	1093%	1,547,283	1,547,283	644,701	(6,399,111)	1,223,913	1,550,823	646,176	(577,737)
Total Expenditures	7,507,708	790%	2,262,718	2,281,085	950,452	(6,557,256)	1,775,214	3,302,086	1,375,869	(399,345)
Revenues Over/(Under)										
Expenditures	(5,318,711)	100%	-	-	-	(5,318,711)	487,636	31,600	13,167	474,469
Debt proceeds	5,870,000	-	-	-	-	5,870,000	-	-	-	-
Operating transfers out	-	0%	-	-	-	-	(13,167)	(31,600)	(13,167)	-
Other Financing Sources/(Uses)	5,870,000	0%	-	-	-	5,870,000	(13,167)	(31,600)	(13,167)	-
Total Revenues Over/(Under)										
Expenditures	\$ 551,289		\$ -	\$ -	\$ -	\$ 551,289	\$ 474,469	-	\$ -	\$ 474,469

* As adjusted through February 28, 2013

WINTER PARK WATER AND WASTEWATER METRICS
February 28, 2013

	FY 2013				FY 2012	
	FY 2013 YTD	FY 2013 Annualized	FY 2013 Budget	Projected Variance from Budget	FY 2012 YTD	FY 2012 in Total
<u>Operating Performance:</u>						
Sales (in thousands of gallons)						
Water meters	1,146,460	2,834,214			1,180,565	2,897,330
Irrigation meters	305,533	755,321			309,211	761,590
Total	1,451,993	3,589,535			1,489,776	3,658,920
<hr/>						
Operating revenues: ¹						
Sewer - inside city limits	\$ 2,723,376	\$ 6,514,884	\$ 6,008,000	\$ 506,884	2,714,808	6,628,333
Sewer - outside city limits	3,014,256	7,163,030	6,595,000	568,030	3,018,324	7,337,342
Water - inside city limits	2,786,262	7,197,718	8,047,000	(849,282)	2,859,160	7,264,552
Water - outside city limits	2,187,998	5,418,883	5,558,000	(139,117)	1,991,460	4,890,304
Other operating revenues	570,349	1,711,047	1,197,000	514,047	549,131	1,396,248
Total operating revenues	11,282,241	28,005,562	27,405,000	600,562	11,132,883	27,516,779
Operating expenses:						
General and administration	609,220	1,462,128	1,681,263	219,135	580,709	1,716,877
Operations	4,370,127	10,488,305	12,221,999	1,733,694	4,505,354	11,322,930
Facility agreements	1,259,511	3,022,826	3,412,000	389,174	1,331,885	3,480,709
Total operating expenses	6,238,858	14,973,259	17,315,262	2,342,003	6,417,948	16,520,516
Operating income (loss)	5,043,383	13,032,303	10,089,738	2,942,565	4,714,935	10,996,263
Other sources (uses):						
Investment earnings	(6,662)	(15,989)	166,850	(182,839)	96,288	184,401
Miscellaneous revenue	5,842	14,021	-	14,021	1,050	7,253
Transfer to Renewal and Replacement Fund	(834,307)	(2,002,337)	(2,002,830)	493	(769,088)	(1,846,020)
Transfer to General Fund	(797,542)	(1,914,100)	(1,914,100)	0	(770,667)	(1,849,600)
Transfer to Capital Projects Fund	(29,583)	(71,000)	(71,000)	(0)	(27,707)	(66,496)
Debt service sinking fund deposits	(2,467,791)	(5,923,086)	(5,867,532)	(55,554)	(2,390,201)	(5,844,526)
Total other sources (uses)	(4,130,043)	(9,912,491)	(9,688,612)	(223,879)	(3,860,325)	(9,414,988)
Net increase (decrease) in funds	\$ 913,340	\$ 3,119,812	\$ 401,126	\$ 2,718,686	854,610	1,581,275
Debt service coverage	2.04	2.20				1.91

¹The City implemented adjustments to water (increasing) and wastewater (decreasing) effective December 1, 2012

WINTER PARK ELECTRIC UTILITY METRICS

February 28, 2013

	FY'13 YTD	FY'13 Annualized	FY'13 Budget	Variance from Budget	FY'12	FY'11	FY'10	FY'09	FY'08
<u>Technical Performance</u>									
Net Sales (kWh)	162,661,909	413,477,145	430,647,050	(17,169,905)	413,795,957	427,601,415	438,993,683	427,236,273	440,100,000
Average Revenue/kWh	0.1093	0.1093			0.1091	0.1212	0.1306	0.1251	0.1068
Wholesale Power Purchased (kWh)	153,819,000	413,825,666	446,266,000	(32,440,334)	434,514,000	451,951,216	456,911,847	442,159,788	449,100,000
Wholesale Power Cost/kWh	0.0615	0.0615			0.0553	0.0674	0.0815	0.0810	0.0794
Gross margin	0.0478	0.0478			0.0538	0.0538	0.0491	0.0441	0.0275
SAIDI (rolling 12 month sum)	58.13				72.73	64.44	80.04	80.04	63.14
MAIFI (rolling 12 month sum)	0.04				1.02	0.42	2.55	2.55	2.90
Billed vs. Sold kWh Ratio	105.75%	99.92%	96.50%		95.23%	94.61%	96.08%	96.62%	98.48%
<u>Income Statement</u>									
Electric Sales:									
Fuel	6,174,389	15,694,939	18,301,327	(2,606,388)	15,769,044	20,583,619	24,721,381	25,498,612	21,131,479
Non-Fuel	11,600,813	29,488,594	30,865,793	(1,377,199)	29,365,745	31,244,725	32,605,878	27,955,719	25,880,839
Other Operating Revenues	236,904	568,570	412,046	156,524	407,431	667,604	332,720	1,111,386	819,976
Total Operating Revenues	18,012,106	45,752,103	49,579,166	(3,827,063)	45,542,220	52,495,948	57,659,979	54,565,717	47,832,294
Operating Expenses:									
General and Administrative	444,740	1,067,376	1,158,022	90,646	981,451	1,047,988	1,085,915	1,122,148	982,754
Operating Expenses	2,283,960	5,481,504	6,158,183	676,679	4,939,316	5,136,207	4,880,216	5,055,849	6,139,857
Purchased Power									
Fuel	6,311,617	16,980,406	18,375,561	1,395,155	15,992,090	21,212,369	24,786,014	23,183,450	23,802,250
Non-Fuel	3,142,072	8,453,247	8,569,163	115,916	8,043,955	9,256,070	12,437,885	12,618,456	11,840,108
Transmission Power Cost	623,786	1,497,086	2,392,180	895,094	2,328,188	2,130,671	2,155,495	2,062,414	1,600,046
Total Operating Expenses	12,806,175	33,479,620	36,653,109	3,173,489	32,285,000	38,783,305	45,345,525	44,042,317	44,365,015
Operating Income (Loss)	5,205,931	12,272,483	12,926,057	(653,574)	13,257,220	13,712,643	12,314,454	10,523,400	3,467,279
Nonoperating Revenues (Expenses):									
Investment Earnings (net of interest paid on interfund borrowings)	(19,451)	(46,682)	(40,000)	(6,682)	57,244	33,506	(38,774)	172,488	(168,750)
Principal on Debt	(637,500)	(1,720,000)	(1,625,000)	(95,000)	(1,620,000)	(1,430,000)			
Interest on Debt	(1,137,960)	(2,731,104)	(3,256,978)	525,874	(2,579,881)	(2,990,613)	(2,303,537)	(2,823,689)	(3,614,713)
Miscellaneous Revenue	170,396	408,950	-	408,950	126,183	1,337,683	34,307	35,038	49,364
Proceeds from Sale of Assets	1,787	4,289	-	4,289	2,655	(22,089)	57,992	4,011	3,560
Capital Spending from Sources other than Bond Proceeds	(1,146,444)	(2,751,466)	(4,940,000)		(2,109,061)	(1,621,474)	(1,245,371)	(1,921,374)	(2,641,642)
Grant Reimbursements for Undergrounding	-	-	-	-	-	-	892,849		
Contributions in Aid of Construction	275,880	662,112	-	662,112	389,419	477,746	212,897		
Capital Contributions for Plug-In Program	38,563	92,551	-	92,551	102,343	59,593	171,940	1,679	15,893
Total Nonoperating Revenues (Expenses)	(2,454,729)	(6,081,350)	(9,861,978)	1,592,094	(5,631,098)	(4,155,648)	(2,217,697)	(4,531,847)	(6,356,288)
Income (Loss) Before Operating Transfers	2,751,202	6,191,133	3,064,079	938,520	7,626,122	9,556,995	10,096,757	5,991,553	(2,889,009)
Operating Transfers In									
Operating Transfers Out	(996,659)	(2,533,449)	(2,923,200)	389,751	(2,537,830)	(2,869,777)	(3,220,605)	(2,931,710)	(2,633,592)
Total Operating Transfers	(996,659)	(2,533,449)	(2,923,200)	389,751	(2,537,830)	(2,869,777)	(3,220,605)	(2,931,710)	(2,633,592)
Net Income	1,754,543	3,657,684	140,879	1,328,271	5,088,292	6,687,218	6,876,152	3,059,843	(5,522,601)

WINTER PARK ELECTRIC UTILITY METRICS

February 28, 2013

	<u>FY'13</u>	<u>FY'13</u>	<u>FY'13</u>	<u>Variance</u>					
	<u>YTD</u>	<u>Annualized</u>	<u>Budget</u>	<u>from</u>	<u>FY'12</u>	<u>FY'11</u>	<u>FY'10</u>	<u>FY'09</u>	<u>FY'08</u>
				<u>Budget</u>					
<u>Technical Performance</u>									
<u>Other Financial Parameters</u>									
Debt Service Coverage	2.92				3.17	3.11	4.85	2.70	0.73
Fixed Rate Bonds Outstanding	58,510,000				59,915,000	61,235,000	57,120,000		
Auction Rate Bonds Outstanding	15,585,000				16,610,000	16,910,000	22,410,000		
Total Bonds Outstanding	74,095,000				76,525,000	78,145,000	79,530,000	80,010,000	70,760,000
Principal Repayment	2,230,000	2,230,000	1,720,000		1,620,000	1,430,000	480,000	625,000	3,920,000
Capital Spending from Bond Proceeds	82,575	82,575	-		1,802,511	514,366	2,209,465	6,305,626	6,509,127
Balance Owed on Advance from General Fund	-				-	405,494	2,241,006	2,743,554	2,856,026
Cash Balance (borrowed from pooled cash)	1,093,541				2,838,999	(2,589,592)	(8,096,129)	(10,106,320)	(11,118,569)

Notes

Fiscal Years run from October to September; FY'13 is 10/1/12 to 9/30/13

SAIDI is System Average Interruption Duration Index (12-month rolling sum)

MAIFI is Momentary Average Interruption Frequency Index (12-month rolling sum)

Cash and Investment Portfolio (excluding pension funds and bond proceeds)
28-Feb-13

Issuer	CUSIP	Purchase Date	Quantity	Estimated Price	Coupon Rate	Market Value	Maturity Date	Call Date (if applicable)	Moody's Rating	S & P Rating	Percentage of Total Cash and Investments	Percentage of Long-Term Investments
Short-term funds:												
Bank of America						2,232,421.24						
BankFirst						1,151,789.14						
Money Market Fund					0.01%	3,243,669.96						
State Board of Administration (SBA)					0.23%	18,942.52						
Total short-term funds						6,646,822.86					13.16%	
Long-term investments:												
US Treasury Note Investments (backed by full faith and credit of the United States Government):												
US TREASURY NOTES	912828SE1	02/07/13	\$ 1,000,000.00	100.000	0.25%	1,000,000.00	02/15/15					
US TREASURY NOTES	912828UG3	02/08/13	\$ 1,500,000.00	100.117	0.38%	1,501,755.00	01/15/16	07/15/13	AAA			
US TREASURY NOTES	912828UA6	02/07/13	\$ 1,000,000.00	99.625	0.63%	996,250.00	11/30/17	05/31/13	AAA			
Total US Treasury Note Investments						3,498,005.00					6.92%	7.97%
Government National Mortgage Investments (backed by full faith and credit of the United States Government):												
GNMA PASS THRU POOL 488237	36210CLS0	05/03/99	\$ 500,000.00	102.266	6.00%	10,631.27	05/15/14					
GNMA II ARM PASS THRU POOL 8258	36202KE76	05/04/99	\$ 490,000.00	103.266	1.75%	4,006.92	08/20/23	03/20/13				
GNMA PASS THRU POOL 372024	36204KG98	05/21/98	\$ 1,730,000.00	115.199	6.50%	86,534.72	01/15/24					
GNMA PASS THRU POOL AD1605	36180CYA1	02/01/13	\$ 1,000,000.00	102.406	2.00%	1,018,884.67	01/15/28	04/15/13				
GNMA II PASS THRU POOL 2562	36202CZ30	02/08/01	\$ 2,500,000.00	114.830	6.00%	75,626.77	03/20/28					
GNMA PASS THRU POOL 497581	36210NXJ3	02/11/99	\$ 500,000.00	114.768	6.00%	27,628.20	01/15/29					
GNMA II PASS THRU POOL 2795	36202DC82	02/08/01	\$ 2,000,000.00	114.480	6.50%	40,746.13	08/20/29					
GNMA II PASS THRU POOL 2997	36202DKJ9	01/31/01	\$ 1,717,305.00	114.480	6.50%	23,876.87	11/20/30					
GNMA 04-69 JC REMIC MULTICLASS CMO	38374H7B0	01/18/08	\$ 1,300,000.00	101.208	5.50%	269,053.70	02/20/32					
GNMA PASS THRU POOL 574674	36200WMX6	03/27/08	\$ 1,700,000.00	109.468	5.00%	302,439.05	04/15/34					
GNMA II PASS THRU POOL 3839	36202EHQ5	01/30/08	\$ 1,000,000.00	109.252	4.50%	270,927.50	04/20/36					
GNMA II PASS THRU POOL 4071	36202EQY8	01/18/08	\$ 1,000,000.00	109.018	5.00%	285,285.46	01/20/38					
GNMA 09-9 TA REMIC MULTICLASS CMO	38374TDH4	03/17/09	\$ 1,000,000.00	108.728	4.50%	387,891.42	08/20/38					
GNMA 10-31 AP REMIC MULTICLASS CMO	38376XL50	04/12/10	\$ 1,000,000.00	106.316	4.00%	798,034.31	08/20/38					
GNMA PASS THRU POOL 702875	36296V2G2	05/10/10	\$ 1,015,000.00	108.988	4.00%	1,028,706.64	07/15/39					
GNMA 13-28 DE REMIC MULTICLASS CMO	38378FWG1	02/08/13	\$ 1,000,000.00	100.000	1.75%	1,000,000.00	12/20/42					
Total Government National Mortgage Investments						5,630,273.63					11.14%	12.83%
Federal Instrumentalities (United States Government Agencies which are non-full faith and credit):												
Federal Farm Credit Investments:												
FEDERAL FARM CREDIT	31331JQ55	04/03/12	\$ 850,000.00	101.413	1.15%	862,010.50	10/06/14		AAA	AA+		
FEDERAL FARM CREDIT	3133EAGH5	03/01/12	\$ 1,000,000.00	100.017	1.25%	1,000,170.00	03/08/17		AAA	AA+		
FEDERAL FARM CREDIT	3133EAZ35	09/18/12	\$ 1,000,000.00	99.379	1.42%	993,790.00	12/24/18		AAA	AA+		
FEDERAL FARM CREDIT	3133EA3Z9	10/16/12	\$ 1,000,000.00	100.021	1.42%	1,000,210.00	07/10/19		AAA	AA+		
FEDERAL FARM CREDIT	3133EAMV7	04/18/12	\$ 1,000,000.00	100.087	1.20%	1,000,870.00	04/25/17		AAA	AA+		
FEDERAL FARM CREDIT	3133EA6F0	10/19/12	\$ 1,000,000.00	100.359	1.24%	1,003,590.00	10/25/18	04/25/13	AAA	AA+		
FEDERAL FARM CREDIT	31331KAU4	01/21/11	\$ 1,000,000.00	111.317	3.33%	1,113,170.00	01/28/19		AAA	AA+		
FEDERAL FARM CREDIT	3133EAD70	07/31/12	\$ 800,000.00	99.886	1.40%	799,088.00	08/01/19		AAA	AA+		
Total Federal Farm Credit Investments						7,772,898.50					15.38%	17.72%
Federal Home Loan Banks Investments:												
FEDERAL HOME LOAN BANK	313380BQ9	07/31/12	\$ 3,750,000.00	100.024	1.55%	3,750,900.00	08/15/19		AAA	AA+		
FEDERAL HOME LOAN BANK	313380Z83	10/10/12	\$ 1,000,000.00	100.031	1.49%	1,000,310.00	11/01/19	05/01/13	AAA	AA+		
FEDERAL HOME LOAN BANK	3133814M4	10/19/12	\$ 1,000,000.00	99.373	1.05%	993,730.00	04/29/20	04/29/13	AAA	AA+		

Cash and Investment Portfolio (excluding pension funds and bond proceeds)
28-Feb-13

Issuer	CUSIP	Purchase Date	Quantity	Estimated Price	Coupon Rate	Market Value	Maturity Date	Call Date (if applicable)	Moody's Rating	S & P Rating	Percentage of Total Cash and Investments	Percentage of Long-Term Investments
FEDERAL HOME LOAN BANK	313380C54	07/31/12	\$ 3,000,000.00	100.146	1.00%	3,004,380.00	08/14/20		AAA	AA+		
Total Federal Home Loan Banks Investments						8,749,320.00					17.32%	19.94%
Federal Home Loan Mortgage Investments:												
FEDERAL HOME LN MTG CORP	3134G3RV4	02/24/12	\$ 1,000,000.00	100.335	0.80%	1,003,350.00	09/21/15		AAA	AA+		
FEDERAL HOME LN MTG CORP	3134G3VB3	05/24/12	\$ 1,000,000.00	100.439	1.25%	1,004,390.00	11/30/17		AAA	AA+		
FEDERAL HOME LN MTG CORP	3134G3M56	09/12/12	\$ 1,000,000.00	100.199	1.15%	1,001,990.00	03/27/18	03/27/13	AAA	AA+		
FEDERAL HOME LN MTG CORP	3134G3QR4	02/15/12	\$ 2,000,000.00	101.134	2.00%	2,022,680.00	03/05/20		AAA	AA+		
FEDERAL HOME LN MTG CORP	3134G3K58	09/13/12	\$ 1,000,000.00	99.697	1.50%	996,970.00	03/19/20	03/19/13	AAA	AA+		
FHLMC GOLD PASS THRU POOL J01091	3128PCF80	01/17/06	\$ 1,000,000.00	108.313	5.00%	187,125.49	02/01/21					
FHLMC GOLD PASS THRU POOL C91020	3128P7DZ3	03/21/07	\$ 1,000,000.00	109.070	5.50%	174,659.35	03/01/27					
Total Federal Home Loan Mortgage Investments						6,391,164.84					12.65%	14.57%
Federal National Mortgage Association Investments:												
FEDERAL NATL MTG ASSN	3136G0CP4	04/30/12	\$ 2,000,000.00	100.021	0.75%	2,000,420.00	04/17/17		AAA	AA+		
FEDERAL NATL MTG ASSN	3136G16F1	12/11/12	\$ 1,000,000.00	99.629	1.00%	996,290.00	06/27/18	06/27/13	AAA	AA+		
FEDERAL NATL MTG ASSN	3136G0HK0	05/24/12	\$ 1,000,000.00	100.938	1.50%	1,009,380.00	11/30/18		AAA	AA+		
FEDERAL NATL MTG ASSN	3136G13U1	11/27/12	\$ 1,000,000.00	98.832	1.10%	988,320.00	12/18/18	06/18/13	AAA	AA+		
FEDERAL NATL MTG ASSN	3136G0VM0	07/31/12	\$ 1,000,000.00	100.116	1.00%	1,001,160.00	07/30/19		AAA	AA+		
FEDERAL NATL MTG ASSN	3135G0NK5	08/13/12	\$ 2,000,000.00	100.240	1.63%	2,004,800.00	08/28/19		AAA	AA+		
FEDERAL NATL MTG ASSN	3136G02B6	10/16/12	\$ 1,000,000.00	98.941	1.60%	989,410.00	10/30/20	04/30/13	AAA	AA+		
FEDERAL NATL MTG ASSN	3136G0YZ8	08/15/12	\$ 2,500,000.00	100.060	2.00%	2,501,500.00	12/14/20		AAA			
FNMA PASS THRU POOL 255994	31371MKF3	03/12/07	\$ 1,605,000.00	110.095	5.50%	343,673.16	11/01/25					
Total Federal National Mortgage Association Investments:						11,834,953.16					23.42%	26.97%
Total Federal Instrumentalities (United States Government Agencies which are non-full faith and credit):						34,748,336.50					68.78%	79.20%
Total Long-Term Investments						43,876,615.13						
Total Short-Term Funds and Long-Term Investments						50,523,437.99						
Blended Portfolio Rate of Return						1.46%						
Average Call/Maturity (in years)						5.60						

REGULAR MEETING OF THE CITY COMMISSION
April 8, 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 Finance Director Wes Hamil, 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 McMacken to approve the agenda; seconded by Commissioner Sprinkel and approved by acclamation with a 5-0 vote.

Mayor's Report

a. Presentation – Best of Show 54th Annual Sidewalk Art Festival

Jean Sprimont, Winter Park Sidewalk Art Festival, presented the City with the original framed artwork titled "Middle America" by artist Matthew Cornell.

b. Presentation – Healthy Central Florida Executive Summary, Jill Hamilton Buss

Jill Hamilton Buss, Executive Director of Healthy Central Florida, distributed an executive summary report dated March 2013. She provided a PowerPoint presentation which outlined the health study results/recommendations including a baseline study on health, sample characteristics, obesity trends among U.S. adults and BMI (body mass index) categories. Ms. Hamilton Buss answered questions.

c. Proclamation – Business Recognition Award recipient Winter Park Playhouse

Economic Development Director Dori Stone presented Heather Alexander and Roy Alan of the Winter Park Playhouse with the First Quarter 2013 Business Recognition Award as recommended by the Economic Development Advisory Board.

Miscellaneous:

Mayor Bradley mentioned that last week MetroPlan Orlando presented a video titled "I-4 Ultimate Project". He requested that this be posted on the City's website and distribute it the Commission.

City Manager's Report:

City Manager Knight announced the following:

- April 15, 9:00 a.m. - Work Session with Congressman Mica regarding the post office property
- April 20, Dinner on the Avenue event

Mayor Bradley said he was disappointed that the City was not notified in advance regarding the recent closing of the Winter Park Tag Agency office on Lee Road. The consensus was to have City Manager Knight submit an official letter to Mr. Randolph with the Orange County Tax Collector's office inquiring as to why we were not notified and to share our disappointment.

City Attorney's Report

Attorney Brown advised that the Plaintiff in the Bell litigation case filed an appeal this week. He will keep the Commission fully informed as it progresses.

Mayor Bradley recalled the code enforcement lien discussion that transpired at the last meeting. He requested City Manager Knight to implement a policy in which all code enforcement liens/fines that are 90 days out are documented in a report and submitted to the Commission for action. City Manager Knight acknowledged.

Non-Action Item – No items.

Consent Agenda

- a. Approve the minutes of 3/25/13.
- b. Approve the following purchase and contracts:
 1. PR 151864 for Don Reid Ford, Inc. for the purchase of three 2013 Ford F-150 trucks; \$62,754.
 2. Blanket purchase order to ENCO Utility Services for FY13 Professional Services (Operations and Maintenance) for Electric Utility; \$2,500,000.
 3. PR 151976 to Sternberg Lanterns for streetlights for Alford Inn; \$50,948. – **PULLED FOR DISCUSSION, SEE BELOW**
 4. Cady Way Pool Complex agreement with the Winter Park Family YMCA and authorize the Mayor to sign. – **PULLED FOR DISCUSSION, SEE BELOW**
 5. Contract renewal with Bellomo Herbert RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Parks & Recreation) and authorize the Mayor to execute Amendment 1.

6. Contract renewal with Le-Huu Partners for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Parks & Recreation) and authorize the Mayor to execute Amendment 1.
 7. Contract renewal with Environmental Research & Design, Inc. for RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Lake Management) and authorize the Mayor to execute Amendment 1.
 8. Piggybacking the County of Los Angeles/U.S. Communities contract MS-IS-1230234 with Graybar Electric Company for electric products and authorize the Mayor to execute the Piggyback Contract.
- c. Approve for execution the Memorandum of Agreement between the City of Winter Park and the Florida Department of Transportation for the Ultimate I-4 Project for City funding of and maintenance of aesthetic and lighting fixtures, subject to satisfying City Attorney comments of review. – **PULLED FOR DISCUSSION, SEE BELOW**

Motion made by Commissioner Leary to approve Consent Agenda items 'a', 'b.1-2' and 'b.5-8'; seconded by Commissioner Sprinkel and approved unanimously with a 5-0 vote.

Consent Agenda item 'b.3' - PR 151976 to Sternberg Lanterns for streetlights for Alford Inn; \$50,948

City Manager Knight addressed Commissioner Cooper's concerns by clarifying that the City will be reimbursed by Rollins College.

Motion made by Commissioner Cooper to approve Consent Agenda item 'b.3'; seconded by Commissioner McMacken and approved unanimously with a 5-0 vote.

Consent Agenda item 'b.4' - Cady Way Pool Complex agreement with the Winter Park Family YMCA and authorize the Mayor to sign.

Motion made by Commissioner Sprinkel to approve Consent Agenda item 'b.4' and that the inclusion of the swimming lessons for children be added to the agreement; seconded by Commissioner Cooper and approved unanimously with a 5-0 vote.

Consent Agenda item 'c' - Approve for execution the Memorandum of Agreement between the City of Winter Park and the Florida Department of Transportation for the Ultimate I-4 Project for City funding of and maintenance of aesthetic and lighting fixtures, subject to satisfying City Attorney comments of review.

Public Works Director Troy Attaway addressed Commissioner McMacken's inquiry regarding Fairbanks Avenue bridge maintenance and upkeep. He said the City will

be responsible for taking care of the aesthetics. He provided the estimated yearly maintenance cost fees. Following a brief discussion, the Commission directed staff to contact FDOT for a price quote to apply "City of Winter Park" on the Lee Road bridge. The request was acknowledged.

Motion made by Commissioner McMacken to approve Consent Agenda item 'c' and for staff to contact FDOT for a price quote to apply "City of Winter Park" on the Lee Road bridge; seconded by Mayor Bradley and approved unanimously with a 5-0 vote.

Action Items Requiring Discussion

- a. Appointment of Vice Mayor

Motion made by Mayor Bradley to appoint Commissioner Sprinkel as Vice Mayor; seconded by Commissioner McMacken and approved unanimously with a 5-0 vote.

- b. RFP-11-2013 Federal Lobbying Services

Motion made by Commissioner Cooper to support the recommendation of the Committee and staff (to continue with the existing lobbyist Alcalde & Fay). Motion failed for lack of a second.

Motion made by Commissioner Leary to approve the second place as recommended (BGR Government Affairs, LLC); seconded by Mayor Bradley for discussion. Commissioner Sprinkel commented on the selection process and said in the future we should have more than one commissioner participate in the selection/voting process. 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.**

Public Hearings:

- a. Request of the Sydgan Corporation:

ORDINANCE NO. 2914-13: 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 CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL AND INSTITUTIONAL TO OFFICE FUTURE LAND USE ON THE PROPERTIES AT 216, 226 AND 234 WEST LYMAN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

ORDINANCE NO. 2915-13: 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 AND PUBLIC, QUASI-PUBLIC (PQP) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTIES AT 216, 226 AND 234 WEST LYMAN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. Second Reading

Attorney Brown read both ordinances by title. Commissioners disclosed their ex-parte communications as it relates to the rezoning ordinance.

Motion made by Commissioner Leary to adopt the first ordinance (comprehensive plan); seconded by Commissioner McMacken. No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.**

Motion made by Commissioner Leary to adopt the second ordinance (zoning); 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 with a 5-0 vote.**

b. Ravaudage Community Development District (CDD)

ORDINANCE NO. 2916-13: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA GRANTING PETITION OF BENJAMIN PARTNERS, LTD.; ESTABLISHING AND NAMING THE RAVAUDAGE COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; DESCRIBING AND PROVIDING THE EXTERNAL BOUNDARIES, THE FUNCTIONS AND THE POWERS OF THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. Second Reading

Attorney Brown read the ordinance by title.

Mayor Bradley spoke about the need to establish free access to those properties that are either attached, beside or within the CDD boundaries but are excluded from the District.

Attorney Brown explained that the City is required to oversee the permitting of any construction in this area. He felt that the City would never allow the construction of a road system which would land lock or diminish access. He said that under Florida law you cannot deny someone reasonable ingress/egress from their property.

Attorney Brown mentioned that he recently received a revised Exhibit 7A to the Petition. He addressed speaking with Jan Carpenter, Attorney for the prospective District and said she is prepared to alleviate any concerns; and that the rough draft drawing may meet the requirements of Florida law but is in no way designed to be

an indication that the excluded parcels will be put in retention ponds or anything of that nature.

Jan Carpenter, Latham, Shuker, Eden & Beaudine Law Firm representing Benjamin Partners, Ltd., explained that the engineers revised the site plan. She submitted copies of the revised Exhibit 7A to the Deputy City Clerk for distribution. She explained that the previous site plan was merely a vision of what they would like to be developed there one day, if the landowners were cooperative or the property was sold. She noted that after speaking with attorney Ken Artin (Bryan Miller Olive Law Firm) and Attorney Brown, they added language at the bottom of revised Exhibit 7A which states *"The above depiction of potential public and private land use is not intended to have any legal significance. The above depiction does not affect, in any manner, the legal rights of owners of land located either within or outside of the boundaries of the district. The City of Winter Park has not reviewed this depiction in connection with any land use, planning or zoning discussions or determinations."* Ms. Carpenter said this added language makes it very clear that there are no approvals to anyone and no one is intended to be impacted by that.

Attorney Brown clarified that the revised Exhibit 7A will supersede the prior exhibit.

Ms. Carpenter submitted to the Deputy City Clerk a record a copy of the April 4, 2013 letter from the Orlando Sentinel containing the affidavit of publication, as the required publication for this public hearing.

Ms. Carpenter addressed the concern related to reasonable property access. She said the site plan is a vision of what could be public and private improvements in this area. If someone wanted to go through the vacation of any roads it would have to go through the City planning process whereby the City would make those decisions. She said if someone did not have access, the City would not approve it.

Attorney Brown said he agreed with Ms. Carpenter's general statement. Because of the sensitivity in the design issues, he is certain that the District would coordinate with City staff and that everyone would reach out to those excluded owners and try to get consensus on how it will ultimately be developed.

Mayor Bradley stated he understands putting the boundaries of the CDD on the site plan, but asked why we would put anything else. Attorney Brown said the Legislature requires some sort of estimated plan of what they would like to see developed. He explained that they are merely trying to comply with the statutory requirement and that the language that they have added to the bottom of the revised Exhibit 7A is sufficient to protect and to demonstrate that intent.

Stumpy Harris of the Harris, Harris, Bauerle, Sharma Law Firm, 1500 Bonnie Burn Circle, spoke on behalf of Doug and Ronda Loft, owners of one of the outparcels. He explained that he has been working with the City Attorney and they solved one of the issues he raised about imminent domain. He said obviously you cannot

contract away the right of imminent domain; that is vested with the City. He commented that they feel very comfortable with that and not having to deal with any kind of CDD Board of Governors on this remedy when it is used. He said there are still two items that remain. He urged the Commission to instruct the City Attorney to include language in the ordinance that would protect all (approximately 10) of the excluded parcels by stating that they would be granted as good or better access than they had before and that no vacating of a street shall be done and/or if a street will be vacated the address would remain.

Attorney Brown explained that Mr. Harris has not provided the precise language; however, he fully understands what is being requested. Mr. Harris said he has the utmost confidence that the City Attorney would articulate the suitable language to address the concerns raised with access and the vacation of a street.

Ms. Carpenter commented she does not think conceptually that anyone has issues with what the law is but had concerns with amending the ordinance and putting in obligations of the CDD which are land use related since the CDD has no ability to plan, design or build roads, nor vacate a road.

Attorney Brown suggested that the City draft a resolution with applicable language regarding access and limit it to the Ravaudage CDD to reassure the excluded parcel owners and their counsel. The resolution could also state that City staff is directed to ensure that when permitting road construction improvements that no excluded parcels access/ingress/egress would be diminished. Attorney Brown clarified that these roads will never be vacated unless it comes back to the Commission in the form of a public hearing for consideration.

Discussion transpired regarding the pros and cons associated with issuing a resolution versus amending the CDD ordinance.

Motion made by Commissioner Leary to adopt the ordinance (inclusive of the revised Exhibit 7A); seconded by Mayor Bradley.

Motion amended by Commissioner Sprinkel that our City Attorney and Mr. Harris have another conversation; if they feel that after that conversation that they need to bring something forward to the Commission that they do so at the next meeting; seconded by Commissioner Cooper for discussion.

It was noted that there may not be a sufficient amount of time for coordination since this is the second reading of the ordinance. Attorney Brown acknowledged the urgency and said he will meet with Mr. Harris and Ms. Carpenter and report back to the Commission. He also suggested that at the next meeting that the newly formed commission of board members of the CDD can enter into a simple agreement to address the issues raised. Following a brief discussion regarding the amendment, **Commissioner Sprinkel withdrew her motion to amend.**

Patrick Chapin, Winter Park Chamber of Commerce, shared his support of the CDD.

Motion amended by Commissioner Cooper that this CDD be approved with the condition that our Attorney and staff review the concern that's been expressed regarding access and that the ordinance be amended to address that specific concern with this CDD approval. Motion failed for lack of a second.

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

Mayor Bradley asked for legal guidance regarding providing a resolution or other document which states that the City wants to continue to provide access to the excluded parties. Attorney Brown said the resolution concept is one idea. He said he will meet with Mr. Harris and Ms. Carpenter before the next meeting and see if they can bring a resolution which addresses the concerns raised.

Motion made by Commissioner Sprinkel to request that the City Attorney along with the parties represented to mutually discuss this issue and bring a report back and/or an action back at the next meeting; seconded by Commissioner McMacken. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Sprinkel, Cooper and McMacken voted yes. Commissioner Leary voted no. The motion carried with a 4-1 vote.

Public Comment

Patrick Chapin, Winter Park Chamber of Commerce, announced that April is Child Prevention Month and that the blue pinwheels around town are to help raise awareness of child abuse in the community.

- c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 42-1, DEFINITIONS, AND 42-7, QUALIFICATION OF CANDIDATES AND CLERK'S CERTIFICATION, OF CHAPTER 42, ELECTIONS, TO ADD DEFINITIONS FOR "QUALIFICATION DEADLINE", "QUALIFICATION DOCUMENTS", AND "QUALIFICATION PERIOD", AND TO CLARIFY QUALIFICATION REQUIREMENTS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE. First Reading

Attorney Brown explained that this follows the recent lawsuit which challenged some of the provisions in the City's existing ordinance regarding election qualification. He said one of the issues in the lawsuit was whether or not the City Clerk could require that the qualification fees that are required by statute and City code must be paid from a campaign bank account check. According to the opinion letter received by the City from the Divisions of Elections dated March 18, 2013 the answer is yes.

Attorney Brown explained that after receiving the opinion letter he met with City Clerk Cindy Bonham and City Manager Knight to amend the ordinance and clarify the issues that were raised in the lawsuit. A brief summary was provided regarding the items amended; providing a more detailed definition for the qualification deadline, qualification documents, qualification period and to further clarify the qualification requirements.

Discussion ensued regarding the modified language on page 5 of the ordinance which states "The City Clerk has no duty to notify candidates of deficiencies in Qualification Documents that are filed less than two working days before the qualification deadline." Mayor Bradley questioned this modified language and the process and disagreed with this modification. Attorney Brown explained the reasoning was to tighten up the existing language. He stated that the existing ordinance states that the City Clerk will notify each candidate in writing not more than five working days and not less than two working days after the candidate has filed their papers. Following a brief discussion on whether or not this particular change should be made, Attorney Brown asked for direction.

Commissioner Cooper felt the definition of "Qualification Documents" should also be clarified in our Charter to ensure consistency.

Mayor Bradley suggested moving the qualification deadline date and making it earlier to allow potential applicants more time to submit their documents. Attorney Brown said the qualification deadline date under this proposed language is extended only if the first day of the qualification period falls on a legal holiday. A suggestion was made that if City Hall is closed due to a legal holiday that the qualification deadline calendar is adjusted by moving back the start date on the calendar. This will ensure that the applicant is given the appropriate number of days for qualifying and be in compliance with the law.

Motion made by Mayor Bradley to table this ordinance until two weeks from today by which the staff and City Attorney can take the discussion in general under account and see if the ordinance needs to be adjusted; seconded by Commissioner Leary. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 5-0 vote.

d. Adoption of the Fee Schedule effective May 1, 2013

City Manager Knight provided background. Questions were raised regarding the consistency in fees for appeals. Planning Director Jeff Briggs clarified that currently there is no fee required for a Historic Preservation Board appeal and that the City is trying to recover the costs for legal advertising and mailing of the notices by increasing the fee to \$100.00. A majority of the Commission recommended reducing the fee to \$35.00 so it is consistent with the Tree Board appeal fee.

Assistant Parks and Recreation Director Ronnie Moore addressed concerns related to the increase in fees for pool passes and Commissioner Cooper's question pertaining to companies doing business in our local parks/lakes and the associated licenses/fees that the City charges. A suggestion was made that a study be performed as to who is using our lakes/parks, what are they doing and are we getting a fair value for allowing them to use our parks/lakes. City Manager Knight agreed with the suggestion.

Motion made by Commissioner McMacken to approve the revisions to the fee schedule effective May 1, 2013 with one exception, that the fee for appealing the Historic Preservation Board decision is to be reduced to \$35.00 which is consistent with the Tree Board appeal; seconded by Commissioner Leary. No public comments were made. **Upon a roll call vote, Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 4-1 vote. (Mayor Bradley was absent for the vote.)**

City Commission Reports:

- a. Commissioner Leary – No items.
- b. Commissioner Sprinkel

Commissioner Sprinkel announced that tomorrow at 8:00 p.m. the Enzian Theatre will be showing a movie in Central Park; April 11 is the Winter Park Village Toast event; April 17 is Taste of Winter Park and April 20 is Dinner on the Avenue.

- c. Commissioner Cooper

Commissioner Cooper announced the Winter Park Women's Club Silver Tea Event is this Thursday at 2 p.m.; she and 2,500 others attended the Gamble Rogers Colloquium this past weekend; Heart and Soul collected four boxes of new underwear, sweatshirts and shoes for needy children and donations are still being accepted. She suggested that we consider incorporating an arts element into the Progress Point site with participation by the potential developer. In support of Healthy Central Florida, she asked if the City could put a collection box at City Hall for canned goods to help those who are fighting hunger in the local area. Commissioner McMacken reminded everyone who is attending Dinner on the Avenue event to bring their canned goods items for donation.

- d. Commissioner McMacken

Commissioner McMacken said he and his family went to Kraft Azalea Park this weekend to take family photographs and commended the Parks and Recreation Department for an outstanding job in keeping the park in tip top shape.

e. Mayor Bradley

Mayor Bradley spoke about a resident's email concerning parking issues on Park Avenue and asked for a status update on the City's parking plan. City Manager Knight advised that it will be forthcoming and an official date will be provided at the next meeting.

Mayor Bradley mentioned next Monday's work session regarding the post office. He suggested that they consider other uses for the building/site such as a library, art gallery, etc.

The meeting adjourned at 5:42 p.m.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham



city commission agenda item

item type	Consent Agenda	meeting date	April 22, 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	

Purchases over \$50,000

	vendor	item background	fiscal impact	motion recommendation
1.	Heart Utilities of Jacksonville	PR 152050 for Undergrounding of Electric (IFB-1-2008)	Total expenditure included in approved FY13 undergrounding budget. Amount: \$62,164.19	Commission approve PR 152050 to Heart Utilities of Jacksonville
The City utilized a formal solicitation process to approve this award. The City Commission approved the contract award with Heart Utilities of Jacksonville on January 14, 2008.				

Piggyback contracts

	vendor	item background	fiscal impact	motion recommendation
2.	Braun Industries, Inc.	Piggybacking the Florida Sheriff's Association contract 11-10-1202 for Fire Rescue Vehicles & Other Fleet Equipment	Total expenditure included in approved FY13 vehicle replacement fund. Amount not to exceed \$220,000	Commission approve piggybacking the Florida Sheriff's Association contract with Braun Industries, Inc., blanket purchase order for the purchase, and authorize the Mayor to execute the Piggyback Contract.
The Florida Sheriff's Association utilized a formal solicitation process to award this contract. The contract term expires December 31, 2013.				

Formal Solicitations

	vendor	item background	fiscal impact	motion recommendation
3.	Integrated Systems of Florida	IFB-19-2013 Security, Access, and Monitoring at Public Safety Complex	Total expenditure included in approved FY13 budget. Amount: \$48,000 per year	Commission approve award to Integrated Systems of Florida and authorize the Mayor to execute the Contract.
The City utilized a formal solicitation process to award this contract. Initial contract term will be for a period of three (3) years with a two (2) year renewal option, not to exceed five (5) years in total.				



city commission agenda item

item type	Consent Agenda	meeting date	April 22, 2013
prepared by department division	Jeff Briggs Planning Dept.	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	N/A	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	final vote

Subject: Approval of the Membership of the Development Review Committee (DRC)

The annexation agreement for Ravaudage provides that the City will administer the Planned Development (PD) based on the Orange County land development code regulations. One necessary step is the formal approval of the voting membership and general membership of the Development Review Committee (DRC).

The way the Orange County PD regulations work, is that with each phase of the development of the Ravaudage PD, the developer submits a 'development plan' or site plan to the DRC for approval. If the development plan is consistent with the PD code and all the conditions and waivers that are part of the original PD approval, then the DRC makes a finding of consistency and the developer moves on to building permits. The DRC may also make that finding of consistency subject to conditions. However, if the DRC makes a finding that the proposed development plan is not consistent or if the developer wants to make changes or disagrees with the findings or conditions of the DRC, then the matter goes directly to the City Commission for decision. (There is no P&Z recommendation)

Since the City is using the Orange County DRC as the model, the membership of the DRC and the voting members are as close to the same as in Orange County, as we could make it.

Staff Recommendation and Action:

Approval of the DRC general membership which includes the City Manager or Assistant City Manager and the department heads of Planning, Economic Development, Police, Fire, Public Works, Building, Water/Sewer Utilities, Electric Utilities and Parks.

Approval of the DRC voting membership which includes the City Manager or Assistant City Manager and the department heads of Planning, Economic Development, Public Works and Building.



city commission agenda item

item type	Action Items Requiring Discussion	meeting date	April 22, 2013
prepared by department division	City Manager	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	

subject

Discussion of potential disposal of Blake Yard Property (301 W. Comstock Ave).

motion | recommendation

Authorize staff to issue a Notice of Disposal of the 301 W. Comstock Avenue property commonly referred to as the Blake Yard Property.

Background

The Blake Yard Property is currently used as an electric lay down yard for electric distribution equipment/supplies awaiting installation.

On February 25, 2013 the Commission held a work session to discuss various city properties. With regard to the Blake Yard property there was no real consensus as to what should ultimately happen with it. Opinions varied from using it as parking, to leaving it as open space until we decide what to do with it, to putting it up for sale.

On March 27th the City received the attached email requesting the City consider swapping the Blake Yard Property for the properties located at 741 and 751 Minnesota Avenue. The email included the attached layouts of potential uses of the Minnesota properties. These potential uses are illustrative only and are not actual uses proposed by staff.

The Blake Yard Property is approximately 0.44 acres and is zoned PQP. Combined, the properties at 741 and 751 Minnesota Avenue are 0.71 acres and zoned R-2. The Minnesota properties are across the street from the City's Azalea Lane Tennis Center and playground. An appraisal has not been done for any of the three properties.

If the Commission is interested in this proposal or any other disposal scenario, the City will need to issue a notice of disposal for the Blake Yard Property and take proposals from interested parties. Doing so would not obligate the City to take this proposal or any of the proposals if the Commission is not satisfied with any of them.

fiscal impact

To be determined.

Randy Knight

From: W1454@aol.com
Sent: Wednesday, March 27, 2013 2:52 PM
To: Randy Knight
Cc: Jeffrey Briggs
Subject: Blake street yard and the portion of Lot 16, blk 50 exchange
Attachments: ellis1.pdf; ellis2.pdf; tax map 751 and 741 Minnesota combined boundry.pdf; 1.pdf

Hello Randy, Please see the attached sheets showing 741 and 751 Minnesota ave Winter Park, Fl. This land is directly across the street from the Azalea Lane Tennis courts. I would like to request the city of Winter Park swap the Minnesota Property for the Blake street yard and the portion of Lot 16, Blk 50 on Hannibal Sq east.

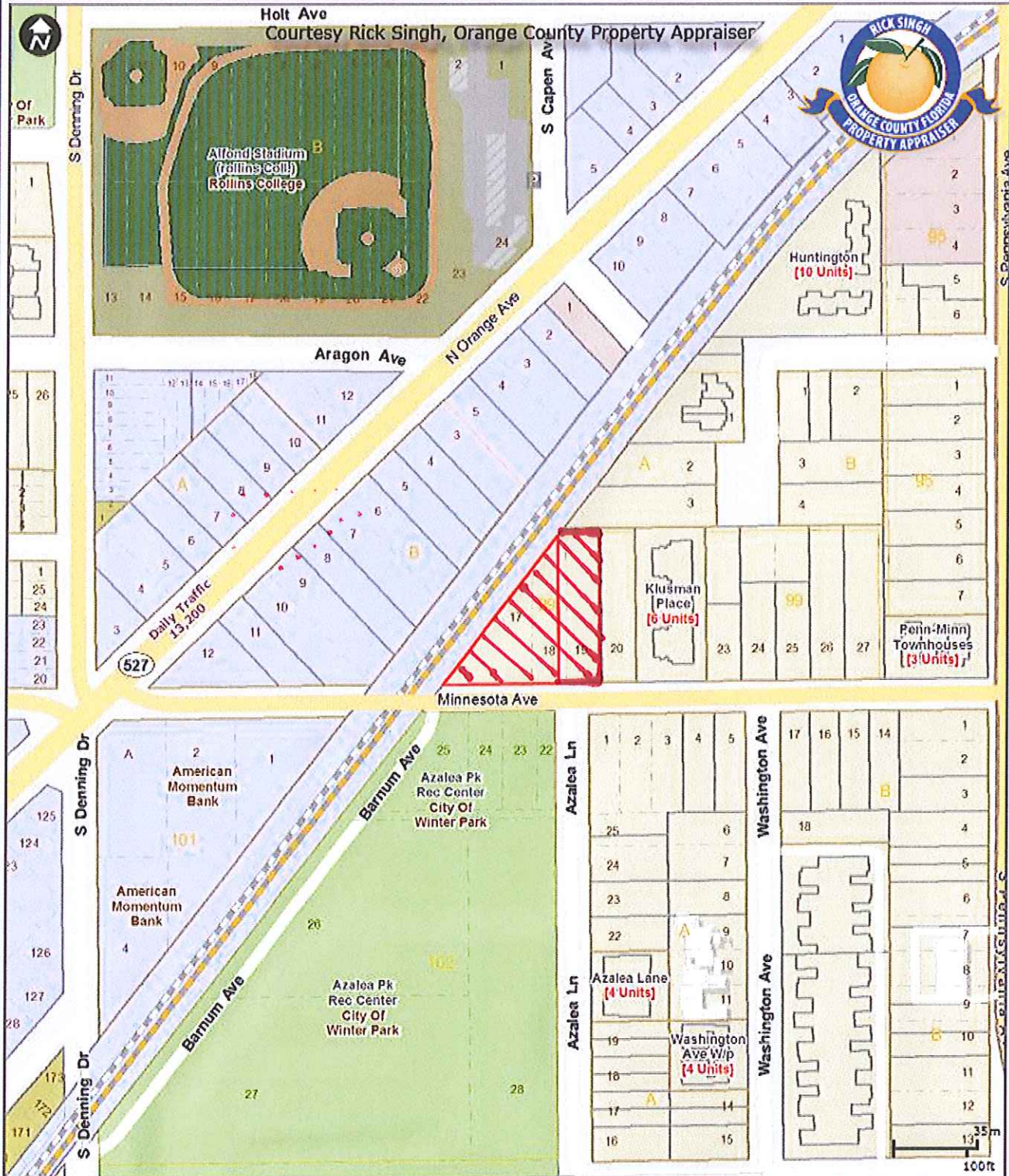
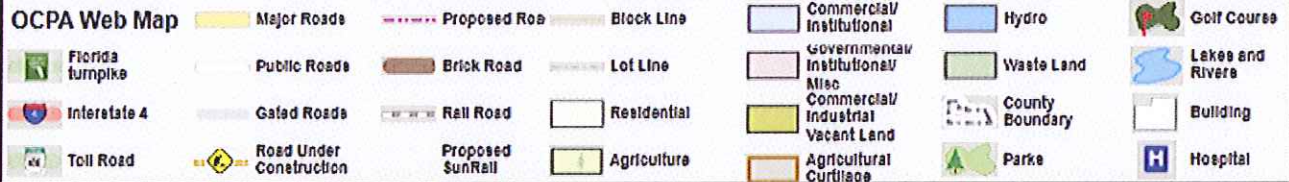
I would ask that I get approval for this swap but then allow me sixty to ninety days to make an application to rezone the Blake street yard to R-3 from the current PQP. I will provide clear and marketable title to the city with a current survey in exchange for the city doing the same on the exchange property. Omit I have a pending deal with a Town home developer on land that abuts the Blake street yard and I would hope that the city would see the benefits to have a more useful parcel across from the Azalea lane tennis courts and allowing me to redevelop the Blake street parcel to clean up that area of the city. Please advise if this is something that could get to the commission soon. Thanks

Daniel B. Bellows
Sydgan Corporation
Post Office Box 350
Winter Park, Fl 32790-0350
407-644-2699 - Office
407-644-2854 - Fax
W1454@aol.com

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Disclaimer: Neither this email nor any attachment will constitute an offer, or be deemed to be a representation or warranty, to the recipient or any other party. Nothing in this email or any attachment will be binding upon the property owner unless the property owner executes and delivers an agreement satisfactory to the property owner in its sole discretion. Furthermore, any proposal contained in this email or any attachment is subject to withdrawal or modification by the property owner at any time prior to the full execution and delivery of such agreement.

OCA Web Map



Created: 4/15/2013

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

741 + 751 Minnesota Ave.

OCA Web Map

- | | | | | | | |
|-------------------------|------------------|---------------|------------------------|-----------------------------------|-----------------|------------------|
| Florida Turnpike | Major Roads | Proposed Road | Block Line | Commercial/Institutional | Hydro | Golf Course |
| Interstate 4 | Public Roads | Brick Road | Lot Line | Governmental/Institutional/Misc | Waste Land | Lakes and Rivers |
| Toll Road | Galad Roads | Rail Road | Residential | Commercial/Industrial/Vacant Land | County Boundary | Building |
| Road Under Construction | Proposed SunRail | Agriculture | Agricultural Curtilage | Parke | Hospital | |



Created: 4/15/2013

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

301 W. Comstock (Blake Yard)

[illegible]

MINNESOTA AVE

Potential Use - B

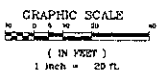
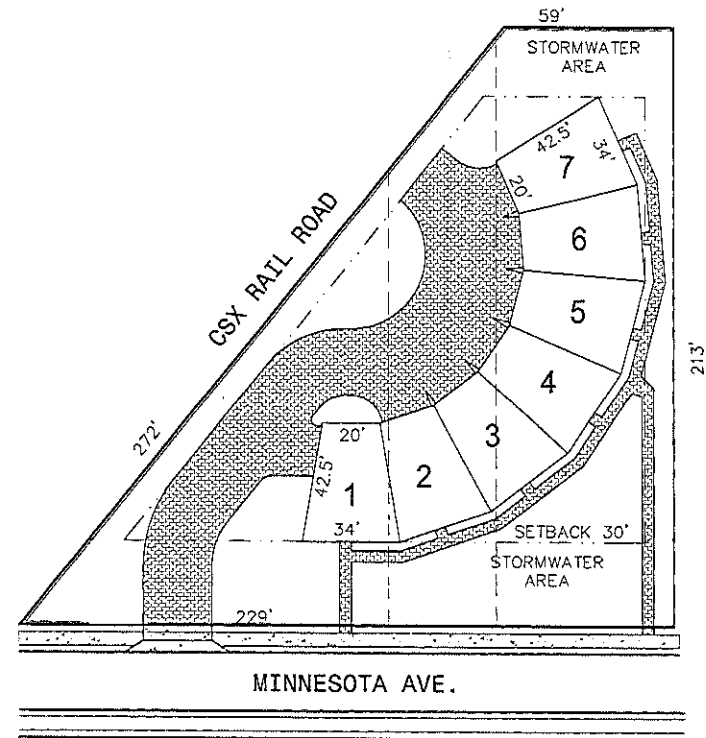
SITE INFORMATION:

PROPOSED USE; CLUSTER HOUSING
ZONING; R-2
FLU; LOW DENSITY RESIDENTIAL

	REQUIRED	PROVIDED
SITE AREA	12,000 S.F.	30,701 (0.7 ACRES)
BUILDING SETBACKS		
FRONT 2 STORY	30'	30'
SIDE	10'	10'
REAR 2 STORY	25'	25'
MAX. BLDG. COVER.	35%	26%
	(10,745 S.F.)	(7,938 S.F.)
MAX. IMPERV. COVR.	65%	51%
	(19,955 S.F.)	(15,810 S.F.)
MAX. BLDG. HEIGHT	30'	<30'
MAX. BLDG. STORY	2	2

RESIDENTIAL UNITS:

7 UNITS @ 1800 S.F. LIVING AREA
& 468 S.F. 2 CAR GARAGE



* ENGINEERING/SURVEYING LIC. # 3763/LN3763

NO.	DATE	BY	APPROVED	DESIGNED	DRAWN	CHECK	DATE	APPROVED FOR JOHN B. WEBB & ASSOCIATES, INC.	John B. Webb & Associates, Inc.* CIVIL & ENVIRONMENTAL CONSULTING ENGINEERS 825 S. DENNING DRIVE, WINTER PARK, FLORIDA 32789	CONCEPTUAL SITE PLAN	REDEVELOPMENT PLAN FOR 741 & 751 MINNESOTA AVENUE WINTER PARK, FLORIDA	DATE	NOV. 2007	OWNER'S PROJECT	E16-01
NO.	DATE	BY	APPROVED	DESIGNED	DRAWN	CHECK	DATE	APPROVED FOR JOHN B. WEBB & ASSOCIATES, INC.				SCALE	1"=20'	SHEET	OF 1

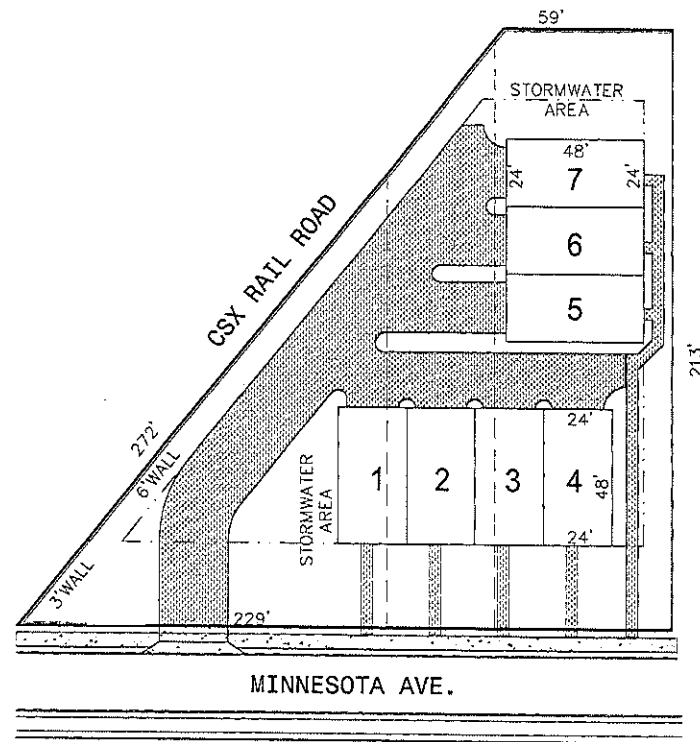
Potential Use - C

SITE INFORMATION:

PROPOSED USE; CLUSTER HOUSING
ZONING; R-2
FLU; LOW DENSITY RESIDENTIAL

	REQUIRED	PROVIDED
SITE AREA	12,000 S.F.	30,701 (0.7 ACRES)
BUILDING SETBACKS		
FRONT 2 STORY	30'	30'
SIDE	10'	10'
REAR 2 STORY	25'	25'
MAX. BLDG. COVER.	35%	26%
	(10,745 S.F.)	(8,064 S.F.)
MAX. IMPERV. COVR.	65%	56%
	(19,955 S.F.)	(17,125 S.F.)
MAX. BLDG. HEIGHT	30'	<30'
MAX. BLDG. STORY	2	2

RESIDENTIAL UNITS:
7 UNITS @ 1820 S.F. LIVING AREA
& 484 S.F. 2 CAR GARAGE



GRAPHIC SCALE
(IN FEET)
1 inch = 20 ft.

* ENGINEERING/SURVEYING LIC. # 3783/L03783

DESIGNED	JRM
DRAWN	JRM
CHECK	JRM
DATE	
BY	
APPROVED	
PROJECT ENGINEER	

APPROVED FOR JOHN B. WEBB & ASSOCIATES, INC.
John B. Webb
REG. PROF. ENGR. FLORIDA 19923

John B. Webb & Associates, Inc.*
CIVIL & ENVIRONMENTAL CONSULTING ENGINEERS
925 S. DENNING DRIVE, WINTER PARK, FLORIDA 32789

CONCEPTUAL SITE PLAN

REDEVELOPMENT PLAN FOR
741 & 751 MINNESOTA AVENUE
WINTER PARK, FLORIDA

DATE	NOV. 2007	DWG. PROJECT	E16-01
SCALE	1"=20'	SHEET	OF 1

1A

OCPA Web Map

Major Roads	Proposed Road	Block Line	Commercial/Institutional	Hydro	Golf Course
Florida Turnpike	Public Roads	Lot Line	Governmental/Institutional/Misc	Waste Land	Lakes and Rivers
Interstate 4	Gated Roads	Rail Road	Commercial/Industrial/Vacant Land	County Boundary	Building
Toll Road	Road Under Construction	Proposed SunRail	Agriculture	Parks	Hospital



Created: 4/10/2013

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

751 Minnesota

OCPA Web Map

Florida Turnpike	Major Roads	Proposed Road	Block Line	Commercial/Institutional	Hydro	Golf Course
Interstate 4	Public Roads	Brick Road	Lot Line	Governmental/Institutional/Misc	Waste Land	Lakes and Rivers
Toll Road	Gated Roads	Rail Road	Residential	Commercial/Industrial/Vacant Land	County Boundary	Building
Road Under Construction	Proposed SunRail	Agriculture	Agricultural Curtilage	Parks	Hospital	



Created: 4/10/2013

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

741 Minnesota

OCPA Web Map

Major Roads	Proposed Road	Block Line	Commercial/Institutional	Hydro	Golf Course
Florida Turnpike	Public Roads	Brick Road	Governmental/Institutional/Misc	Waste Land	Lakes and Rivers
Interstate 4	Galad Roads	Rail Road	Commercial/Industrial/Vacant Land	County Boundary	Building
Toll Road	Road Under Construction	Proposed SunRail	Agriculture	Parks	Hospital
			Agricultural Curtilage		
			Residential		
			Lot Line		



Created: 4/10/2013

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

301 W. Comstock (Blake Yard)



city commission public hearing

item type	Public Hearing	meeting date	April 22, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" 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: Request of Trustco Bank for Conditional Use Approval at 950 N. Orlando Ave.

This item is a conditional use request from Trustco Bank to establish a branch bank facility with one drive-in teller lane on the property at 950 N. Orlando Avenue (opposite at the end of Lee Road). It is a conditional use because of the drive-in teller.

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the conditional use request and to add a drive-thru bank teller to the existing office building. Motion carried unanimously 7-0.

Summary:

This property at 950 N. Orlando Avenue holds a largely vacant, three story, 35,000 square foot office building that was built in 1985. Trustco Bank is moving their State of Florida corporate headquarters into the third floor of this building. On the first floor, about one-half of the space (5,000 sq. ft.) will be used for a branch bank. The plans contemplate adding one drive-thru teller lane and a bypass lane onto the north side of the building up at the northwest corner. The existing driveway access points are not changing.

Parking: This 35,000 square foot building has 119 parking spaces which meets the parking code of one space for each 300 square feet of 'gross' building area that was in place when the building was built in 1985. The addition of the drive-thru teller will reduce the parking by 7 spaces to 112 spaces. The applicant is requesting an 'exception' for that reduction in parking.

The City's experience with office buildings is that the parking code is very good for buildings up to 15-20,000 square feet in accurately predicting the parking needed by tenants. However, in larger office buildings, the office parking criteria tends to over-park the actual need. Part of the reason is that as the office buildings get larger; the amount of 'common' areas not used as "office" space increase for the elevators, stairs, mechanical space, lobbies, hallways and other core areas. In those larger office buildings, typically as much as 15% of the "gross" building area is not "net" usable office space. So for a 35,000 sq. ft. office such as this, it is likely over-parked by 20 spaces. Then when you add in the inefficiencies of bank lobby space, there is no concern by the staff about the reduction in 7 spaces for the addition of this drive-thru teller lane.

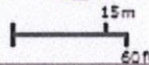
Traffic Circulation and Stacking: The traffic impact and stacking needs for drive-in tellers vary greatly from 'national' banks to 'community' banks. Trustco Bank is a 'community' bank. In our previous surveys, the analysis of the stacking requirements for a 'community' branch bank (based on actual counts on the peak day and time of Friday at the noon hour) are the need to stack in the range of 3-4 cars. The proposed configuration with the one teller lanes has space for stacking of those 4 cars. Plus if there are more than 4 cars in a line, customers will park and go inside for their banking business. The primary reason for these conditional uses is to insure that the stacking for drive-thru's does not cause any traffic hazards or lines of cars backing into the streets, blocking driveways or making the internal circulation unsafe. In this case there is ample land and the design will not create any problems even in the peak case.

Storm Water Retention: This office building constructed in 1985 meets the current code requirements for storm water retention.

Landscape Plan: The existing landscape areas have fallen into disrepair as the building sat largely vacant for several years. There are two older laurel oak trees on the north façade of the building that will be removed as they are in decline and this has been approved by the City's Chief of Forestry, Dru Dennison. There are also three very nice live oak trees along the eastern façade of this building that will not be affected in any way. A final landscape plan which refurbishes all of the existing landscape areas will be required as part of the building permit package for the interior renovations.

Summary: The site is adequately sized and the overall site plan design well suited for this type of building conversion. The small loss of parking will not negatively affect an office building of this size.

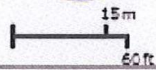
OCA Web Map



Major Roads	Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	Lot Number
Public Roads	Brick Road	Agriculture	Agricultural Cattle	Lakes and Rivers	Parcel Number
Gated Roads	Block Line	Commercial/Institutional	Hydro	Building	Parcel Address
Road Under Construction	Lot Line	Governmental/Institutional/Misc	Waste Land	Block Number	Parcel Dimensions



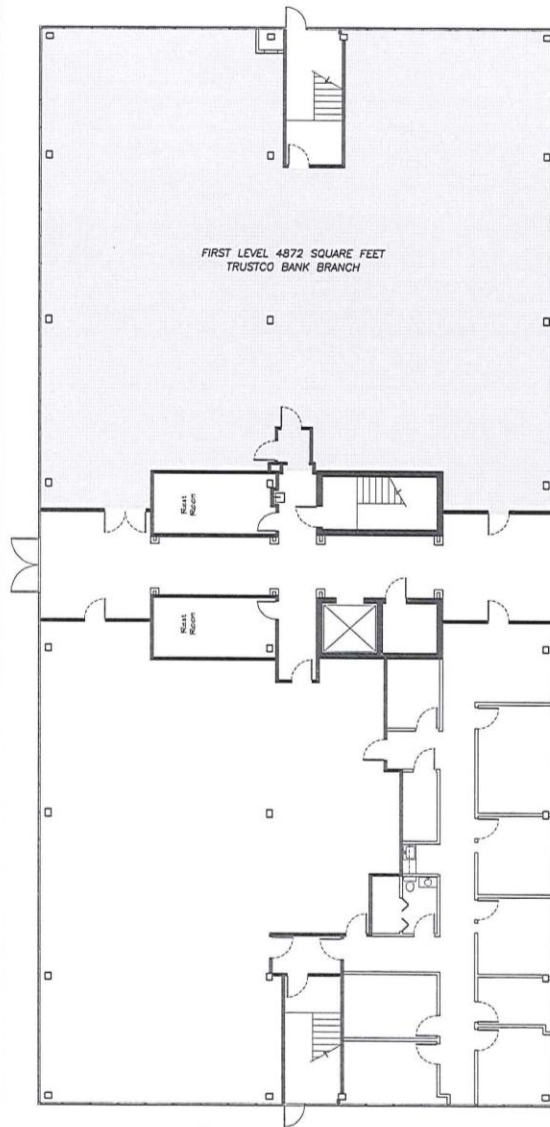
OCA Web Map



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



FIRST LEVEL 4872 SQUARE FEET
TRUSTCO BANK BRANCH

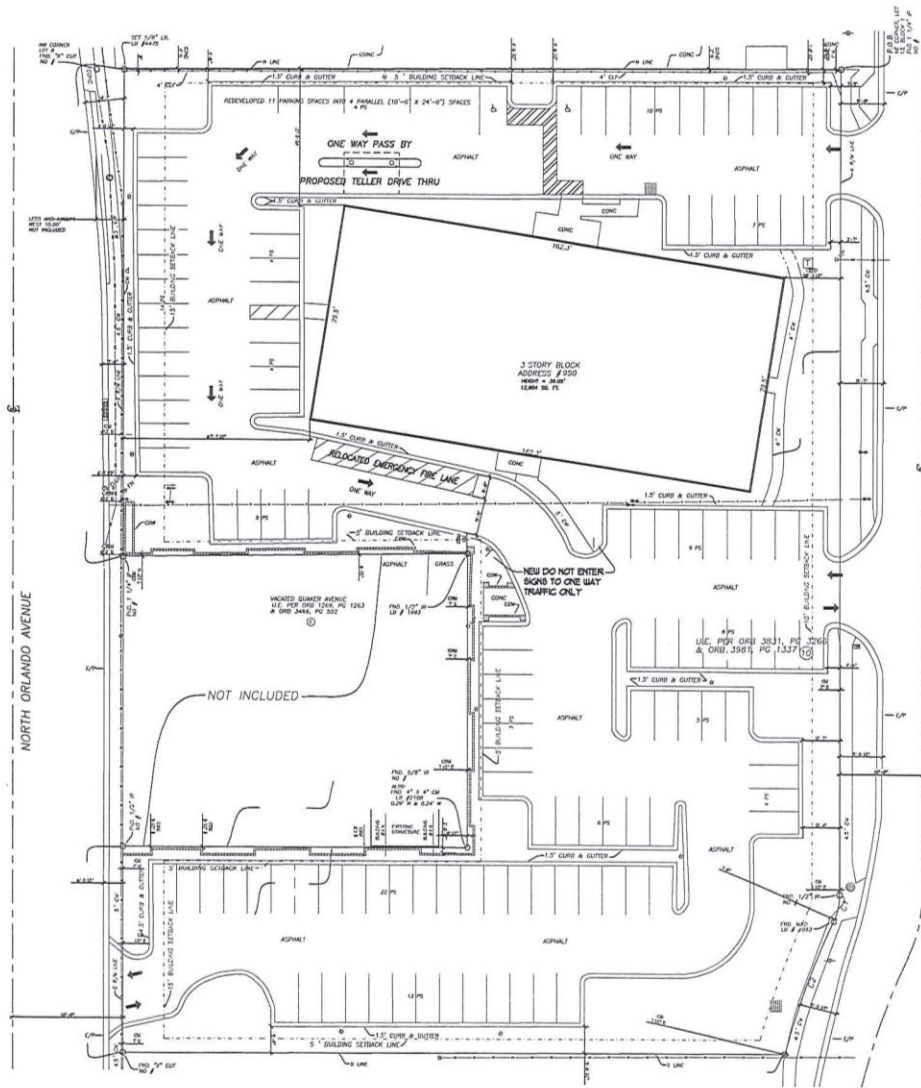


PROPOSED GROUND FLOOR PLAN

SCALE: 1/8" = 1'-0"

2
SD-2

NORTH ORLANDO AVENUE



PROPOSED SITE PLAN
SCALE: 1" = 20'-0"

1
30'-0"



The professional services of the designer and/or architect are contractible but not patentable under the terms of the project contract. No contractual obligation is assumed by the designer and/or architect for the work or the results of the work performed in this project.

Existing conditions. The designer and/or architect assumes *no* responsibility for the existing building conditions, site conditions, existing construction, or any other documents, drawings, or information referred to or intended to be used for any part or parts of the project, which are not the designer's and/or architect's work.

Use of drawings. The drawings prepared by the architect, or under the architect's direct supervision, [his drawing] is a preliminary design and is not intended to be used by the Designer / Architect and is intended for his use as the project only. [Present to the Architect/Designer for information and use only.] The drawings are the property of the Designer/Architect, and are not to be used for any other purpose, including but not limited to, reproduction and comparison of the drawings and/or reproduction of the drawings for any project not approved by the architect. Any unauthorized use of the drawings is strictly prohibited and is subject to the architect's copyright law and the project contract. The use of the drawings for any other purpose is prohibited.

Copyright. The drawings and/or documents are the property of the Designer/Architect and are not to be used for any other purpose, including but not limited to, reproduction and comparison of the drawings and/or reproduction of the drawings for any project not approved by the architect. Any unauthorized use of the drawings is strictly prohibited and is subject to the architect's copyright law and the project contract. The use of the drawings for any other purpose is prohibited.

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5'-60" min.E

PROJECT NAME:
Interior Improvement for:
MCCI Medical Group
Normandy Station
7200 Normandy Blvd.
Jacksonville, Florida 32205

REVISIONS:

RELEASED FOR: PERMIT
DATE: 02/04/2013
PROJECT: 12170

SD-2

Parcel Photos - 950 N Orlando Ave



292201345201080 03/30/2006



CITY OF WINTER PARK Planning & Zoning Board

**Regular Meeting
City Hall, Commission Chambers**

**April 2, 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, Drew Krecicki, Randall Slocum, Tom Sacha, Peter Gottfried, James Johnston, Robert Hahn and Peter Weldon, alternate. Staff: Planning Director Jeffrey Briggs and Recording Secretary Lisa Smith.

Approval of minutes – March 5, 2013

Motion made by and seconded by, seconded by to approve the March 5, 2013, meeting minutes. Motion carried unanimously with a 7-0 vote.

PUBLIC HEARINGS

REQUEST OF TRUSTCO BANK FOR: CONDITIONAL USE APPROVAL TO ADD A DRIVE-THRU BANK TELLER LANE TO THE EXISTING OFFICE BUILDING AT 950 N. ORLANDO AVENUE, ZONED C-3.

Planning Director Jeff Briggs explained that the applicant is requesting conditional use approval to establish a branch bank with one drive-in teller lane on the property at 950 N. Orlando Avenue. He said that Trustco Bank is moving their State of Florida corporate headquarters into the third floor of this building. On the first floor, about one-half of the space (5,000 sq. ft.) will be used for a branch bank. The plans contemplate adding one drive-thru teller lane and a bypass lane onto the north side of the building up at the northwest corner. The existing driveway access points are not changing. He reviewed the project with regard to site and context, parking, traffic circulation and stacking, storm water retention, and landscaping. He summarized by stating. He said that the site is adequately sized and the overall site plan design well suited for this type of building conversion. The small loss of parking (7 spaces) leaving 112 spaces will not negatively affect an office building of this size. Staff recommendation is for approval. He responded to Board member questions and concerns.

Ralph Hadley, 1031 West Morse Boulevard, represented the applicant. He reiterated their plans to the Board and responded to Board member questions and concerns.

Eric Schreck, Chairman - Trustco Bank, also addressed the Board responded to Board member questions. He indicated that one teller lane is sufficient and with the changes in internet access for banking there are diminishing numbers of transactions so one lane is sufficient.

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

The Board members expressed their approval of the project and the beneficial upgrade to the property that would result. The Board stressed the opportunities for landscaping improvements to the site to which the applicants responded affirmatively. Signage was discussed as well.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the conditional use request and to add a drive-thru bank teller to the existing office building. Motion carried unanimously, 7-0.



city commission public hearing

item type	Public Hearing	meeting date	April 22, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" 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: Request of Jewett Clinic for Comp. Plan FLU and Rezoning from R-3 to Parking lot (PL) at 930, 950 and 960 Minnesota Avenue.

The Jewett Clinic has a contingent contract to purchase property for which they seek Comp. Plan FLU Map and Zoning Map to change the existing Multi-Family Residential (R-3) designation to Parking Lot (PL) zoning on the properties at 930, 950 and 960 Minnesota Avenues in order to use these properties for an expanded off-site parking lot for prospective building expansions on the Jewett Clinic campus.

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the comprehensive plan future land use map change and zoning change from Medium Density Residential (R-3) to Parking Lot (PL) on the properties located at 930, 950 and 960 Minnesota Avenue with the condition that the wall and landscape plan be approved as part of the conditional use for the Jewett Clinic expansion and that the parking lot not be leased for any alternate commercial use, such as off-site restaurant parking. Motion carried unanimously, 7-0.

Summary:

The Jewett Clinic desires to expand their medical facilities on their campus at 1285 Orange Avenue. The site plan (attached) shows a prospective new two story medical office building to include an ambulatory surgery center. This rezoning request is to provide the parking spaces needed (in part) for that new medical building project.

The new medical building will be a conditional use on a future P&Z agenda (as it will be a building over 10,000 sq. ft.). However, the Jewett Clinic wants to seek an approval for the off-site parking before they continue to invest in the design work needed for that conditional use application.

Site and Context: The properties at 930 and 950 Minnesota Avenue each now hold a single family rental home. The property at 960 Minnesota Avenue is vacant. The combined properties have 219 feet of frontage on Minnesota Avenue and 145 feet of frontage on Oak Place. The combined properties are 31,375 square feet in size. All three properties are now zoned R-3. Under the R-3 zoning, the combined site could be developed with up to 12 multi-family apts./condos of a combined building size of up to 34,500 square feet.

Project Plans: The conceptual plan for the proposed parking lot is attached. It would yield approximately 73 cars. The applicant would commit to limiting the driveway access onto Oak Place only. Otherwise, the specific plans will conform to or exceed the City's requirements for storm water retention and landscaping including replacement trees for those to be removed. The parking lot (PL) zoning only permits surface parking lots so no building or structure (Parking Garage) is permitted by this PL zoning in the future.

Landscape and Wall Plan: The City staff will recommend conditioning the rezoning on the approval of the landscape and wall plan. The City has a very good parking lot landscape code especially with the recent addition to the Code of the YMCA template for buffering and screening the parking which is essential in order to insure that the visual image of this parking lot from the homes nearby is favorable. That can be done as part of the conditional use process for the new medical building. Since the City has adopted (as part of the Code) the template for the YMCA buffer wall and landscape package, it is important to point out that the neighbors will be looking at exactly what has been successful at the YMCA in terms of visually buffering and screening this parking lot. (This is also the same requirement for wall and landscaping as was required for the rezoning of 1210 Dallas Avenue, also across from residential homes)

Summary: Just as with the YMCA parking lot expansion on our agenda a few months ago, it has been demonstrated that a properly screened parking lot does not diminish property values or discourage residential redevelopment. (There are three new homes built in 2012/2013 directly adjacent to or across the street from the YMCA parking lot)

A parking lot can actually be a quieter and a less active use than the 12 apts./condos that could be built on this combined property. This will be used as an employee parking lot. Employees will park in the morning and leave after work. There is no activity in the parking lot at night or on weekends when the neighbors are generally at home. Staff is recommending a condition of approval to insure that in the future a restaurant on Orange or Orlando Avenue does not lease this parking lot for nighttime and/or weekend use.



OCPA Web Map



15 m
50 ft

Major Roads	Proposed Road	Residential	Commercial/Industrial Vacant Land	Parks	6	Lot Number
Public Roads	Brick Road	Agriculture	Agricultural Cudilage	Lakes and Rivers	05060	Parcel Number
Garage Roads	Block Line	Commercial/Institutional	Hydro	Building	3106	Parcel Address
Road Under Construction	Lot Line	Governmental/Institutional/Misc	Waste Land	E	Block Number	111.9
						Parcel Dimension





Eugene L. Jewett, M.D. (1900-1987)
Founder

John W. McCutchen, M.D.
President and Chairman
Hip Surgery

Gregory O. Munson, M.D.
Surgery of the Spine

John R. Chase, M.D.
Knee and Ankle Surgery

Richard L. Shure, M.D.
Hand Surgery

Hugh B. Morris, M.D.
Hip and Knee Arthritis Surgery
Sports Medicine and Arthroscopy of
the Knee and Shoulder

Richard M. Konsens, M.D.
Reconstructive Surgery of the Knee
Sports Medicine

Reginald L. Tall, M.D.
Surgery of the Spine

John A. Papa, M.D.
Foot and Ankle Surgery

Brian K. Barnard, M.D.
Hand Surgery
Arthroscopic and Reconstructive
Surgery of the Elbow and Shoulder

Janet M. Robison, M.D.
Arthroscopic and Reconstructive
Surgery of the Knee

Adam S. Fenichel, M.D.
Hand Surgery
Pediatric Orthopaedic Surgery

Joseph B. Billings, D.O.
Arthroscopic and Reconstructive
Surgery of the Knee, Hip and Shoulder
Sports Medicine

Colleen M. Zittel, M.D.
Rehabilitation Medicine
and Electrodiagnosis (EMG)

Wadih S. Macksoud, M.D.
Hand Surgery
Shoulder and Elbow Surgery

Mary Lynn Brown, M.D.
Hand Surgery

Jeffrey A. Deren, M.D.
Hand Surgery

Craig M. Mintzer, M.D.
Sports Medicine / Arthroscopic
Surgery of the Shoulder and Knee

Kenneth A. Krumins, M.D.
Arthroscopic and Reconstructive
Surgery of the Knee / Sports Medicine

Mark A. Beckner, M.D.
Surgery of the Spine

Michael V. Jablonski, M.D.
Arthroscopic and Reconstructive
Surgery of the Knee and Shoulder
Sports Medicine

Steven C. Choung, M.D.
Foot and Ankle Surgery

Kurt A. Gasner, M.D.
Hand Surgery
Shoulder and Elbow Surgery

Phillip A. Meinhardt, M.D.
Spine Surgery

William Felix-Rodriguez, M.D.
Primary Care Sports Medicine

Sean M. McFadden, D.O.
Surgery of the Knee and Shoulder
Sports Medicine

Physician Extenders

Jared P. Reiss, PA-C
Robert S. Buckley, PA-C
Kit Kwan, PA-C
Skip Repass, PA-C
Karen E. Glavin, PA-C
David M. Costello, PA-C
Robert W. White, PA-C
Sarah M. Richardson, PA-C
Jeffrey A. Wright, PA-C
Jennifer Britt, PA-C
Peter Wheeler, PA-C
Bucky Boaz, ARNP
Neil Whitwam, ARNP

JEWETT ORTHOPAEDIC CLINIC, P.A.

- HEADQUARTERS, 1285 Orange Ave., Winter Park, FL 32789
- STIRLING CENTER, 701 Platinum Point, Lake Mary, FL 32746
- MEDPLEX, 7300 Sandlake Commons Boulevard, Suite 127, Orlando, FL 32819
- INTERNATIONAL PLAZA, 3451 Technological Ave., Suite 15, Orlando, FL 32817
- DOWNTOWN ORLANDO, 2876 S. Osceola Avenue, Orlando, FL 32806
- RDV SPORTSPLEX, 8701 Maitland Summit Boulevard, Orlando, FL 32810
- CONVENIENT CARE CENTER, 801 S. Orlando Ave., Suite A-K, Winter Park, FL 32789
- ORLANDO EAST, 7975 Lake Underhill Rd. Suite 330, Orlando, FL 32822

- Phone: 407-647-2287
- Phone: 407-206-4500
- Phone: 407-345-1646
- Phone: 407-380-8705
- Phone: 407-236-0404
- Phone: 407-916-4120
- Phone: 407-599-3710
- Phone: 407-381-8441

Main FAX # 407-643-2801 • website: www.jewettortho.com

February 27, 2013

To Whom It May Concern:

Jewett Orthopaedic Clinic located at 1285 Orange Avenue, Winter Park has been a part of the community for the past 76 years. Jewett built its first facility in Winter Park in 1971 when Dr. Eugene Jewett determined that the City of Winter Park was where he would locate his medical clinic for Orthopedics. At that time, the Clinic consisted of 6 physicians. From that date until today Jewett has added to the existing facility and opened another eight locations in the Orlando area. Currently Jewett has 25 doctors on staff, 14 PA's/Nurse Practitioners and over 200 employees.

In 1993 Jewett also became a partner of Physicians Surgical Care Center (PSCC) in Winter Park, near the Winter Park Hospital. As Jewett added additional physicians over the years, the number of orthopedic surgical cases at PSCC also increased. After 20 years at this facility we are faced with an aging building, aging equipment and a shortage of Operating Rooms to accommodate the needed outpatient surgical cases.

Jewett has spent the last two years exploring options of where best a new surgery center could be located and still provide the conveniences for the patient as well as our doctors who go between their daily clinics and the surgery center. After performing this research we have concluded that the best location for the new facility is next door to our existing offices in Winter Park and Jewett already owns the property. This should allow us to build out the new facility for less and also help us to hold down the cost of healthcare to our patients. This location will also allow our patients to be seen in any of our nine offices and yet be very accessible for them on the day they may need a surgical procedure performed.

CELEBRATING OVER 75 YEARS OF ORTHOPAEDIC LEADERSHIP

Charles M. May, Chief Executive Officer

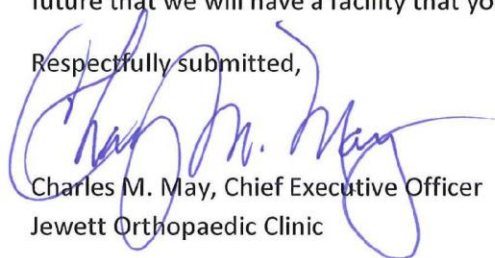
City of Winter Park
February 27, 2013
Page 2

Working with HuntonBrady, (architectural firm) and Klima Weeks, (civil engineers) we have determined the need for additional parking spaces to accommodate the new facility. We have placed a contract for additional land at Oak Street and Minnesota Avenue next to our existing office in Winter Park. Currently it is our understanding that the property is zoned R3 and we are requesting to change the zoning to allow for a parking lot. In order to ensure that we have the sufficient parking for our patients, we would plan to move our employees from our existing parking spaces to the new parking area at Oak and Minnesota. Also to ensure that our neighbors are not disturbed by the expansion of our parking needs, we would ensure that the lot will be neat in appearance and kept extremely clean. Also parking would only be a daytime event, therefore not distributing the neighbors in the evening hours.

A new surgery center in place will allow Jewett the opportunity to continue to meet the needs of our patients and at the same time add needed revenues to the City of Winter Park tax base.

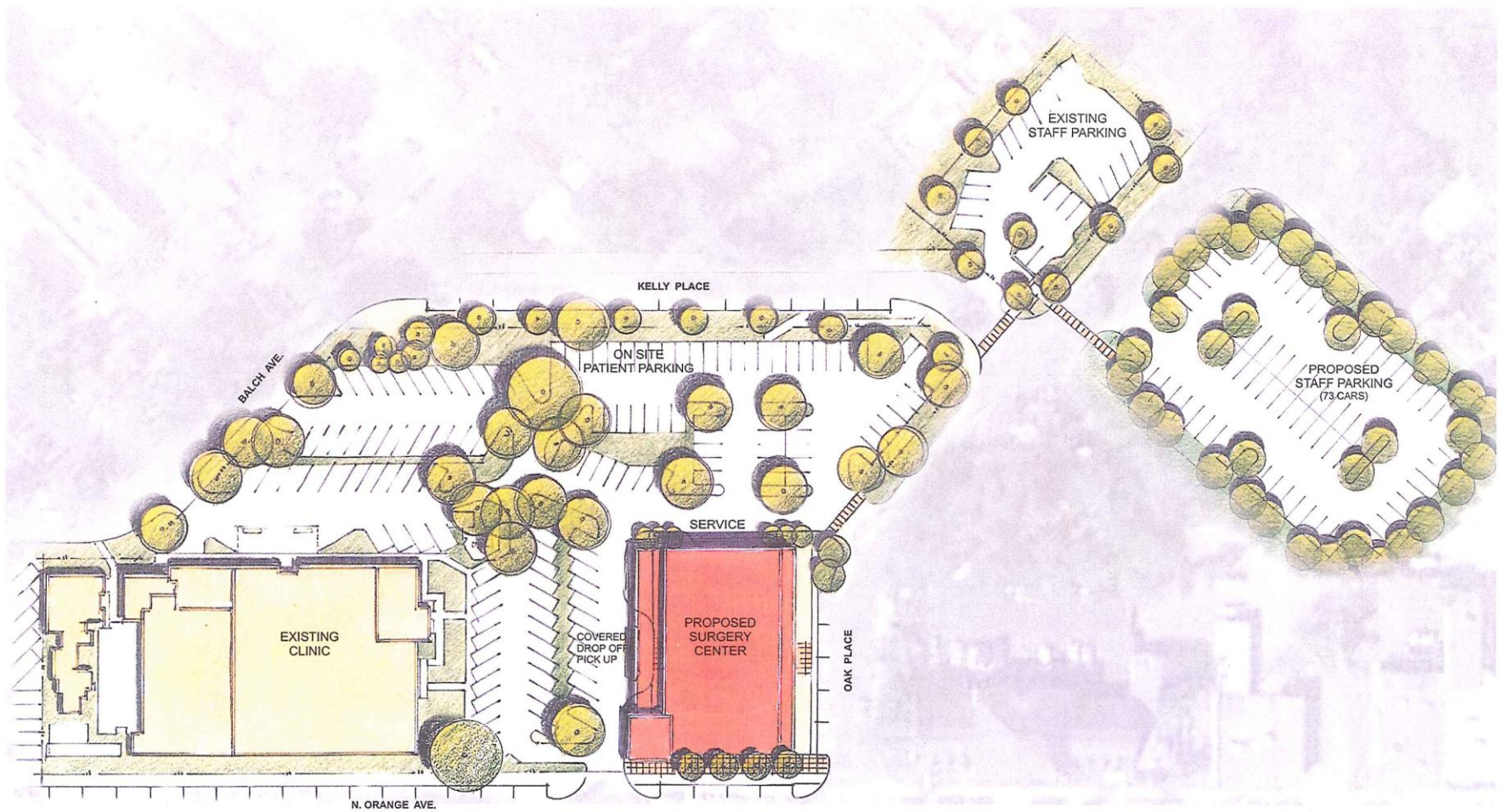
We, at Jewett, thank you for your consideration of this project and hope that should you or one of your family members have a need for our services in the future that we will have a facility that you will be pleased to visit.

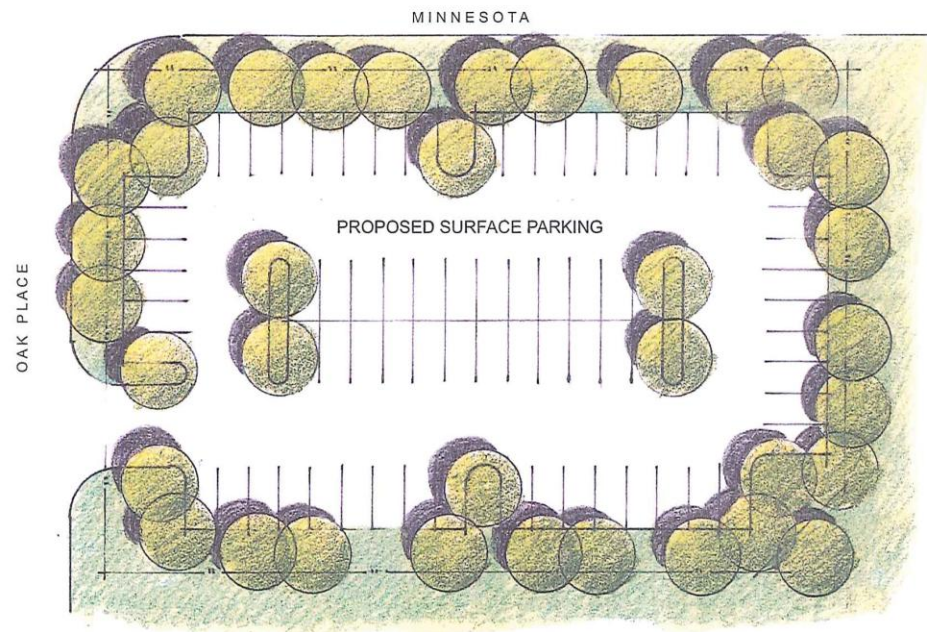
Respectfully submitted,



Charles M. May, Chief Executive Officer
Jewett Orthopaedic Clinic

/gg

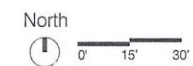




SITE DATA

Site Area	0.7 Acres
Total Parking	73 Cars

SITE PLAN



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 CHANGE
THE FUTURE LAND USE DESIGNATION OF MEDIUM-
DENSITY RESIDENTIAL TO PARKING LOT ON THE
PROPERTIES AT 930, 950 AND 960 MINNESOTA
AVENUE, MORE PARTICULARLY DESCRIBED HEREIN;
PROVIDING FOR 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 owner of the property more particularly described herein has requested an amendment to the Comprehensive Plan for this property, 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 April 2, 2013, 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 and provided for public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process.

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

SECTION 1. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to change the future land use map designation of medium density multi-family residential and to parking lot on the properties at 930, 950 and 960 Minnesota Avenue, property being more particularly described as follows:

The West 19 feet of Lot 2; Lots 3, 4, 5 and 6 and the North 20 feet of Lot 7, Palmetto Addition Replat as recorded in Plat Book "P", Page 72 of the Public Records of Orange County, Florida.

Property Tax ID's # 12-22-29-6604-00-061; 12-22-29-6604-00-051 and 12-22-29-6604-00-020

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 may not become effective until 31 days after adoption and additionally Section 1 of this Ordinance will not become effective unless title to the Property becomes vested in SUS Properties (Jewett Orthopaedic Clinic) or its assignee. If challenged within 30 days after adoption, this Ordinance may not become effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that this Ordinance is 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" AND
THE OFFICIAL ZONING MAP SO AS TO CHANGE THE
ZONING DESIGNATION OF MEDIUM DENSITY MULTI-
FAMILY (R-3) DISTRICT TO PARKING LOT (PL)
DISTRICT ON THE PROPERTIES AT 930, 950 AND 960
MINNESOTA AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN; PROVIDING FOR CONFLICTS,
SEVERABILITY AND EFFECTIVE DATE.**

WHEREAS, the owner of the property more particularly described herein has requested rezoning in compliance with the Comprehensive Plan, and the requested zoning will achieve conformance with the Comprehensive Plan future land use designation for this property, 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 Planning and Zoning Board and City Staff of the City of Winter Park have recommended approval of this Ordinance at their April 2, 2013 meeting; and

WHEREAS, the City Commission of the City of Winter Park held duly noticed public hearings 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. That Chapter 58 “Land Development Code”, Article III, “Zoning” and the Official Zoning Map are hereby amended so as to change the existing zoning designation of medium density multi-family residential (R-3) district to parking lot (PL) district zoning on the properties at 930, 950 and 960 Minnesota Avenue, property being more particularly described as follows:

The West 19 feet of Lot 2; Lots 3, 4, 5 and 6 and the North 20 feet of Lot 7, Palmetto Addition Replat as recorded in Plat Book “P”, Page 72 of the Public Records of Orange County, Florida.

Property Tax ID’s # 12-22-29-6604-00-061; 12-22-29-6604-00-051 and 12-22-29-6604-00-020

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 effective upon the effective date of Ordinance _____. If Ordinance _____ or if either Section of that Ordinance does not become effective, then that Section or this Ordinance shall be null and void.

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

REQUEST OF THE JEWETT ORTHOPAEDIC CLINIC TO: AMEND ARTICLE I, "COMPREHENSIVE PLAN" TO CHANGE THE FUTURE LAND USE DESIGNATION OF MEDIUM DENSITY RESIDENTIAL TO PARKING LOT ON THE PROPERTIES AT 930, 950 AND 960 MINNESOTA AVENUE.

REQUEST OF THE JEWETT ORTHOPAEDIC CLINIC TO: AMEND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO PARKING LOT (PL) DISTRICT ON THE PROPERTIES AT 930, 950 AND 960 MINNESOTA AVENUE.

Mr. Krecicki announced that he has a conflict of interest as his firm is the architect of record for this project so he will not be participating in the discussion or voting on this issue. (The Memorandum of Voting Conflict Form is attached as a part of these minutes). He left the meeting at 7:25 p.m.

Planning Director Jeffrey Briggs presented the staff report and explained that the Jewett Clinic has a contingent contract to purchase property for which they seek Comprehensive Plan FLUM and Zoning Map changes to change the existing Multi-Family Residential (R-3) designation to Parking Lot (PL) zoning on the properties at 930, 950 and 960 Minnesota Avenues in order to use these properties for an expanded off-site parking lot for prospective building expansions on the Jewett Clinic campus. He said that the Jewett Clinic desires to expand their medical facilities on their campus at 1285 Orange Avenue. The site plan shows a prospective new two story medical office building to include an ambulatory surgery center. This rezoning request is to provide the parking spaces needed, in part for that new medical building project. He noted that the new medical building will be a conditional use on a future P&Z agenda (as it will be a building over 10,000 sq. ft.). However, the Jewett Clinic wants to seek an approval for the off-site parking before they continue to invest in the design work needed for that conditional use application. He reviewed the project for site and context, and the landscape and wall plan. The conceptual plan for the proposed parking lot is attached. It would yield approximately 73 cars. The applicant would commit to limiting the driveway access onto Oak Place only. Otherwise, the specific plans will conform to or exceed the City's requirements for storm water retention and landscaping including replacement trees for those to be removed. The parking lot (PL) zoning only permits surface parking lots so no building or structure (Parking Garage) is permitted by this PL zoning in the future.

He summarized by stating that just as with the YMCA parking lot expansion on our agenda a few months ago, it has been demonstrated that a properly screened parking lot does not diminish property values or discourage residential redevelopment. (There are three new homes built in 2012/2013 directly adjacent to or across the street from the YMCA parking lot)

Staff is recommending a condition of approval to insure that in the future a restaurant on Orange or Orlando Avenue does not lease this parking lot for nighttime and/or weekend use. Last, he noted that the ordinances are only effective upon the purchase by the Jewett Clinic (SUS Properties) so it will not be rezoned and then used by others for some other commercial use like off-site restaurant parking. Staff recommended approval with the condition that the wall and landscape plan be approved as part of the conditional use for the Jewett Clinic expansion and that the parking lot not be leased for any alternate commercial use, like off-site restaurant parking. Mr. Briggs responded to Board member questions and concerns.

Selby Weeks, Klima Weeks, represented the applicant. He explained that the more detailed site plan, landscape plan and storm water retention plans including lighting will be submitted for the final approval. He said that lighting could be set-up to have it shut-off at an agreed upon time. He responded to Board member questions and concerns.

Leah Moyer, 1001 Minnesota Avenue, spoke concerning the request. She spoke concerning the use of the lights during night hours. She stated that she would prefer to have the lights to be kept on for safety reasons. No one else wished to speak concerning the item. Public Hearing closed.

The Board members concurred that the rezoning and use for parking with the restriction suggested by staff would be beneficial for the expansion of the Jewett Clinic and could be done without negative impact on the surrounding neighborhood. Mr. Slocum indicated that he initially believed that limiting the hours of the parking lot lights was in the best interest of the neighbors but we now hear neighbor concerns. Mr. Briggs the indicated he would talk to the Police Dept. before the final parking lot design returns to P&Z for guidance on this issue. Mr. Gottfried further suggested looking at the Winter Park health Foundation office on Mizell and Edinburgh for a good example of subdued parking lot lighting.

Mr. Sacha and Mr. Gottfried expressed and the other Board members concurred that a properly screened parking lot with the wall and landscape buffer like the YMCA should be very compatible with the neighborhood. The Board members also expressed agreement with the condions recommended by staff.

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the comprehensive plan future land use map change from medium density residential to parking lot on the properties located at 930, 950 and 960 Minnesota Avenue with the condition that the wall and landscape plan be approved as part of the conditional use for the Jewett Clinic expansion and that the parking lot not be leased for any alternate commercial use, such as off-site restaurant parking. Motion carried unanimously, 7-0.

Motion made by Mr. Sacha, seconded by Mr. Johnston to approve the requested rezoning from R-3 to PL on the properties located at 930, 950 and 960 Minnesota Avenue with the condition that the wall and landscape plan be approved as part of the conditional use for the Jewett Clinic expansion and that the parking lot not be leased for any alternate commercial use, such as off-site restaurant parking. Motion carried unanimously, 7-0.

NEW BUSINESS: None was discussed

Date of Next Work Session: Wednesday, April 24, 2013 at 12:00 Noon.

Date of Next Meeting: Tuesday, May 7, 2013 at 7:00

There was no further business. Meeting adjourned at 7:45 p.m.

Respectfully submitted,

Lisa M. Smith
Recording Secretary



city commission agenda item

item type	Public Hearing	meeting date	April 22, 2013
prepared by department division	Public Works Engineering	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		

subject

Brookshire Elementary School Neighborhood Sidewalks LAP Agreement for the Sidewalk Design between the City of Winter Park and the Florida Department of Transportation (FDOT)

motion | recommendation

Recommend approval of Resolution to enter LAP agreement with FDOT.

background

Applied for Safe Routes To School Grant for sidewalks in Brookshire neighborhood April 2011
Grant for sidewalks approved July 2011
Funding for sidewalks approved for FDOT fiscal year 2015
February 2013 requested from FDOT to move funding to earlier date
FDOT working to advance funding and construction schedule

alternatives | other considerations

The City fund the sidewalk design estimated at \$15,000, or delay/cancel design project.

fiscal impact

\$15,000 sidewalk construction plan design is 100% FDOT grant funded.

long-term impact

N/A

strategic objective

Quality Facilities and Infrastructure

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, TO EXECUTE A LOCAL AGENCY PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE DESIGN OF THE BROOKSHIRE ELEMENTARY SCHOOL NEIGHBORHOOD SIDEWALKS (BRECHIN DRIVE, DUNBLANE DRIVE, KIMBRACE PLACE).

WHEREAS, the State of Florida Department of Transportation and the City of Winter Park, Florida, desire to facilitate the Winter Park Brookshire Elementary School Neighborhood Sidewalk Design, and

WHEREAS, the State of Florida Department of Transportation has requested the City of Winter Park, Florida, to execute and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN: 431529-1-38-01;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Winter Park, Florida that Randy B. Knight, City Manager, is hereby authorized to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Agreement for the aforementioned project, FPN: : 431529-1-38-01.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park held in City Hall, Winter Park on this 22nd day of April, 2013.

Kenneth W. Bradley, Mayor

ATTEST:

Cynthia S. Bonham, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PRODUCTION SUPPORT - 10/12
Page 1

FPN: <u>431529-1-38-01</u>	Fund: <u>SA</u>	FLAIR Approp: <u>088849</u>
Federal No: <u>SRTS-243-A</u>	Org Code: <u>55053010541</u>	FLAIR Obj: <u>790089</u>
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
County No: <u>75</u>	Contract No: _____	Vendor No: <u>F596-000-454-017</u>
Data Universal Number System (DUNS) No: <u>80-939-7102</u> Local Agency DUNS No: <u>07-759-6393</u>		
Catalog of Federal Domestic Assistance (CFDA): <u>20.205 Highway Planning and Construction</u>		

THIS AGREEMENT, made and entered into this _____ day of _____, _____ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and CITY OF WINTER PARK, 401 Park Avenue South, Winter Park, Florida 32789, hereinafter called the Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 339.12, Florida Statutes, to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is to provide for the Department's participation in the design of Brookshire Elementary School Neighborhood Sidewalks, and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

1.01 Attachments: Exhibit(s) "A", "B", and "1" are attached and made a part hereof.

2.01 General Requirements: The Agency shall complete the project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

Inactivity and Removal of Any Unbilled Funds

Once the Department issues a Notice to Proceed (NTP) for the Project, the Agency shall be obligated to submit an invoice or other request for reimbursement to the Department for all work completed for the Project no less frequently than on a quarterly basis, beginning from the day the NTP is issued. If the Agency fails to submit quarterly (or more frequently than quarterly) invoices to the Department as required herein and in the event said failure to timely submit invoices to the Department results in FHWA removing any unbilled funding or in the loss of State appropriation authority (which may include the loss of state and Federal funds, if there are state funds programmed to the Project), then the Agency will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Agency waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of State

appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Agency for future LAP projects.

Removal of All Funds

If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

2.02 Expiration of Agreement: The Agency agrees to complete the project on or before 2 years from the Agreement's execution date. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

2.03 Pursuant to Federal, State, and Local Laws: In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.04 Agency Funds: The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

2.05 Submission of Proceedings, Contracts, and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the project as the Department and the Federal Highway Administration (FHWA) may require. The Agency shall use the Department's Local Agency Program Information Tool and applicable information systems as required.

3.00 Project Cost:

3.01 Total Cost: The total cost of the project is \$ 15,000.00. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

3.02 Department Participation: The Department agrees to participate in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

3.03 Limits on Department Funds: Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

- a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;
- c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- d) Department approval of the project scope and budget at the time appropriation authority becomes available.

3.04 Appropriation of Funds: The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

3.05 Multi-Year Commitment: In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

3.06 Notice-to-Proceed: No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed (NTP) from the Department. The Agency agrees to advertise or put the project out to bid thirty (30) days from the date the Department issues the NTP to advertise the project. If the Agency is not able to meet the scheduled advertisement, the District LAP Administrator should be notified as soon as possible.

3.07 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

4.00 Project Estimate and Disbursement Schedule: Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project, and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

5.00 Records:

5.01 Establishment and Maintenance of Accounting Records: Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the project records, together with supporting documents and records of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

5.02 Costs Incurred for Project: The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

5.03 Documentation of Project Costs: All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

5.04 Audit Reports: Recipients of federal and state funds are to have audits done annually using the following criteria:

The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

Monitoring: In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see “Audits” below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Department’s Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I - Federally Funded: Recipients of federal funds (i.e., state, local government or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit “1” of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

Part II - State Funded: Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit “1” to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PRODUCTION SUPPORT – 10/12
Page 5

2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

Part III - Other Audit Requirements: The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

Part IV - Report Submission:

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:
 - a) The Department at each of the following address(es):

Marianne B. Takacs, Special Projects Analyst
Florida Department of Transportation
719 South Woodland Boulevard, MS 4-548
DeLand, Florida 32720
 - b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132
 - c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
2. In the event that a copy of the financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards directly to each of the following:

Marianne B. Takacs, Special Projects Analyst
Florida Department of Transportation
719 South Woodland Boulevard, MS 4-548

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PRODUCTION SUPPORT – 10/12
Page 6

DeLand, Florida 32720

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any Management Letters issued by the auditor, to the Department at each of the following addresses:

Marianne B. Takacs, Special Projects Analyst
Florida Department of Transportation
719 South Woodland Boulevard, MS 4-548
DeLand, Florida 32720

3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

- a) The Department at each of the following address(es):

Marianne B. Takacs, Special Projects Analyst
Florida Department of Transportation
719 South Woodland Boulevard, MS 4-548
DeLand, Florida 32720

- b) The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

- a) The Department at each of the following address(es):

Marianne B. Takacs, Special Projects Analyst
Florida Department of Transportation
719 South Woodland Boulevard, MS 4-548
DeLand, Florida 32720

5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

Part V - Record Retention: The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

5.05 Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, subcontractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1)(c), Florida Statutes).

5.06 Uniform Relocation Assistance and Real Property Statistical Report: For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

6.00 Requisitions and Payments: Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-“Travel” of the Department’s Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

7.00 Department Obligations: Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

7.01 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof or in or with respect to any document of data furnished therewith or pursuant hereto;

7.02 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement or payments to the project;

7.03 Approval by Department: The Agency shall have taken any action pertaining to the project which, under this Agreement, requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

7.04 Conflict of Interests: There has been any violation of the conflict of interest provisions contained here in paragraph 12.07.

7.05 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

7.06 Federal Participation: The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

7.07 Disallowed Costs: In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit “B” for

the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7.08 Final Invoices: The Agency must submit the final invoice on the project to the Department within 120 days after the completion of the project. Invoices submitted after the 120-day time period may not be paid.

8.00 Termination or Suspension of Project:

8.01 Termination or Suspension Generally: The Department may, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

8.02 Action Subsequent to Notice-of-Termination or Suspension: Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the project activities and contracts and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.00 Contracts of Agency:

9.01 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

9.02 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the consultant selection process for all projects. In all cases, the Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation: It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

"The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The recipient shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 C.F.R. Part 26 and as approved by Department, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

11.00 Compliance with Conditions and Laws: The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the project, except contracts for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

12.02 Title VI – Civil Rights Act of 1964: The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

12.03 Americans with Disabilities Act of 1990 (ADA): The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

12.04 Public Entity Crime: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

12.05 Discrimination: In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

12.07 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer or employee of the Agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

12.08 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

13.02 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

13.03 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

13.04 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

13.05 Bonus or Commission: By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

13.06 State Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

13.07 Plans and Specifications: In the event that this Agreement involves constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency a written approval with any approved portions of the project and comments or recommendations covering any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

13.08 Right-of-Way Certification: Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

13.09 Agency Certification: The Agency will certify in writing, prior to project closeout that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

13.10 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

13.11 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one in the same instrument.

13.12 Restrictions on Lobbying:

Federal: The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

State: No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

13.13 Maintenance: The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency ☒ will ☐ will not maintain the improvements made for their useful life.

13.14 Vendors Rights: Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 30 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and the receipt, inspection, and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3) (b), Florida Statutes, will be due and payable in addition to the invoice amount to the Agency. Interest penalties of less than one \$1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at 850-413-5516.

13.15 Reimbursement of Federal Funds:

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.

13.16 E- VERIFY

The Agency:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and
2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PRODUCTION SUPPORT – 10/12
Page 13

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY : CITY OF WINTER PARK

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name:
Title:

By: _____
Name: Frank J. O'Dea, P.E.
Title: Director of Transportation Development

Attest: _____
Title:

Attest: _____
Title: Administrative Assistant

Legal Review:

See attached Encumbrance Form for date of funding approval by Comptroller.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PROJECT MANAGEMENT OFFICE
08/06
Page 14

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 431529-1-38-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and
City of Winter Park, 401 Park Avenue South, Winter Park, Florida 32789

Dated _____

PROJECT LOCATION:

The project ____ is X is not on the National Highway System.

The project ____ is X is not on the State Highway System.

PROJECT DESCRIPTION:

1. Install 825 LF of 5' concrete sidewalk along the east side of Brechin Drive, between Banchory Road and Kimbrace Place. Provide ADA compliant curb cut ramps in the South East corner of Banchory Drive and Brechin Drive
2. Install 825 LF of 5' concrete sidewalk along the east side of Dunblane Drive, between Banchory Road and Kimbrace Place. Provide ADA compliant curb cut ramps in the South East corner of Banchory Drive. and Dunblane Dr.
3. Install 800 LF of 5' concrete sidewalk along the south side of Kimbrace Place from Brechin Drive to Lochberry Road. Provide ADA compliant curb cut ramps across Dunblane Drive, Dunraven Drive and Lochberry Road on the south side; and across Kimbrace Place to access the existing sidewalk on the north side. Remove resident fencing within the city right-of-way. Provide advance signing along the curve of Kimbrace Place to warn drivers of a school related crosswalk beyond the sight restricted curve along Kimbrace Place.

Driveway will be modified for sidewalk ADA compliance.

The project funding shall be reduced to an amount equal to the award amount.

SPECIAL CONSIDERATIONS BY AGENCY:

Invoices and Progress Reports shall be submitted on a monthly basis to:

Tushar Patel, LAP Project Manager
Florida Department of Transportation
719 South Woodland Boulevard, MS 2-542
DeLand, Florida 32720

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PROJECT MANAGEMENT OFFICE
08/06
Page 15

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) N/A Study to be completed by N/A .
- b) Design to be completed by 8/31/2013 .
- c) Right-of-Way requirements identified and provided to the Department by N/A .
- d) Right-of-Way to be certified by N/A .
- e) Construction contract to be let by N/A .
- f) Construction to be completed by N/A .

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

When real property rights are to be acquired for a transportation facility, a scaled drawing must be prepared to clearly show the right of way to be acquired. It must show sufficient technical data, including land ties, to permit the preparation of legal descriptions for use in acquisition documents, and serve as an aid in appraisal and acquisition. It is supported by a Control Survey Map (certified survey) and does not purport to be a survey. This map provides the certified survey support for the preparation of right of way related maps and is a depiction of the right of way survey field work performed for a specific transportation project.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PRODUCTION SUPPORT
09/11
Page 16

EXHIBIT "B"

SCHEDULE OF FUNDING

AGENCY NAME & BILLING ADDRESS City of Winter Park 401 Park Avenue South Winter Park, Florida 32789	FPN: 431529-1-38-01
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PROJECT DESCRIPTION

Name: Brookshire Elementary School Neighborhood Sidewalks Length: 2,450 Linear Feet

Termini: Brechin Drive – Banchory Road to Kimbrace Place (east side); Dunblane Drive – Banchory Road to Kimbrace Place (east side); Kimbrace Place – Brechin Drive to Lochberry Road (south side)

TYPE OF WORK By Fiscal Year	FUNDING		
	(1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
Planning FY: 2011-2012 FY: 2012-2013 FY: 2013-2014 Total Planning Cost			
Project Development & Environment (PD&E) FY: 2011-2012 FY: 2012-2013 FY: 2013-2014 Total PD&E Cost			
Design FY: 2011-2012 FY: 2012-2013 FY: 2013-2014 Total Design Cost	 \$ 15,000.00 \$ 15,000.00		 \$ 15,000.00 \$ 15,000.00
Right-of-Way FY: 2011-2012 FY: 2012-2013 FY: 2012-2013 Total Right-of-Way Cost			
Construction FY: 2011-2012 FY: 2012-2013 FY: 2013-2014 FY: 2014-2015 Total Construction Cost			
Construction Engineering and Inspection (CEI) FY: 2011-2012 FY: 2012-2013 FY: 2013-2014 Total CEI Cost			
Total Construction and CEI Costs			
TOTAL COST OF THE PROJECT	\$ 15,000.00		\$ 15,000.00

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after the 1st of July of each fiscal year. The Department will notify the Agency, in writing, when funds are available.

EXHIBIT "1"

SINGLE AUDIT ACT

Federal Resources Awarded to the Recipient Pursuant to This Agreement Consist of the Following:

Federal Agency: Federal Highway Administration

CFDA #: 20.205 Highway Planning and Construction

Amount: \$ 15,000.00

Compliance Requirement:

Allowable Activities: To be eligible, most projects must be located on public roads that are not functionally classified as local. The major exceptions are the Highway Bridge Replacement and Rehabilitation Program, which provides assistance for bridges on and off the federal-aid highways, highway safety activities, bicycle and pedestrian projects, transportation enhancement activities, the recreational trails program, and planning, research, development, and technology transfer. Proposed projects meeting these and other planning, design, environmental, safety, etc., requirements can be approved on the basis of state and local priorities within the limit of the funds apportioned or allocated to each state.

Allowable Costs: Eligible activities and allowable costs will be determined in accordance with Title 23 and Title 49 C.F.R. and the OMB cost principles applicable to the recipient/sub-recipient.

Eligibility: By law, the federal-aid highway program is a federally assisted state program that requires each state to have a suitably equipped and organized transportation department. Therefore, most projects are administered by or through state Departments of Transportation (State DOTs). Projects to be funded under the federal-aid highway program are generally selected by State DOTs or Metropolitan Planning Organizations (MPOs), in cooperation with appropriate local officials, as specified in 23 U.S.C. and implementing regulations. Territorial highway projects are funded in the same manner as other federal-aid highway projects, with the territorial transportation agency functioning in a manner similar to a state DOT. Most Federal Land Highway Program (FLHP) projects are administered by the Federal Highway Administration (FHWA) Office of Federal Lands Highway and its Divisions or by the various Florida Land Management Agencies (FLMAs). Under the FLHP, projects in the Indian Reservation Road (IRR) Program are selected by Tribal Governments and are approved by the Bureau of Indian Affairs (BIA) and the FHWA. Due to recent legislation, Tribal Governments meeting certain requirements may now administer various IRR projects on behalf of the BIA and FHWA. The Fish and Wildlife Service (FWS) and the National Park Service (NPS) select projects in the Refuge Road and Park Roads and Parkways Programs, respectively. For the Forest Highway Program, the Forest Service, the States and the FHWA jointly select projects.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to This Agreement Are As Follows: The recipient of Local Agency Program (LAP) funding must comply with the statutory requirements in Sections 112.061, 215.422, 339.12, and 339.135, Florida Statutes, and Title 23 and Title 49, C.F.R.



city commission public hearing

item type	Public Hearing	meeting date	April 22, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning and Zoning Board	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

Subject: Second Reading of the "Comp. Plan" Ordinance to Repeal the Supermajority and repeal of the provisions for Comp. Plan Development Agreements. (New text in yellow)

On January 28, 2013, the City Commission adopted at first reading, the ordinance to resolve the Comprehensive Plan supermajority conflict with the City Charter. The Comprehensive Plan amendment ordinance was sent to the State of Florida DOE for comment per Chapter 163, Florida Statutes. There were no comments or objections from FL DOE. Thus, this ordinance can now be adopted on second reading.

Planning Board Recommendation:

The Planning and Zoning Board recommended approval (7-0) of the Ordinance on Dec. 4, 2012.

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

Summary:

City Charter Conflict with the Supermajority Vote:

The City Attorney, Larry Brown prepared a legal opinion which 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 Comp. Plan policy 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, this ordinance was advertised to remedy and remove those conflicts.

The amendment repeals 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).
2. Supermajority needed for an Ordinance to create or expand a CRA or CDD. (Policy 1-1.1.3).

It is important to point out that this conflict with City Charter only relates to the adoption of Ordinances. There are provisions of our Comp. Plan and Zoning 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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Orlando, Florida 32802-2873
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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

September 10, 2012

Page 2

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

September 10, 2012

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.

September 10, 2012
Page 5

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. 2909-13

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.

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, the City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09 and desires to modify the procedures for amendments to the Comprehensive Plan that were established by Ordinance 2793-10, and

WHEREAS, certain provisions of the Comprehensive Plan 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, Section 58-6 of the City Code of the City of Winter Park provides that amendments to the Comprehensive Plan shall be made by ordinance;

WHEREAS, a conflict therefore exists between those provisions of the Code and Comprehensive Plan 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, the Comprehensive Plan, and the City Charter, the City desires to amend certain sections of its Comprehensive Plan to eliminate the supermajority requirement for matters passed by 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 Comprehensive Plan Policy 1-1.1.3. That the Comprehensive Plan is hereby amended so as to repeal and re-adopt Policy 1-1.1.3 in the Future Land Use Element on Page 1-2 of the Goals, Objectives and Policies to read as follows and revising that subsection to read as follows: (underlined type indicates additions, ~~strikeout type~~ indicates deletions)

Policy 1-1.1.3: Require Public Notice Prior to Creation or Expansion of CRA or CDD. Prior to the creation or expansion of any Community Redevelopment Area (CRA) or Community Development District (CDD), 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 shall require a super-majority (4 vote) of the City Commission for approval.~~

Section 3. Repeal of Comprehensive Plan Policy 1-1.1.5. That the Comprehensive Plan is hereby amended so as to repeal Policy 1-1.1.5 in the Future Land Use Element on Page 1-2 of the Goals, Objectives and Policies in its entirety, as shown below. (underlined type indicates additions, ~~strikeout type~~ indicates deletions)

~~**Policy 1-1.1.5: Amendment to this Comprehensive Plan.** Any proposed amendment of this Comprehensive Plan denied by the~~

~~Planning and Zoning Commission, shall not become effective except by a supermajority (4 vote) of the City Commission.~~

Section 4. Revision to Section 58-6 for Comprehensive Plan Amendments.

That Section 58-6 of the Land Development Code pertaining to Amendments to the Comprehensive Plan is amended so as to repeal and re-adopt Section 58-6 to read as follows: (underlined type indicates additions, ~~strikeout type~~ indicates deletions)

Sec. 58-6. Amendments to the comprehensive plan.

(a)

(6) In case of a recommendation for denial, either to transmit or adopt, by the planning and zoning commission, such amendments shall not proceed or become effective except by the majority affirmative vote of ~~four members~~ of the city commission. In cases when the planning and zoning commission recommends approval of a comprehensive plan future land use map amendment or text 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 or text amendment, it shall require the majority affirmative vote of ~~four members~~ of the city commission to transmit or adopt such comprehensive plan future land use map or text amendment for a greater portion of the property or to increase the density or intensity of use above that recommended by the planning and zoning commission. ~~In addition, it shall also require the affirmative vote of four members of the city commission to approve or adopt any text amendment to the Future Land Use Element of the Comprehensive Plan, regardless of the recommendation by the planning and zoning commission. However, future land use map and other map amendments in the future land use element may be adopted by majority vote.~~

Section 5. Repeal Section 58-7 for Development Agreements. That Section 58-7 of the Land Development Code pertaining to Development Agreements adopted pursuant to Chapter 163, Florida Statutes is repealed in its entity.

Section 6. 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 7. 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 8. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 9. Effective Date Of Ordinance. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administrative Commission, this amendment may nevertheless be made effective by the adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cindy Bonham, City Clerk

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

March 22, 2013

RECEIVED

MAR 29 2013

CITY OF WINTER PARK
PLANNING DEPARTMENT

The Honorable Kenneth W. Bradley
Mayor, City of Winter Park
401 Park Avenue South
Winter Park, Florida 32789

Dear Mayor Bradley:

The State Land Planning Agency has completed its review of the proposed comprehensive plan amendment for Winter Park (Amendment No. 13-1ESR), which was received on February 22, 2013. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the amendment if adopted.

The City is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the City. If other reviewing agencies provide comments, we recommend the City consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions concerning this review, please contact Ashley Porter at (850) 717-8502 or by email at Ashley.Porter@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "WB Killingsworth", is written over a faint, larger signature.

William B. Killingsworth
Director, Division of Community Development

WBK/ap

Enclosure(s): Procedures for Adoption

cc: Jeff Briggs, Planning Director, City of Winter Park
Hugh Harling, Executive Director, East Central Florida Regional Planning Council



Public Hearing

NOTICE OF COMPREHENSIVE PLAN AMENDMENTS TO REPEAL THE REQUIREMENT FOR SUPERMAJORITY VOTES AND TO ESTABLISH A PARKING LOT FUTURE LAND USE CATEGORY

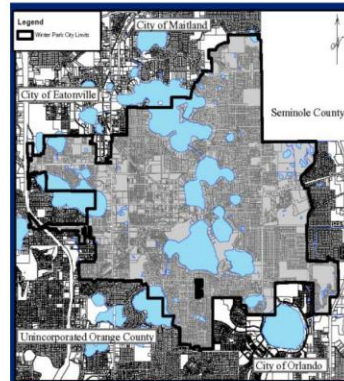
NOTICE IS HEREBY GIVEN that the Winter Park City Commission will hold a Public Hearing on Monday, April 22, 2013 at 5:00 p.m., in City Hall Commission Chambers, located at 401 S. Park Avenue in the City of Winter Park, Florida, to consider the adoption of Comprehensive Plan amendments repealing the Policies in the Comprehensive Plan and Future Land Use Element requiring a supermajority vote of the City Commission for adoption of ordinances, pursuant to the City Charter and to establish a new Parking Lot future land use designation.

Copies of the proposed ordinances 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: April 14, 2013 ORLANDO
SENTINEL**

December 4, 2012 Planning and Zoning Board minutes:

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	April 22, 2013
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" 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: Second Reading of the Comp. Plan Amendment to establish a "Parking Lot" future land use category. (New text in yellow)

On February 11, 2013, the City Commission adopted at first reading, the ordinance to establish a new "Parking Lot" future land use category. The Comprehensive Plan amendment ordinance was sent to the State of Florida DOE for comment per Chapter 163, Florida Statutes. There were no comments or objections from FL DOE. Thus, this ordinance can now be adopted on second reading.

This public hearing amends 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.

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.

Summary:

The need for this Ordinance 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. 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 also 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.

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 Of Ordinance.** The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administrative Commission, this amendment may nevertheless be made effective by the adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2013.

Mayor

Attest:

City Clerk

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

March 22, 2013

RECEIVED

MAR 29 2013

CITY OF WINTER PARK
PLANNING DEPARTMENT

The Honorable Kenneth W. Bradley
Mayor, City of Winter Park
401 Park Avenue South
Winter Park, Florida 32789

Dear Mayor Bradley:

The State Land Planning Agency has completed its review of the proposed comprehensive plan amendment for Winter Park (Amendment No. 13-1ESR), which was received on February 22, 2013. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the amendment if adopted.

The City is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the City. If other reviewing agencies provide comments, we recommend the City consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions concerning this review, please contact Ashley Porter at (850) 717-8502 or by email at Ashley.Porter@deo.myflorida.com.

Sincerely,

William B. Killingsworth
Director, Division of Community Development

WBK/ap

Enclosure(s): Procedures for Adoption

cc: Jeff Briggs, Planning Director, City of Winter Park
Hugh Harling, Executive Director, East Central Florida Regional Planning Council



Public Hearing

NOTICE OF COMPREHENSIVE PLAN AMENDMENTS TO REPEAL THE REQUIREMENT FOR SUPERMAJORITY VOTES AND TO ESTABLISH A PARKING LOT FUTURE LAND USE CATEGORY

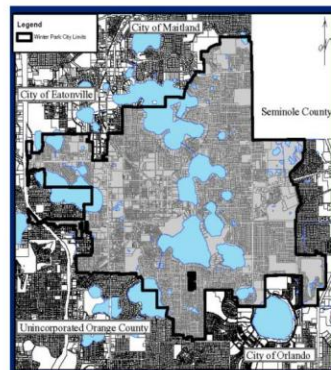
NOTICE IS HEREBY GIVEN that the Winter Park City Commission will hold a Public Hearing on Monday, April 22, 2013 at 5:00 p.m., in City Hall Commission Chambers, located at 401 S. Park Avenue in the City of Winter Park, Florida, to consider the adoption of Comprehensive Plan amendments repealing the Policies in the Comprehensive Plan and Future Land Use Element requiring a supermajority vote of the City Commission for adoption of ordinances, pursuant to the City Charter and to establish a new Parking Lot future land use designation.

Copies of the proposed ordinances 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: April 14, 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