



city commission agenda

Regular Meeting

June 23, 2014
3:30 p.m.
Commission Chambers

commissioners				mayor	commissioners			
seat 1	Steve 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.

Citizen comments at 5 p.m. and each section of the agenda where public comment is allowed are limited to three (3) minutes. The yellow light indicator will remind you that you have one (1) minute left. 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.

agenda

1	Meeting Called to Order	
2	Invocation Parks and Recreation Director, John Holland Pledge of Allegiance	
3	Approval of Agenda	
4	Mayor's Report a. Legislative Update – Senator Geraldine Thompson b. Proclamation – Parks and Recreation Month-July 2014 c. Board appointment – CRA Advisory Board (term expiring 2015)	*Projected Time *Subject to change 20 minutes total
5	City Manager's Report	*Projected Time *Subject to change

6	City Attorney's Report	*Projected Time *Subject to change
7	Non-Action Items	*Projected Time *Subject to change
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 *Subject to change
	<ul style="list-style-type: none"> a. Approve the minutes of June 9, 2014. b. Approve the Interagency agreement with Seminole County Sheriff to utilize law enforcement software for records management and reports; authorize the Mayor to execute the agreement and issue a subsequent purchase order; \$60,000. c. Authorize the Mayor to execute an agreement to pay Motorola \$162,620 to connect Winter Park Public Safety Communications dispatch system to the master site owned by Orange County. d. Approve the public entity resolution authorizing the use of BankUnited as a depository for the City. e. Approve the encroachment agreement with Mr. Mennello to add second floor balconies to the Packwood Building at 110 E. Morse Boulevard (SE corner of Park/Morse). 	5 minutes
10	Action Items Requiring Discussion	*Projected Time *Subject to change
	<ul style="list-style-type: none"> a. Formation of Library Facility Task Force 	15 minutes
11	Public Hearings	*Projected Time *Subject to change
	<ul style="list-style-type: none"> a. <u>Request of UP Fieldgate US Investments – Winter Park LLC:</u> <ul style="list-style-type: none"> - Conditional use approval to redevelop the former Corporate Square and Winter Park Dodge properties with a 40,000 square foot Whole Foods Grocery and a 36,000 square foot retail building with three outparcel development sites on the properties at 1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue. - Ordinance – Amending the comprehensive plan to change the Future Land Use Designation of Medium Density Multi-Family Residential to Commercial Future Land Use at 967 Cherokee Avenue (2) - Ordinance – Amending the official zoning map to change the zoning of Medium Density Multi-Family Residential (R-3) District to Commercial (C-3) District at 967 Cherokee Avenue (2) 	30 minutes

- | | |
|---|------------|
| <p>b. <u>Request of 1776 Real Estate Advisors LLC:</u></p> <ul style="list-style-type: none"> - Ordinance – Amending the Comprehensive Plan to change the Future Land Use Designation of Low Density Residential to Medium Density Multi-Family Residential Future Land Use on the 0.64 acres of vacant property at the northeast corner of Schultz and Michigan Avenues (2) - Ordinance – Amending the official zoning map to change the zoning of Low Density Residential (R-2) District to Medium Density Multi-Family Residential (R-3) District on the 0.64 acres of vacant property at the northeast corner of Schultz and Michigan Avenues (2) | 15 minutes |
| <p>c. <u>Request of Garmet Ltd and TGG Ltd:</u></p> <ul style="list-style-type: none"> - Ordinance – Amending the comprehensive plan to change the Future Land Use Map Designation of Commercial to Central Business District at 298 and 313 W. New England Avenue (2) - Ordinance – Amending the official zoning map to change the existing zoning designations of General Commercial (C-3), Limited Commercial (C-3A), and Medium Density Multi-Family Residential (R-3) Districts to Commercial (C-2) District at 298 and 313 W. New England Avenue (2) | 15 minutes |
| <p>d. Ordinance – Vacating and abandoning a portion of Loren Avenue within the Ravaudage Planned Development and Home Acres Subdivision area (2)</p> | 15 minutes |
| <p>e. <u>Request of Phil Kean Design Group:</u></p> <ul style="list-style-type: none"> - Ordinance – Amending the comprehensive plan to change the Future Land Use Map Designation of Commercial to Central Business District for the property at 421 W. Morse Boulevard (1) - Ordinance – Amending the official zoning map to change the existing zoning designation of Limited Commercial (C-3A) District to Commercial (C-2) District for the property at 421 W. Morse Boulevard (1) - Conditional use approval to redevelop the properties at 403 and 421 W. Morse Boulevard zoned C-2, into eight, three story residential units. | 30 minutes |
| <p>f. Ordinance – Establishing the West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program (1)</p> | 20 minutes |
| <p>g. Ordinance – Prohibiting the construction of a professional minor league baseball stadium in Martin Luther King, Jr. Park (1)</p> | 15 minutes |

12 City Commission Reports	*Projected Time *Subject to change
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."



2014 Legislative Session

June 23, 2014



In God We Trust
Sunshine State
Orange Blossom
67
Key Lime

STATE MOTTO
STATE NICKNAME
STATE FLOWER
COUNTIES
STATE PIE

Florida

LENGTH NORTH & SOUTH
447 Miles Long
St. Mary's River to Key West
WIDTH EAST & WEST
361 Miles Wide
Atlantic Ocean to Perdido River

LOCAL PENSION
TRANSPARENCY
FRS REFORM
to be continued...

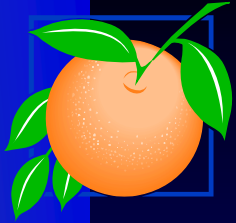
EDUCATION
REFORM
ONLINE U

ETHICS
REFORM

CAMPAIGN
FINANCE
REFORM

ELECTION
REFORM

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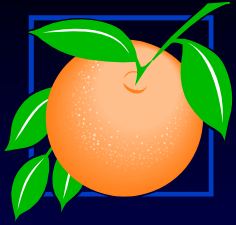


2014 Legislative Session

Presentation Outline:

- ◆ Legislative Agenda
- ◆ Session Overview
- ◆ Budget Appropriations
- ◆ Discussion/ Questions





2014 Legislative Session Florida Senate



Senator
Andy Gardiner
District 13



Senator
Alan Hays
District 11



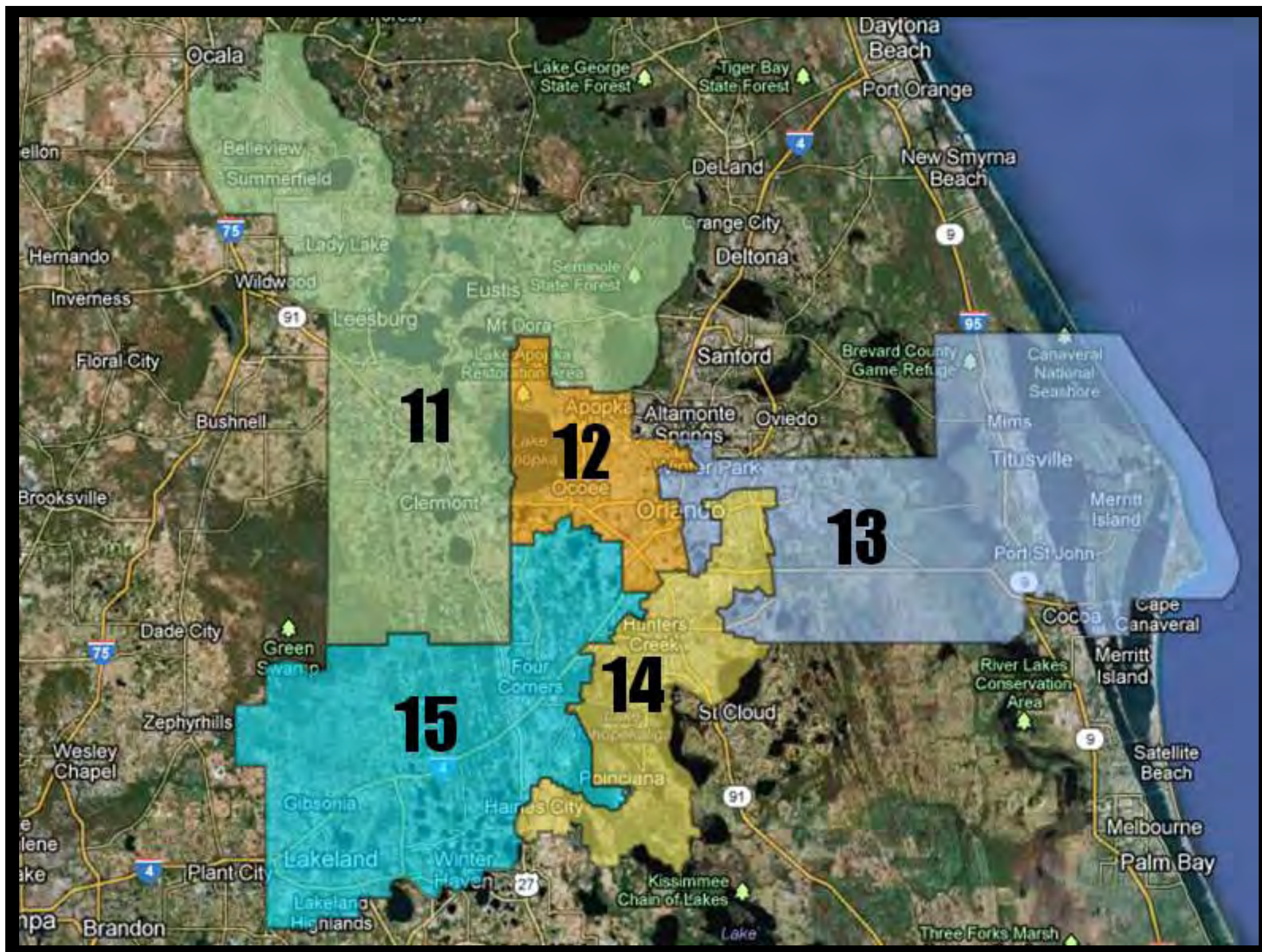
Senator
Darren Soto
District 14

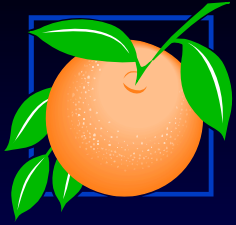


Senator
Kelli Stargel
District 15



Senator
Geraldine F.
Thompson
District 12





2014 Legislative Session Florida House



Rep. Bruce
Antone, D-46



Rep. Randolph
Bracy, D-45



Rep. Karen Castor
Dentel, D-30



Rep. Tom
Goodson, D-50



Rep. Bryan
Nelson, D-31



Rep. Eric
Eisnaugle, D-44



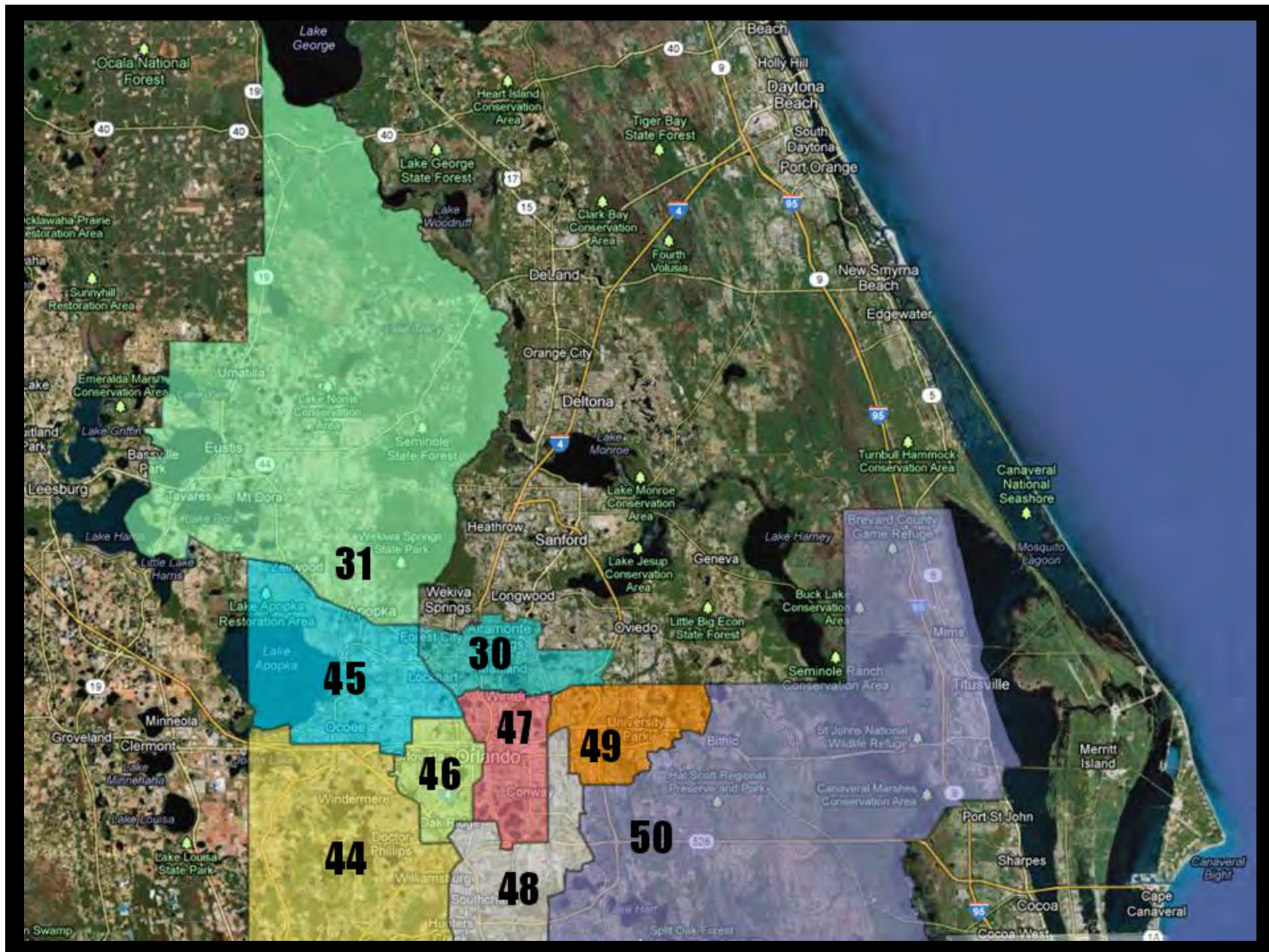
Rep. Joe
Saunders, D-49



Rep. Linda
Stewart, D-47



Rep. Victor Manuel
Torres, D-48



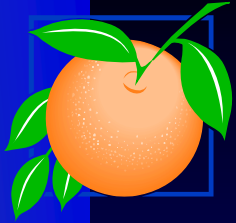


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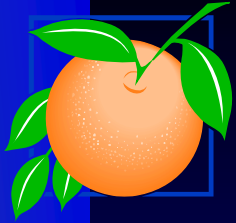


Legislative Session: Legislative Agenda

Pregnancy Discrimination

- SB 220 would give pregnant women victimized by discrimination in the workplace protection under the Florida Civil Rights Act.
- Bill Passed





Legislative Session: Legislative Agenda

Farmer's Markets

- The goal is to improve the access to fruits and vegetables and promote healthier food choices.
- Bill Passed



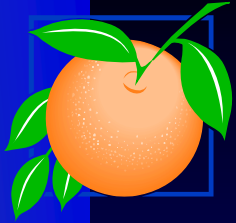


Legislative Session: Legislative Agenda

In-State Tuition

- This bill allows students who have graduated from Florida schools the opportunity to pay in-state tuition when they attend a Florida college or university regardless of their parents immigration status.
- Bill Passed



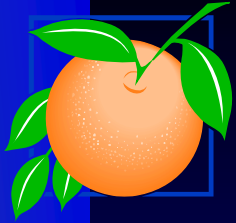


Legislative Session: Legislative Agenda

Wrongful Incarceration (James Joseph Richardson)

- This bill adds additional, but narrow, criteria to the wrongful incarceration statutes to allow Mr. Richardson to apply for compensation from the state for his time served.
- Bill Passed





Legislative Session: Legislative Agenda

Haitian Reunification

- Requests the federal government establish a program in support of Haitian immigrant applicants to join their families due to the circumstances in Haiti
- Bill Passed



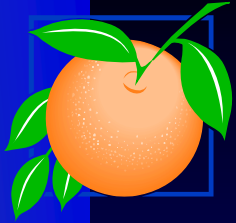


Legislative Session: Legislative Agenda

Black Cultural Tourism

- Bill would create the Black Cultural Tourism Enhancement Commission within the Department of State.
- Bill did not Pass



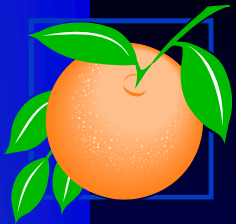


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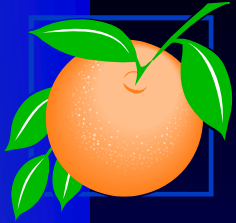




Legislative Session: Session Overview

- Florida passed a balanced budget that includes a reduction in tag and title fees so that drivers in our state will be able to keep \$395 million annually in their pockets, with \$500 Million in total tax relief.
- This budget continues to pay down Florida's debt and put \$3 Billion in reserves so that Florida continues on a sustainable track.
- Continuing the focus on K-12 education, there is a 2.6% increase in per student funding to invest in Florida's future.
- Successfully funds higher education priorities, including the top capital outlay projects at both Southwest Florida institutions of higher education. \$7 Million for FGCU's Innovation Hub, and \$5 Million for Edison State College's Leonhardt Hall.
- The budget includes more than \$231 million in water projects statewide to help treat and store water. This includes \$18 million to support the construction of the Caloosahatchee C-43 West Basin Storage Reservoir project that will store water and help keep harmful releases from Lake Okeechobee away from the Caloosahatchee Estuary.



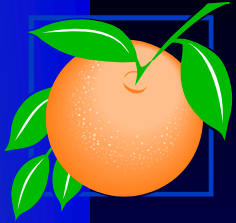


Legislative Session: Session Overview

Medical Marijuana

- Bill specifies the conditions under which low-THC or "Charlotte's Web" cannabis may be ordered and dispensed to, and used by, a patient.
- Bill Passed



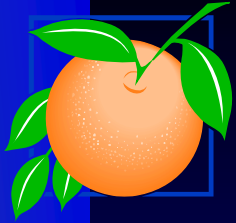


Legislative Session: Session Overview

Military and Veteran Affairs

- GI Bill creates a tuition waiver program which directs state universities, state colleges, career centers, and technical centers to waive of-of-state tuition fees for honorably discharged veterans.
- Bill Passed





Legislative Session: Session Overview

Red Light Cameras Repeal

- An Amendment by the House sponsor mandated that 70% of local government revenue from the cameras go into safety measures.
- Bill did not Pass



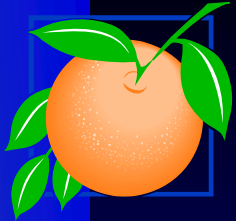


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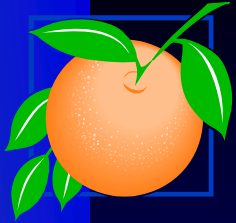


2014 Legislative Session: Budget Appropriations

Howard Phillips Center for Children and Families (Teen Express).....	\$ 50,000
UCF-Evans Community School	\$ 685,000
Florida Children's Initiative (Paramore Kids Zone).....	\$1,500,000
Little Egypt Septic to Sewer Conservation Project.....	\$ 350,000
South Apopka Adult Community Education Center.....	\$ 500,000
African-American History Task Force	\$ 100,000
Wells Built Museum.....	\$ 250,000
City of Ocoee-Land Use Planning Study.....	\$ 100,000
Silver Star Road Walk/ Bike Trail.....	\$ 150,000
National Entrepreneur Center (Disney).....	\$ 600,000
Bethune-Cookman University Entrepreneurship Institute.....	\$ 750,000
Oakland Wastewater System.....	\$ 250,000
City of Winter Park Lake Mead.....	\$ 400,000

\$5,685,000
FOR SENATE DISTRICT 12!!!!!!



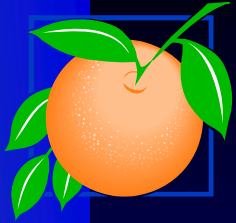


2014 Legislative Session

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2014 Legislative Session: Discussion/ Questions



Cindy Bonham

From: Cindy Bonham
Sent: Wednesday, March 19, 2014 3:58 PM
To: Cindy Bonham
Subject: Citizen Board Application - Jeffrey Stephens CRAB, HPB, P&Z

From: info@cityofwinterpark.org [<mailto:info@cityofwinterpark.org>]
Sent: Thursday, August 01, 2013 10:42 AM
To: jeff.stephens@cfl.rr.com
Cc: Cindy Bonham; Michelle Bernstein
Subject: Citizen Board Application - submission received

Dear Mr. or Ms. Stephens:

Thank you for submitting your application to be considered for the Community Redevelopment Advisory Board, Historic Preservation Board and Planning & Zoning Board. Your application will be on file for one year after the submission date. We appreciate your interest in serving the City of Winter Park.

Name: M. Jeffery Stephens

E-Mail: jeff.stephens@cfl.rr.com

Home Address: 500 North Pennsylvania Avenue, Condo A
Winter Park, FL 32789

Business Address:

Board 1: Community Redevelopment Advisory Board

Skills: Commercial Redevelopment/Renovation and Ground-up
Hotel/Retail Development

Board 2: Historic Preservation Board

Skills: Over 30 years experience with Construction and
Development

Board 3: Planning & Zoning Board

Skills: Expansive Construction and Development Experience

Are you a registered voter? yes

Are you a resident of the yes
city?

Do you own property in the yes
city?

Do you hold a public office? no

Are you employed by the no
city?

May we automatically yes
submit your application
when vacancies occur?

Do you have any potential no
conflicts of interest that may
arise from time to time if

**you serve on one of these
boards?**

**Are you currently serving on no
a city board(s)?:**

**Have you previously served no
on a city board(s)?**

Community Involvement: The Village Condominiums of Winter Park: President Winter
Park Young Professionals

Work Experience: Owner/Branch Operational Manager – Freedom Mortgage
Corporation Owner/COO - First Lenders Financial Group
Owner/VP Operations – Morquest Mortgage Financial Inc.
Southeastern Regional Manager – CSA Division of Cortrust
Bank East Coast Regional Development Manager – AFCA
Division of NCNB Operations Manager – Radisson Resort At
The Port

Educational Experience: Graduate Studies in Hotel Resort Management - Florida
International University Bachelor of Science Degree - Cornell
University of Hotel Management Extension Bachelor of
Science Degree - University of Tampa Four Year Degree -
The Winchendon School, Massachusetts



city commission **city manager's report**

item type

City Manager's Report

meeting date

June 23, 2014

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
Fairbanks Improvement Project	<u>Communication Notices</u> <ul style="list-style-type: none">• Project is complete. Working on settling LD's and workmanship issues prior to closeout.• Working with future customers regarding connection to gravity sewer.	<u>Construction Project</u> Connection to sewer instructions posted on City website.
Quiet Zones	State funds approved.	Applications for funding will be provided.
Winter Park Hospital Parking Garage	Under construction. Met with hospital representatives to discuss current and future plans and options for master plan update. Will continue to meet and discuss options.	Ongoing
Refunding of Electric Revenue Bonds, Series 2005A (Variable rate bonds in auction rate mod)	The tender offer to bondholders was launched on April 22. We are also soliciting quotes to refund auction rate bonds. Once the best source of funding is determined, a resolution documenting finance terms will be presented to the Commission for approval.	June 2014
Mechanisms to encourage owners to place overhead electric service wires underground	Current City ordinances require owners to place overhead electric service wires underground upon: 1) new commercial and residential construction; 2) Renovations that exceed 50% of the appraised value of existing improvements; and 3) change out of electric service equipment caused by code violations. There are 5,000 overhead electric service wires. Our goal is to get all overhead electric service wires placed underground at completion of underground project (10-12 years).	Utilities Advisory Board discussions are ongoing.
Fairbanks electric transmission and distribution undergrounding	Engineering cost estimates have been completed. Staff believes project can be completed within FDOT's available funding contract among Duke, the City and FDOT are being negotiated.	City Commission action expected July-August 2014

New Hope Baptist Church Project	All work has proceeded in compliance with our Codes. Exterior painting is complete.	Approved Conditional Use will expire in September 2015
Capen House	Awaiting plans for exterior rear deck and interior alterations for use of building for weddings, receptions, etc.	Completion will take 90+ days depending on funds available from contributions.
ULI TAP Orlando Avenue	Met with ULI representatives to create goals and begin setting agenda for the two day event.	Postponed until August 2014.
Garage/Estate Sale Ordinance Changes	The Planning and Zoning Board heard from staff and Ms. Graham's attorney regarding proposed changes to the City's Garage/Estate Sale Ordinance. After extension discussion on extending the number of days for an Estate Sale to three and to change the definition of an Estate Sale, over two public meetings, the Planning Board unanimously voted to adopt no changes to the current Garage/Estate Sale Ordinance.	On April 29, P&Z Board passed a motion by unanimous vote to recommend no changes to the Garage/Estate Sale Ordinance
Sustainability Action Plan Public Forum		June 24, 2014, 6:00 p.m., Winter Park Community Center
Sustainability Action Plan Survey	Cityofwinterpark.org/SAP	Deadline: June 30, 2014

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.

REGULAR MEETING OF THE CITY COMMISSION

June 9, 2014

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:39 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Police Chief Brett Railey, followed by the Pledge of Allegiance.

Members present:

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

Also present:

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

Approval of the agenda

Motion made by Commissioner Sprinkel to approve the agenda; seconded by Commissioner McMacken and approved by acclamation with a 5-0 vote.

Mayor's Report

a. Board appointment – Winter Park Police Pension Board

Mayor Bradley nominated Bill Manuel to serve on the Winter Park Police Pension Board (replaces Robert Harvey with the term 2014-2015); seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

b. Proclamation – Mary Lee DePugh Day

Mayor Bradley proclaimed June 9 as Mary Lee DePugh Day. He urged all citizens to honor Ms. Kraft and Ms. Depugh for their dedication and legacy in ministering the elderly in our community.

c. Presentation - The Gardens at DePugh Nursing Center – 2nd Quarter 2014 Business Recognition Award Recipients

Dori Stone, Director of Planning & Community Development, presented The Gardens at DePugh with the second quarter business recognition award. President Jane Hames and staff members of The Gardens at DePugh Nursing Center accepted the award and thanked the City for their support.

City Manager's Report

City Manager Knight announced that the City received the project design cost proposal for undergrounding the Fairbanks Avenue power transmission lines and the fee is within the allocated budget. Within the next few months the agreement

will be presented to the Commission for approval and by early next year work will commence.

City Manager Knight announced that Governor Rick Scott allocated the following funds in the approved budget: **\$400,000 for Mead Garden's** Water Quality Project and several million dollars for quiet zones for the entire state. He explained that it is a matching grant for quiet zones and that staff has our application ready to submit once the grant program becomes available.

City Attorney's Report:

Attorney Brown provided a memo from his office pertaining to which ordinances need to be read after 5:00 p.m.

Non-Action Item: No items.

Consent Agenda

- a. Approve the minutes of May 12, 2014.
- b. Approve the following contracts/purchase orders and formal solicitation:
 1. Piggybacking Lake County Contract No. 12-0806O to Ten-8 Fire Equipment, Inc. for fire equipment and supplies; and authorize the Mayor to execute the Piggyback Contract and subsequent Blanket Purchase Order.
 2. Piggybacking South Florida Water Management District Contract #6000000579 with Winfield Solutions, LLC for various herbicides and related adjuvants; and authorize the Mayor to execute the Piggyback Contract and subsequent Blanket Purchase Order.
 3. Piggybacking Lake County Contract No. 12-0806H with Fischer Scientific Company, Inc. for fire equipment and supplies; and authorize the Mayor to execute the Piggyback Contract and subsequent Blanket Purchase Order.
 4. Piggybacking Florida Municipal Power Agency (FMPA) Contract to Brady Infrared Inspections, Inc. for thermal/infrared imaging services; and authorize the Mayor to execute the Piggyback Contract and subsequent Blanket Purchase Order.
 5. Piggybacking Maricopa County Contract No. 11019 with The Home Depot for MRO Commodities and related services; and authorize the Mayor to execute the Piggyback Contract and subsequent Blanket Purchase Order.
 6. Renewal with **Designers' Press, Inc. for printing and mailing services (RFP-12-2012)**; and authorize the Mayor to execute Amendment 4 and a subsequent Blanket Purchase Order.
 7. Renewal with International Press, Inc. (RFP-12-2012) for printing and mailing services; and authorize the Mayor to execute Amendment 4 and a subsequent Blanket Purchase Order.
 8. **Award to Bailey's Coffee Service, Inc. (IFB-2-2014)** for coffee and water services; and authorize the Mayor to execute contract.

Motion made by Commissioner McMacken to approve the Consent Agenda; seconded by Commissioner Cooper. No public comments were made. **The motion carried unanimously with a 5-0 vote.**

Action Items Requiring Discussion: No items.

PUBLIC HEARINGS:

a. Request of UP Fieldgate US Investments – Winter Park LLC:

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL FUTURE LAND USE TO COMMERCIAL ON THE PROPERTY AT 967 CHEROKEE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE First Reading

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO COMMERCIAL (C-3) DISTRICT ZONING ON THE PROPERTY AT 967 CHEROKEE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE PORTIONS OF GALLOWAY DRIVE AND FRIENDS AVENUE WITHIN THE PROPOSED WHOLE FOODS DEVELOPMENT PROJECT, MORE PARTICULARLY DESCRIBED HEREIN First Reading

Attorney Brown read all three ordinances by title.

Planning Manager Jeff Briggs explained that these requests relate to the conditional use request for the Whole Foods project which will be forthcoming on June 23. This consists of the redevelopment of the properties at 1000 N. Orlando Avenue and 1160 Galloway Drive (former Corporate Square offices); 1050 N. Orlando Avenue (former Winter Park Dodge) and 967 Cherokee Avenue (overflow Holler Hyundai parking lot).

The following information was provided in the staff report. All of the property for the Whole Foods project is designated and zoned Commercial (C-3) except for the 967 Cherokee Avenue property which is designated and zoned Multi-Family (R-3). More than 20+ years ago, that property was granted a conditional use to be used as Holler Dodge overflow car inventory parking and then it transitioned upon sale of the Dodge dealership to be used for Holler Hyundai overflow car inventory. As such, it has been utilized in a quasi-commercial nature and thus the rezoning from R-3 to Commercial (C-3) does not displace any residential usage.

The Whole Foods project also combines and assembles these properties and requires the vacating and abandonment of the portions of public right-of-ways of

Galloway Drive and Friends Avenue that are within and interior to this assemblage. The city staff has no objection to the vacating of the portions of these roads within the project but indicated that the second reading would be after the utility easement matters are resolved.

Commissioner questions were provided whereby Mr. Briggs responded.

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

Motion made by Commissioner Leary to accept the zoning ordinance on first reading; seconded by Commissioner McMacken.

Motion made by Commissioner Leary to accept the vacating and abandoning ordinance on first reading and to include language that the City Attorney will review for time certainty; seconded by Commissioner Sprinkel.

Mary Daniels, 650 Canton Avenue, urged the Commission to specifically identify the 967 Cherokee Avenue property in their vote so that the wrong house is not demolished. Attorney Brown explained that the legal description supersedes the street address and that the correct legal definition is listed in the ordinance.

Applicant JJ Johnson, UP Fieldgate US Investments, answered questions and explained that they will be making a formal project presentation at the second reading.

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

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

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

b. Request of 1776 Real Estate Advisors LLC:

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL FUTURE LAND USE ON THE PROPERTY AT THE NORTHEAST CORNER OF MICHIGAN AND SCHULTZ AVENUES AND CHANGING THE WEST 10 FEET OF 1245 MICHIGAN AVENUE

FROM COMMERCIAL TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL FUTURE LAND USE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE LOW DENSITY RESIDENTIAL (R-2) ZONING TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING ON THE PROPERTY AT THE NORTHWEST CORNER OF MICHIGAN AND SCHULTZ AVENUES AND CHANGING THE WEST 10 FEET OF 1245 MICHIGAN AVENUE FROM COMMERCIAL (C-3) TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. First Reading

Attorney Brown read both ordinances by title. Planning Manager Jeff Briggs explained that applicant 1776 Real Estate Advisors LLC has a contract to purchase the vacant 0.94 acres on the northeast corner of Schultz and Michigan Avenues which is contingent upon the rezoning. The entire vacant property is 310' along Michigan Avenue and 131.5' along Schultz Avenue; the eastern 100' is zoned R-3 and the western 200' is zoned R-2. The applicant is requesting to change the R-2 zoning designation to R-3 for a townhouse project. There is 10' of commercial property on the furthest eastern end that is changing from Commercial (C-3) to Multi-Family (R-3).

Mr. Briggs explained the difference between R-2 and R-3 zoning, the compatibility with the surrounding neighborhood, **staff's analysis of the applicant's request**, the number of proposed townhouses, and the square footage and amenities.

Mr. Briggs advised that the applicant and staff have agreed upon voluntary limitations to be imposed on the R-3 zoning as to scale and character. The applicant has agreed to accept the limitations of 12 units; two stories and 36,000 square feet. These terms have been formalized in a development agreement which has been approved by the City Attorney and referenced within the text of the zoning ordinance. A unanimous approval was granted by the P&Z Board subject to the development agreement incorporating the terms and conditions.

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

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

Mary Daniels, 650 Canton Avenue, asked if the development agreement runs concurrent with the developer or land. Attorney Brown explained that it runs with the land.

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

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

c. Request of Garmet Ltd and TGG Ltd:

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 COMMERCIAL TO CENTRAL BUSINESS DISTRICT ON THE PROPERTIES AT 298 AND 313 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3), COMMERCIAL (C-3A) AND (C-3) DISTRICT ZONING TO COMMERCIAL (C-2) DISTRICT ZONING ON THE PROPERTIES AT 298 AND 313 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. First Reading

Attorney Brown read both ordinances by title. Planning Manager Jeff Briggs explained that these are requests by Garmet Ltd. (property owner); 298 W. New England and TGG Ltd. (property owner), and the property owner of 313 W. New England Avenue to change the Comprehensive Plan and Zoning to Central Business District (C-2).

Mr. Briggs provided the history regarding the establishment of the Community Redevelopment Area in 1994, the changing of the Comprehensive Plan in 1995, the changes that occurred with the adoption of the 2009 current Comprehensive Plan and the how it relates to the Future Land Use for Commercial to Central Business District property designations to date.

Motion made by Commissioner Cooper to deny the comprehensive plan ordinance on first reading. Motion failed for lack of a second.

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

Motion made by Commissioner Leary to accept the zoning ordinance on first reading; seconded by Commissioner Sprinkel.

Mr. Briggs answered questions regarding alleyway usage and public service access.

Mary Daniels, 650 Canton Avenue, explained that the public streets are heavily congested due to delivery trucks blocking traffic on New England Avenue. As a remedy she proposed that the property owners provide rear ROW access for their business deliveries.

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

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

NOTE: Agenda order was rearranged

- e. RESOLUTION NO. 2142-14: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE NO. 2953-14; AUTHORIZING THE ISSUANCE IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$8,500,000 ELECTRIC REFUNDING REVENUE BOND, SERIES 2014 OF THE CITY FOR THE PURPOSE OF REFUNDING A PORTION OF THE CITY'S OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND TO PAY THE COSTS THEREOF; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; PROVIDING FOR THE PAYMENT OF SUCH BOND FROM THE NET REVENUES DERIVED FROM THE ELECTRIC SYSTEM OF THE CITY; AUTHORIZING A NEGOTIATED SALE OF SUCH BOND; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Brown read the resolution by title. City Manager Knight explained the request. Jay Glover, Public Financial Management, answered questions.

Motion made by Mayor Bradley to adopt the resolution; 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 unanimously with a 5-0 vote.**

Public Comment (5:00 p.m.)

Jim Barnes, 7 Isle of Sicily, thanked the Commission and staff for renovating the Morse Boulevard median and complimented how it now looks.

A recess was taken from 5:00 p.m. to 5:20 p.m.

- d. Request of the City of Winter Park:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" BY AMENDING THE GOALS, OBJECTIVES AND POLICIES TEXT WITHIN THE FUTURE LAND USE ELEMENT

RELATED TO THE PLANNED DEVELOPMENT FUTURE LAND USE DESIGNATIONS; COMBINING THE PD-1 AND PD-2 FUTURE LAND USE DESIGNATIONS, DELETING THE MAPS INDICATING THE CANDIDATE AREAS FOR PLANNED DEVELOPMENT FUTURE LAND USE AND DELETING THE PARAMETERS FOR THE CREATION AND ESTABLISHMENT OF PLANNED DEVELOPMENT ZONING DISTRICTS AND OTHER POLICY TEXT RELATING TO PLANNED DEVELOPMENT FUTURE LAND USE; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE. First Reading

Dori Stone, Director of Planning and Community Development, explained that this ordinance proposes to revise the Comprehensive Plan policies related to Planned Developments in the Future Land Use element of the Comprehensive Plan. The intent is to make the Planned Development land use more usable to promote economic development.

Ms. Stone advised that one of the recommendations of the WRT study of the Comprehensive Plan was to combine the two Planned Development land use designations and to remove the development standards and other limitations that restricted the use of the Planned Development Future Land Use within the City. The proposed ordinance reflected the following plan changes:

1. Combines the PD-1 and PD-2 future land use designations into one PD future land use category.
2. Eliminates the four PD candidate area maps but maintains the geographic restriction to locations adjacent to four lane roadways such as Lee Road, Fairbanks Avenue, Orange Avenue, Denning Drive and Aloma Avenue and maintains that PD future land use is not intended or permitted for use within the Central Business District or the downtown core bounded by Fairbanks, Interlachen, Webster and Pennsylvania Avenues.
3. Removes parking garage FAR from the FAR calculations in the PD Land Use only.
4. Eliminates the development standards text such as minimum and maximum parcel size, the lot coverage, setbacks, green space minimums, etc.
5. Eliminates the direction as to the establishment of PD Zoning districts as these have already been adopted.

Ms. Stone explained that there is no change currently proposed to the Land Development Code with regard to this item. This land use category does set maximum density and intensities per the land use requirements of the State statutes including dwelling unit counts and the FAR (Floor Area Ratio). The Comprehensive Plan does not require any further detail and in order to lessen the confusion about this particular land use, the City has allowed the land use to stand as a descriptive land use and will allow the Land Development Code to stand as the implementation rules and regulations for this particular land use category.

Ms. Stone noted that one of the major benefits having Planned Developments (PD's) in this community is that it creates revitalization and redevelopment

opportunities along all major four lane corridors such as 17/92 (Orlando Avenue), Fairbanks Avenue, Lee Road and Aloma Avenue.

Ms. Stone clarified that no property in the City has an entitlement of PD land use automatically; it has to be granted by the City Commission and is completely negotiated regarding the terms of the land use and the terms of the zoning district that accompany the land use.

Planning Manager Jeff Briggs explained how the Floor Area Ratio can differ if using the current land use code versus the PD designation. He presented several different site plan illustrations and created various scenarios regarding the different variations that can be achieved with useable green space, building/structure placement and surface parking lots versus parking structures. Ms. Stone and Mr. Briggs answered questions.

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

Commissioner Cooper spoke in opposition to the proposed ordinance and explained how it would affect the overall FAR and density by presenting three drawings from an outside source planning manual to support her position.

Ms. Stone explained that if the Commission approves the ordinance on first reading, staff would then transmit the proposed ordinance to the State Department of Economic Opportunity (DEO) for review and comment. During this timeframe staff will work with the Planning & Zoning and Economic Development Advisory Boards to gain input on the draft Land Use Development Code. Upon receipt of DEO comments, the ordinance will be modified within 45 days for second reading and presented to the Commission for adoption along with the draft Land Use Development Code.

The following spoke in opposition:

John Skolfield, 1358 Ultoria Avenue
Judy Maynard, 1531 Berkshire Avenue
Frank Anderson, 2232 Fosgate Drive
Dykes Everett, 341 E. Webster Avenue
Mary Daniels, 650 Canton Avenue
Martha Hall, 331 W. Lyman Avenue
Maria O. Bryant, 450 S. Virginia Avenue
Nicole Anderson, 2232 Fosgate Drive
Richard Mead, 1644 Hibiscus Avenue
Marty Sullivan, 901 Georgia Avenue
Sally Flynn, 1400 Highland Road
John Perry, 1046 S. Kentucky Avenue
Michael Spencer, 1509 Orange Avenue

Shay Silver, 735 Pansy Avenue
Kim Allen, 1800 W. Fawsett Road
Bee Epley, 151 N. Orlando Avenue
Penny Potter, 1360 Canterbury Road
Joan Cason, 1915 Woodcrest Drive
Lurlene Fletcher, 811 English Court
Carol Lotspeich, 151 N. Orlando Avenue
Maura Smith, 901 Georgia Avenue
Shelly Silver, 735 Pansy Avenue
Betsy Owens, 656 Park Avenue North
Lee Maynard, 1531 Berkshire Avenue
Pat McDonald, 2348 Summerfield Road
Barry Greenstein, 2348 Summerfield Road
Mark Squires, 400 Park Avenue South
Mary Randall, 1000 S. Kentucky Avenue

Attorney Brown clarified that Commissioner Leary has no conflict of interest regarding this particular vote tonight on this agenda item.

Commissioner McMacken explained that he is not totally opposed to this ordinance; however, at this time he is not willing to vote in favor of it since there is a **tremendous misunderstanding throughout the community regarding PD's** and that he would prefer to have a community consensus.

Discussion ensued regarding the pros and cons with the ordinance. **Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted yes. Commissioners Cooper and McMacken voted no. The motion carried with a 3-2 vote.**

A recess was taken from 7:55 p.m. to 8:08 p.m.

- f. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING A PORTION OF LOREN AVENUE WITHIN THE RAVAUDAGE PLANNED DEVELOPMENT AND HOME ACRES SUBDIVISION AREA, MORE PARTICULARLY DESCRIBED HEREIN. First Reading

Attorney Brown read the ordinance by title.

Assistant Public Works Director Don Marcotte explained that the applicant Benjamin Partners Ltd. and the Sydgan Corporation have requested the City to vacate a portion of Loren Avenue within the Ravaudage PD area. **Staff's approval of this request is based upon the applicant's** offer to convey to the City a public access perpetual easement running from the north end of the public street of Loren Avenue, west out to Bennett Avenue thereby avoiding the creation of a dead end street. Staff has discussed this item with the owners of the Winter Park Veterinary Clinic at 1601 Lee Road and they understand this will have no impact on their

existing access from Bennett Avenue. The new access road will support delivery trucks accessing the BubbaLou's Restaurant. Attorney Brown noted that the **developer's agreement** states that the developer will grant a public access perpetual easement and that the developer will maintain it.

City Manager Knight explained that the proposed future realignment of Bennett Avenue has nothing to do with the request that is before them. That request will have to be presented to the Commission as a separate agenda item for approval.

Applicant Dan Bellows, 411 W. New England Avenue, representing Benjamin Partners Ltd. and the Sydgan Corporation, explained the reasoning behind vacating and abandoning Loren Avenue and the perpetual easement usage. He advised that he has a pending contract to sell part of the Ravaudage property to an outside entity who is proposing to build a 274 unit apartment project and that the road abandonment is a critical component to the deal. He answered questions and addressed concerns related to the potential land lock impacts to lots 17 and 18 which are owned by Benjamin Partners Ltd.

The Commission shared concerns with the request being made by Mr. Bellows (who **is representing BubbaLou's**) due to pending litigation between Mr. Bellows and Sam Meiner **regarding shareholder/ownership of the BubbaLou's entity**. Upon request, Attorney Brown provided legal counsel and explained that the City cannot stop its normal governmental processes merely because someone claims they have rights to ownership.

Mr. Bellows provided clarification that in December 2013 Clarence Wheeler, the majority stockholder and **President of BubbaLou's Inc.**, directed and authorized Sydgan Corporation to make the formal request and application which is before them for the comprehensive plan amendment, the rezoning and this right-of-way vacation.

Attorney Brown clarified that Mr. Bellows is the majority owner and should have the right, according to the face of the documents, and carry on that authorization that Mr. Wheeler, the prior majority owner signed off on. He does not see any reason why the City should stop moving forward with land development prerogatives of the City merely because there is an underlying dispute that the court is well aware of. If the court does not want the City to move forward, an injunction will be issued to the City.

Mr. Bellows answered questions related to exit/entry access to nearby businesses, the service road pavement width and the potential future realignment of Bennett Avenue.

Motion made by Commissioner McMacken to accept the ordinance on first reading; seconded by Commissioner Leary.

Dr. Rob Hess, Winter Park Veterinary Hospital, 1601 Lee Road, shared concerns by **presenting several "what if" possibilities regarding the** proposed future realignment of Bennett Avenue including cost impacts for drainage line relocation, parking lot access, etc.

Sam Meiner, BubbaLou's Winter Park, 1302 Orange Avenue, spoke in opposition by claiming **that there are too many "what if's" and said this is not the right time to** abandon this street. He submitted several backup documents to the Deputy City Clerk to support his position and spoke about its content in detail. He has retained a traffic engineer to support his objection and urged the Commission to deny the request.

Concerns were raised by the Commission as to the legality of abandoning a road that leads to an occupied house, regardless of whether or not it is owned by Mr. Bellows. Attorney Brown said Mr. Bellows would have to terminate the tenant lease and until then the landlord has to allow his half of the roadway as a private drive.

The Commission inquired regarding the abandonment of the right-of-way if the road or potential project does not move forward. It was recommended that the City Attorney add a reverter clause in the ordinance prior to second reading.

Traffic Engineer Mike Hale, Traffic Engineering Data Solutions, 80 Spring Vista Drive, DeBary, representing Sam Meiner and Dr. Rob Hess, spoke about the proposed future realignment of Bennett Avenue, the right-of-ways that would need to be acquired, the costs involved and the impacts to surrounding property owners. He **advised that the developer's agreement does not contain language pertaining to** Mr. Bellows having to maintain the roadway/easement and urged the Commission to deny the request.

Attorney Brown advised that tonight Mr. Bellows authorized the City to amend the language in the agreement to indicate that the blacktop on Loren Avenue is to remain in usable condition and that once the easement is recorded Mr. Bellows will build the road in accordance with City standards and maintain it at his expense for the public easement. Mr. Bellows also agreed to explicitly provide that until such time as he sells or otherwise disposes of the property that he will keep Loren **Avenue blacktop available as a private drive to service the four BubbaLou's parcels** of land.

Daniel Assael, 1144 Park Green Place, suggested that the Commission take a visual look at the Ravaudage property to familiarize themselves with the area and potential development activity.

Toni Assael, 1144 Park Green Place, spoke in favor of the request.

Lurlene Fletcher, 811 English Court, was opposed to the request.

For clarification purposes, Commissioner Leary asked if the original motion is to include the additional language that Attorney Brown referenced earlier including the reverter clause. Commissioner McMacken said yes. Commissioner Leary agreed. Mayor Bradley and Commissioner Cooper spoke in opposition.

Upon a roll call vote, Mayor Bradley and Commissioner Cooper voted no. Commissioners Leary, Sprinkel and McMacken voted yes. The motion carried with a 3-2 vote.

City Commission Reports:

a. Commissioner Leary

Commissioner Leary addressed his appreciation with the conversations and discussions this evening and the good things that were shared.

b. Commissioner Sprinkel

Commissioner Sprinkel expressed her frustration with inaccurate information being communicated to the public and the negative impact it has. She addressed the need to change how this information is being provided because it is further dividing the public. She spoke about the residents who spoke this evening using this information and not listening to what was presented at the meeting.

c. Commissioner Cooper

Commissioner Cooper responded to Commissioner Sprinkel's comments. She explained that she did not send out inaccurate information, she tries to be extremely transparent in all information she shares and strives to make sure all information sent out is correct. Commissioner Sprinkel elaborated on the information sent out that misrepresented the other Commissioners and having to respond to several emails that contained inaccurate information.

Commissioner Cooper offered suggestions on ways to better communicate with the public. Commissioner Sprinkel responded that there needs to be a better way of sending out information rather than from just one Commissioner. Commissioner Cooper suggested sending out surveys to residents and having more work sessions with options and details when it comes to changing long standing policies.

Commissioner Cooper stated she will continue to send out her information to the public and that the public needs to be shown the pros and cons. Mayor Bradley stressed the need for all information provided to the public by Commissioners contain this information.

d. Commissioner McMacken

Commissioner McMacken spoke about the problem with service trucks stopping and unloading on New England Avenue and that it needs to be addressed by the Police Department.

e. Mayor Bradley

Mayor Bradley addressed the numerous angry people speaking tonight based on the information given out to the public outside of the public meeting. He addressed the need for everyone to be on the same page. He spoke about the comprehensive **plan which is the City's vision and that it behooves us to work better with the residents**; and is happy having staff providing as many forums as they want but that the Commission has the last word.

The meeting adjourned at 9:54 p.m.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham, MMC



city commission agenda item

item type	Consent Agenda	meeting date	June 23, 2014
prepared by	Purchasing Division	approved by	<input checked="" type="checkbox"/> City Manager
department		<input type="checkbox"/> City Attorney	
division		<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.	Seminole County Sherriff's Office	Interagency Agreement between Seminole County Sheriff and the Winter Park Police Department to utilize law enforcement software for records management and reports.	Total expenditure included in approved FY14 budget. The amount is \$60,000.	Commission approve and authorize the Mayor to execute the Interagency Agreement with Seminole County Sheriff and issue a subsequent Purchase Order.
The City of Winter Park utilizes the Records Management Systems and Mobile Data Report Writing system through an Interagency Agreement with the Seminole County Sheriff's Office.				

INTERAGENCY AGREEMENT
SEMINOLE COUNTY SHERIFF'S OFFICE AND WINTER PARK POLICE
DEPARTMENT POLICE DEPARTMENT - AGREEMENT FOR CRIMINAL
JUSTICE COMPUTER SERVICES AND SUPPORT

THIS AGREEMENT is made and entered by and between DONALD F. ESLINGER, Seminole County Sheriff's Office, hereinafter referred to as "SHERIFF", a Constitutional Officer of the political subdivision of Seminole County, Florida, whose address is 100 Bush Blvd., Sanford, FL 32773, and the WINTER PARK POLICE DEPARTMENT, hereinafter referred to as "PD", whose address is 500 N Virginia Ave, Winter Park, FL 32789.

WITNESSETH

WHEREAS, The SHERIFF and PD, are criminal justice agencies, formally recognized by the Federal Bureau of Investigations (FBI) and the Florida Department of Law Enforcement (FDLE); AND

WHEREAS, in accordance with sections 163.01(2) and 163.01(14) Florida Statutes, the SHERIFF and PD are authorized to enter into inter-local Agreements for the provision of services; AND

WHEREAS, The SHERIFF presently has the benefit of access to the Florida Criminal Justice network (CJNet), National Crime Information Center (NCIC), the Florida Crime Information Center, and the Interstate Identification Index (III) all hereafter referred to as FCIC, via network connectivity to the FDLE; AND

WHEREAS, The SHERIFF has developed sophisticated law enforcement software which is presently in use by other law enforcement and criminal justice agencies and is supported and maintained by Sheriff's Office staff on a seven days per week, twenty-four hours per day basis; AND

WHEREAS, PD has determined that it is advantageous to enter into a contractual agreement with the SHERIFF for the provision of criminal justice computer software services, including continued access to FCIC and state/national criminal justice information for the administration of criminal justice.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth herein, the parties agree as follows:

1. Agreement Term

The TERM of this Agreement shall be from June 23rd 2014 until such time as either party desires to end the Agreement in accordance with termination provisions set forth in Section 8 of this Agreement, the dates of signature of the parties notwithstanding.

2. Purpose

The purpose of this Agreement to establish terms and conditions under which the SHERIFF shall provide criminal justice computer software services and support to the PD.

3. **Cooperation**

It is agreed that both parties shall provide all reasonable and necessary cooperation and assistance so as to facilitate the terms of this Agreement.

4. **Basic Services**

1. **The SHERIFF agrees to:**

- A. Provide FCIC Information Systems, CAFEWEB, XCAD, MICAD and other applicable criminal justice software available on the SHERIFF'S network to the PD.
- B. Provide database security and backup services for PD data residing on Sheriff's Office systems.
- C. Provide necessary instruction and training to PD personnel on CAFEWEB, XCAD, MICAD, and other applicable software to support the transition to SCSO systems. After initial system setup, SHERIFF may, at its sole discretion, offer additional training to PD.
- D. Provide, maintain and pay for such data transfer circuit(s) required to support connection and interface with CAFEWEB, XCAD, MICAD and other applicable criminal justice software on the SHERIFF'S network.
- E. Provide highest level (Tier 3) expert support to the PD for CAFEWEB, XCAD, MICAD, and other applicable software.
- F. Share PD CAFEWEB data with the Law Enforcement Technology, Training and Research center to facilitate law enforcement data sharing on a regional, state and nationwide basis.
- G. Provide for a sufficient number of appropriately qualified personnel to perform those services set forth within this Agreement.
- H. Make reasonable efforts to ensure delivery of the provision of services set forth herein. SHERIFF makes no warranties, representations, or guarantees with regards to specific performance levels, data accuracy, data completeness, system uptime, security, or system integration and SHERIFF will not be held liable for any direct or indirect damages incurred by PD's use of the software/system(s), including but not limited to loss of data or loss of system use.

2. **PD agrees to:**

- A. Abide by all applicable local, state, and federal laws, rules and regulations, as well as the FBI CJIS Security Policy and rules and regulations of FCIC with regards to the use of said criminal justice computer systems, and ensure compliance with Florida Public Records laws in regards to exempt and confidential data contained within criminal justice software systems provided by the SHERIFF.

- B. Abide by all the terms and conditions of the Criminal Justice User Agreement executed between the FDLE and the SHERIFF, a copy of which is attached to this Agreement.
- C. Limit use of provided criminal justice computer systems to authorized personnel within the PD and only for the administration of criminal justice.
- D. Acknowledge, by executing this Agreement, that all software written by the SHERIFF is subject to copyright protection and may not be sold or transferred to any other entity without the express written consent of the SHERIFF.
- E. Provide adequate computer hardware compatible with the software, hardware and network equipment utilized by the SHERIFF.
- F. Ensure that all authorized PD personnel attend training on CAFEWEB, XCAD, MICAD, and other applicable software provided by the SHERIFF prior to utilizing SHERIFF systems.
- G. Perform acceptance testing on all brand new CAFEWEB, XCAD and MICAD installations before using the systems in a live environment.
- H. Maintain all required software licenses required to access the SHERIFF'S law enforcement software systems.
- I. Provide for a sufficient number of appropriately qualified personnel to support and maintain SHERIFF'S law enforcement software on PD computers. This includes performing technical support for basic user issues (Tier 1) and providing administrative level support (Tier 2) for advanced technical troubleshooting.

5. Compensation and Payment

1. PD agrees to reimburse the SHERIFF for services provided for within this Agreement in accordance with the following schedule:

Annual maintenance including ongoing support and upgrades: \$55,000

Annual reimbursement for connectivity charges: \$5,000
2. Payments shall be made upon submittal of an invoice by the SHERIFF. Annual payment requests shall be made by the SHERIFF no later than January of the fiscal year in question.
3. The SHERIFF shall no later than May 1st of each year, submit to PD the cost for Annual Maintenance as set forth in this Agreement for the upcoming fiscal year beginning October 1st. This anticipated cost shall not be binding upon the PD and shall be subject to negotiation between the PD and the SHERIFF.
4. PD may request custom programming or other specialized computer services that are outside the scope of this this agreement. Such services will be provided at the sole discretion of SHERIFF and will be charged at \$125.00 per hour worked. SHERIFF will

provide estimates for such services but PD acknowledges and agrees that it receives estimates only, and the actual cost for the services may be less or more. SHERIFF shall invoice PD for its work once per month. Payment for specialized services shall be payable within 60 days of receipt of the invoice.

All payments made by PD shall be sent to the following address:

Seminole County Sheriff's Office
Financial Services Section
100 Bush Boulevard
Sanford, FL 32773

6. Indemnification

Pursuant to Florida Statutes and to the extent provided for by Florida law, neither the SHERIFF nor PD waives any defense of sovereign immunity, or increases the limits of its liability, upon entering into this Agreement. This Agreement does not contain any provision that requires one party to indemnify or insure the other party for the other party's actions, or to assume any liability for the other party's actions.

7. Dispute Resolution

This Agreement shall be governed by and construed with the laws of the State of Florida. Venue shall be in Seminole County, Florida. The SHERIFF'S designee, IT Director Mary Fahlstrom, and PD'S designee, Deputy Chief Art King shall resolve minor disputes.

Notices

Whenever any party desires to give notice unto the other party, notice may be sent to:

For SHERIFF:

Mary Fahlstrom, IT Director
Seminole County Sheriff's Office
100 Bush Blvd.
Sanford, FL 32773

For PD:

Mr. Brett Railey, Chief of Police
500 N Virginia Ave.
Winter Park, FL 32789

8. Termination

Either party may terminate this agreement upon providing ninety (90) days written notice, except that the SHERIFF may terminate this agreement immediately and without notice upon finding that the PD has willfully violated the terms of this agreement. Within thirty (30) days following termination, SHERIFF will provide PD with a copy of PD data stored on SHERIFF's systems in Microsoft SQL Server format.

9. **Entire Agreement**

It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous Agreement presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing, approved by the respective parties and duly executed on behalf of each party as set forth herein.

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by the proper officers and officials.

Winter Park Police Department

By: Chief Brett Railey

Date

Seminole County Sheriff's Office

By: Sheriff Donald F. Eslinger

Date

City of Winter Park

By: Kenneth Bradley, Mayor

Date



city commission agenda item

item type	Consent Agenda	meeting date	June 23, 2014
prepared by department division	Chief Brett Railey Police Administration	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A final vote		
strategic objective	<input type="checkbox"/> Exceptional Quality of Life <input type="checkbox"/> Intelligent Growth & Development <input checked="" type="checkbox"/> Investment in Public Assets & Infrastructure <input type="checkbox"/> Fiscal Stewardship <input type="checkbox"/> Public Health & Safety		

motion | recommendation

Authorize the Mayor to execute an agreement to pay Motorola \$162,620 to connect Winter Park Public Safety Communications dispatch system to the master site owned by Orange County.

background

Currently, to expand the coverage area of the communications system utilized by Public Safety and other City departments we are connected to the City of Apopka master tower site. While providing greater coverage than our single tower, users have experienced areas where no communications coverage is available. Connecting with the Orange County master site will interconnect towers owned by Winter Park, Orlando and Orange County which will allow users to seamlessly communicate over a much broader area of coverage than currently experienced. From a police department perspective, an imperative officer safety issue will be alleviated.

alternatives | other considerations

Remain connected through the Apopka master site and have little to no coverage during critical prisoner transport operations.

fiscal impact

\$162,620.00 to be paid from Federal Forfeiture funds



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MOTOROLA SOLUTIONS

Motorola Solutions, Inc.
1064 Greenwood Boulevard, Suite 400
Lake Mary, FL 32746
USA

1 June 2014

Mr. Brett Railey
Chief of Police
Winter Park Police Department
500 North Virginia Avenue
Winter Park, FL 32789

Subject: Proposal for Connecting to Orange County Master Site

Dear Mr. Railey:

Motorola Solutions, Inc. ("Motorola") is pleased to have the opportunity to provide City of Winter Park ("City") with quality communications equipment and services. The Motorola project team has taken great care to propose a solution that will meet your needs and provide unsurpassed value.

To best meet the functional and operational specifications of this solicitation, Motorola's solution includes a combination of hardware, software, and services. Specifically, this solution is to disconnect from City of Apopka Master Site and connect to Orange County Master Site.

Motorola's proposal is subject to the terms and conditions of its Communications Product Agreement and Exhibits, or in the alternative, a negotiated version thereof. The team at Motorola will negotiate in good faith to arrive at a contract that best serves the interests of all parties involved. This proposal and pricing will remain valid 90 days from the date of this letter.

Please direct any questions to your Senior Account Manager, Marcus Messura, at 321-228-6807. We thank you for the opportunity to furnish the City with best-in-class solutions, and we hope to strengthen our relationship by implementing this project. Our goal is to provide you with the best products and services available in the communications industry.

Sincerely,

Motorola Solutions, Inc.

A handwritten signature in cursive script, appearing to read 'Marshall Wright'.

Marshall Wright
MSSSI Vice President & Director, Sales
Government & Public Safety
North American Government & Commercial Markets – East Region

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SECTION 1

SYSTEM

DESCRIPTION

WINTER PARK CONNECT TO ORANGE COUNTY

JUNE 5, 2014



MOTOROLA

The design, technical, and cost information furnished with this proposal is proprietary information of Motorola Solutions, Inc. (Motorola). Such information is submitted with the restriction that it is to be used only for the evaluation of the proposal, and is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the proposal, without the express written permission of Motorola Solutions, Inc.

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SYSTEM DESCRIPTION

1.1 EXISTING SYSTEM OVERVIEW

The City of Winter Park currently has one Astro Site Repeater (ASR) and one MCC7500 Dispatch Site. Both sites are at version 7.11. The ASR consists of 5 channels utilizing Motorola ESS infrastructure. The ASR is controlled by the City of Apopka's P25 Master site. The dispatch site consists of four MCC7500 consoles, fourteen backup control stations (BUCS) and one conventional site controller. Both sites utilize the same microwave link.

1.2 PROPOSED SYSTEM CHANGES

Motorola will disconnect both Winter Park sites from Apopka's P25 system and connect them to Orange County's P25 system. The site moves will include:

- Transfer applicable licenses from the Apopka system to the Orange County system.
- Upgrade Winter Park ASR from version 7.11 to 7.13.
- Upgrade Winter Park Dispatch from version 7.11 to 7.13.
 - Four MCC7500 Consoles
 - Fourteen Backup Control Stations
 - One Conventional Site Controller
- Integrate Winter Park ASR into the Orange County system and database.
- Integrate Winter Park Dispatch into the Orange County system and database.

1.3 RF NETWORK DESCRIPTION

System changes will not impact Winter Park ASR RF coverage and will not be tested. Coverage changes and expectations associated with Orange County's system should be set between the City of Winter Park and Orange County. Motorola is not responsible for additional coverage to the City of Winter Park.

1.4 PROJECT 25 STANDARDS

Motorola supports the Project 25 standards process, delivering P25 IP-based digital trunked systems since 2001. Motorola has successfully implemented many P25 FDMA and TDMA Integrated Voice & Data (IV&D) trunked radio systems including many city, county, and statewide systems. These systems operate using FDMA and TDMA techniques, with a single channel occupying 12.5 kHz of bandwidth.



STATEMENT OF WORK

2.1 MOTOROLA GENERAL RESPONSIBILITIES

Motorola Solutions, Inc. ("Motorola") general responsibilities include the following:

- Perform the installation of the Motorola-supplied equipment described above.
- Schedule the implementation in agreement with City of Winter Park ("City").
- Coordinate the activities of all Motorola subcontractors under this contract.
- Administer safe work procedures for installation.
- Provide City with the appropriate system interconnect specifications.

2.2 SYSTEM INSTALLATION

2.2.1 Install Fixed Network Equipment

Motorola Responsibilities:

- Motorola will be responsible for the installation of all fixed equipment contained in the Equipment List and outlined in the System Description based upon the agreed-to floor plans, at the sites where the physical facility improvement is complete and the site is ready for installation. All equipment will be properly secured to the floor and installed in a neat and professional manner, employing a standard of workmanship consistent with its own R56 installation standards and in compliance with applicable National Electrical Code (NEC), EIA, Federal Aviation Administration (FAA), and FCC standards and regulations.
- For installation of the fixed equipment at the various sites, Motorola will furnish all cables for power, audio, control, and radio transmission to connect the Motorola-supplied equipment to the power panels or receptacles and the audio/control line connection point.
- During field installation of the equipment, any required changes to the installation will be noted and assembled with the final 'as-built' documentation of the system.



2.3

CITY GENERAL RESPONSIBILITIES

City will assume responsibility for the installation and performance of all other equipment and work necessary for completion of this project that is not provided by Motorola. City general responsibilities include the following:

- Provide all buildings, equipment shelters, and towers required for system installation.
- Ensure communications sites meet space, grounding, power, and connectivity requirements for the installation of all equipment.
- Obtain all licensing, site access, or permitting required for project implementation.
- Provide required system interconnections.
- City will provide a dedicated delivery point, such as a warehouse, for receipt, inventory, and storage of equipment prior to delivery to the site(s).
- Coordinate the activities of all City vendors or other contractors.

Motorola has made several assumptions in preparing this proposal, which are noted below. In order to provide a firm quote, Motorola will need to verify all assumptions or seek alternate solutions in the case of invalid assumptions:

- All existing sites or equipment locations will have sufficient space available for the system described as required/specified by Motorola's R56 standards.
- All existing sites or equipment locations will have adequate electrical power in the proper phase and voltage, and site grounding to support the requirements of the system described.
- Approved local, State, or Federal permits as may be required for the installation and operation of the proposed equipment are the responsibility of City.
- Any required system interconnections not specifically outlined here will be provided by City. These may include dedicated phone circuits, microwave links, or other types of connectivity.
- No coverage guarantee is included in this proposal.
- Motorola is not responsible for interference caused or received by the Motorola-provided equipment except for interference that is directly caused by the Motorola-provided transmitter(s) to the Motorola-provided receiver(s). Should the City system experience interference, Motorola can be contracted to investigate the source and recommend solutions to mitigate the issue.



SECTION 3

WARRANTY SERVICES

Following system acceptance, Motorola Solutions, Inc. ("Motorola") provides a one-year parts and labor warranty on the *new* equipment included in this proposal. Motorola will continue to service your existing equipment with the same level of support as we do today.



SECTION 4

EQUIPMENT LIST

Qty	Nomenclature	Description
1	SQM01SUM0239	MASTER SITE CONFIG UPGRADE
1	CA00996AK	NM/ZC LICENSE KEY 7.13
1	CA00997AK	UCS LICENSE KEY 7.13
1	CLN8836	ASTRO 7.13 DOCUMENTATION DVD
5	T7449	WINDOWS SUPPLEMENTAL TRANS CONFIG
5	T7885	MCAFFEE WINDOWS AV CLIENT
1	T7836	ASTRO CLIENT APPL SW UPGR 7.13
1	TT2404	MICROSOFT WINDOWS 7 PRO 64 BIT MEDI
5	DSM303774	MS OLB WINDOWS PRO 8 UPG SINGLE LAN
2	ST5140A	HP PROCURVE OS UPGRADE
2	ST5100	MNR ASTRO/SMARTZONE SOFTWARE UPGRADE
1	B1905	MCC 7500 ASTRO 25 SOFTWARE
4	CA00899AA	ADD: MCC 7500 DISPATCH CONSOLE SOFT
1	T7140	G-SERIES SOFTWARE UPGRADE
5	CA01116AA	ADD: SITE REPEATER BR SW UPGRADE
2	CA02219BA	SITE RPTR SC SW UPGRD IV&D
1	CA01246AA	ADD: MCC 7500 CONV SITE UPGRADE



PRICING SUMMARY

5.1 PRICING OVERVIEW

Description	Discounted Price (\$)
Connect Winter Park ASR and Dispatch to Orange County Master Site	
<ul style="list-style-type: none"> ▪ Upgrade ASR from Version 7.11 to 7.13 ▪ Upgrade Dispatch Site from Version 7.11 to 7.13 	98,414.00
<ul style="list-style-type: none"> ▪ Enter ASR Site and Dispatch Site in Orange County Database ▪ Enter Winter Park Subscribers in Orange County Database ▪ Transfer Applicable Licenses from Apopka to Orange County 	75,598.00
<i>Winter Park Discount</i>	<i>(11,392.00)</i>
Total for Connecting Winter Park ASR and Dispatch to Orange County Master	162,620.00



CONTRACTUAL DOCUMENTATION

COMMUNICATIONS PRODUCTS AGREEMENT

Motorola Solutions, Inc. ("Motorola") and City of Winter Park, FL ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the Products, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

Section 1 EXHIBITS

The exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the exhibits and any inconsistency between the exhibits will be resolved in their listed order.

Exhibit A Motorola "Software License Agreement"
Exhibit B Motorola Proposal/Quote dated _____, 2014

Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

- 2.1. "Confidential Information" means all information consistent with the fulfillment of this agreement that is (i) disclosed under this agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this agreement are considered Confidential Information. Confidential information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.
- 2.2. "Contract Price" means the price for the Products, excluding applicable sales or similar taxes and freight charges.
- 2.3. "Effective Date" means that date upon which the last Party executes this Agreement.
- 2.4. "Equipment" means the equipment listed in the List of Products that Customer purchases from Motorola under this Agreement.
- 2.5. "Force Majeure" means an event, circumstance, or act of a third party that is beyond a Party's reasonable control (e.g., an act of God, an act of the public enemy, an act of a government entity, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, and riots).
- 2.6. "Infringement Claim" means a third party claim alleging that the Equipment manufactured by Motorola or the Motorola Software directly infringes a United States patent or copyright.
- 2.7. "Motorola Software" means Software that Motorola or its affiliated company owns.



2.8. "Non-Motorola Software" means Software that another party owns.

2.9. "Open Source Software" (also called "freeware" or "shareware") software with either freely obtainable source code, license for modification, or permission for free distribution.

2.10. "Products" mean the Equipment and Software provided by Motorola under this Agreement.

2.11. "Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

2.12. "Software" means the Motorola Software and Non-Motorola Software in object code format that is furnished with the Products.

2.13. "Warranty Period" means one (1) year from the date of shipment of the Products.

Section 3 SCOPE OF AGREEMENT AND TERM

3.1. SCOPE OF WORK. Motorola will provide and install (if applicable) the Products, and perform its other contractual responsibilities, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. CHANGE ORDERS. Either Party may request changes within the general scope of this Agreement. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. TERM. Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the expiration of the Warranty Period or three (3) years from the Effective Date, whichever occurs last.

3.4. ADDITIONAL EQUIPMENT OR SOFTWARE. During the Term of this Agreement, Customer may order additional Equipment or Software if it is then available. Each order must refer to this Agreement and must specify the pricing and delivery terms. Notwithstanding any additional or contrary terms in the order, the applicable provisions of this Agreement (except for pricing, delivery, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Payment is due within twenty (20) days after the invoice date, and Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online ("MOL"), and this Agreement will be the "Underlying Agreement" for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorola.com> and the MOL telephone number is (800) 814-0601.

3.5. MAINTENANCE SERVICE. This Agreement does not cover maintenance or support of the Products except as provided under the warranty. If Customer wishes to purchase maintenance or support, Motorola will provide a separate maintenance and support proposal upon request.

3.6. MOTOROLA SOFTWARE. Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.7. NON-MOTOROLA SOFTWARE. Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software. All Open Source



Software is licensed to Customer in accordance with, and Customer agrees to abide by, the provisions of the standard license of the copyright owner and not the Software License Agreement. Upon request by Customer, Motorola will use commercially reasonable efforts to determine whether any Open Source Software will be provided under this Agreement; and if so, identify the Open Source Software and provide to Customer a copy of the applicable standard license (or specify where that license may be found); and provide to Customer a copy of the Open Source Software source code if it is publicly available without charge (although a distribution fee or a charge for related services may be applicable).

3.8. **OPTIONAL EQUIPMENT OR SOFTWARE.** This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Motorola which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

Section 4 PERFORMANCE SCHEDULE

If this Agreement includes the performance of services, the Statement of Work will describe the performance schedule.

Section 5 CONTRACT PRICE, PAYMENT, AND INVOICING

5.1. **CONTRACT PRICE.** The Contract Price in U.S. dollars is \$_____ for the work described in Exhibit C. If applicable, a pricing summary is included with the Payment Schedule. Motorola has priced the services, Software, and Equipment as an integrated system. A reduction in Software or Equipment quantities, or services, may affect the overall Contract Price, including discounts if applicable.

5.2. **INVOICING AND PAYMENT.** Motorola will submit invoices to Customer according to the Payment Schedule. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. For reference, the Federal Tax Identification Number for Motorola Solutions, Inc. is 36-1115800.

FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:_____

The address which is the ultimate destination where the Equipment will be delivered to Customer is:_____

The Equipment will be shipped to the Customer at the following address (insert if this information is known):_____

Customer may change this information by giving written notice to Motorola.



Section 6 SITES AND SITE CONDITIONS

6.1. ACCESS TO SITES. If Motorola is providing installation or other services, Customer will provide all necessary construction and building permits, licenses, and the like; and access to the work sites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its contractual duties.

6.2. SITE CONDITIONS. If Motorola is providing installation or other services at Customer's sites, Customer will ensure that these work sites be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space, air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the Products.

Section 7 ACCEPTANCE

Acceptance of the Products will occur upon delivery to Customer unless the Statement of Work provides for acceptance verification or testing, in which case acceptance of the Products will occur upon successful completion of the acceptance verification or testing. Notwithstanding the preceding sentence, Customer's use of the Products for their operational purposes will constitute acceptance.

Section 8 REPRESENTATIONS AND WARRANTIES

8.1. EQUIPMENT WARRANTY. During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship.

8.2. MOTOROLA SOFTWARE WARRANTY. Unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Motorola Software in accordance with the terms of the Software License Agreement and the provisions of this Section that are applicable to the Motorola Software. TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERCEDES THIS SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

8.3. EXCLUSIONS TO EQUIPMENT AND MOTOROLA SOFTWARE WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Motorola Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

8.4. WARRANTY CLAIMS. To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. That action will be the full extent of Motorola's liability for the warranty claim. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable Warranty Period. All replaced products or parts will become the property of Motorola.



8.5. ORIGINAL END USER IS COVERED. These express limited warranties are extended by Motorola to the original user purchasing the Products for commercial, industrial, or governmental use only, and are not assignable or transferable.

8.6. DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 9 DELAYS

Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the performance schedule for a time period that is reasonable under the circumstances.

Section 10 DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

10.1. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of Florida.

10.2. NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

10.3. MEDIATION. The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

10.4. LITIGATION, VENUE and JURISDICTION. If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the Products are delivered. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

10.5. CONFIDENTIALITY. All communications pursuant to subsections 10.2 and 10.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 11 DEFAULT AND TERMINATION

If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of the default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not



curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan. If the non-performing Party fails to cure the default, the performing Party may terminate any unfulfilled portion of this Agreement and recover damages as permitted by law and this Agreement.

Section 12 PATENT AND COPYRIGHT INFRINGEMENT INDEMNIFICATION

12.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

12.2. If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

12.3. Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

12.4. This Section 12 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 12 are subject to and limited by the restrictions set forth in Section 13.

Section 13 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for



contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

Section 14 CONFIDENTIALITY AND PROPRIETARY RIGHTS

14.1. CONFIDENTIAL INFORMATION.

14.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this agreement and for a period of three (3) years from the expiration or termination of this agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this agreement; (iii) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this agreement; and (vi) only use the Confidential Information as needed to fulfill this agreement.

14.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this agreement.

14.1.3. All Confidential Information remains the property of the discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

14.2. PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS.

Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.



Section 15 GENERAL

15.1. **TAXES.** The Contract Price does not include excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within twenty (20) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

15.2. **ASSIGNABILITY AND SUBCONTRACTING.** Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

15.3. **WAIVER.** Failure or delay by either Party to exercise any right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

15.4. **SEVERABILITY.** If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

15.5. **INDEPENDENT CONTRACTORS.** Each Party will perform its duties under this Agreement only as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

15.6. **HEADINGS AND SECTION REFERENCES; CONSTRUCTION.** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

15.7. **ENTIRE AGREEMENT.** This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.



15.8. NOTICES. Notices required under this Agreement to be given by one Party to the other must be in writing and either delivered personally or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt:

Customer

Attn: _____

Motorola Solutions, Inc.

Attn: Judy Jean-Pierre, Legal & Government Affairs

1303 E. Algonquin Road, IL01, 8th Floor

Schaumburg, IL 60196

15.9. COMPLIANCE WITH APPLICABLE LAWS. Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

15.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

15.11. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.6 (Motorola Software), Section 3.7 (Non-Motorola Software); if any payment obligations exist, Sections 5.1 and 5.2 (Contract Price and Invoicing and Payment); Subsection 9.7 (Disclaimer of Implied Warranties); Section 10 (Disputes); Section 13 (Limitation of Liability); Section 14 (Confidentiality and Proprietary Rights); and all of the General terms in this Section 15.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.

Customer

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____



Exhibit A SOFTWARE LICENSE AGREEMENT

This Exhibit A Software License Agreement ("Agreement") is between Motorola Solutions, Inc. ("Motorola") and City of Winter Park, FL ("Licensee"). For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

- 1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.
- 1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).
- 1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.
- 1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.
- 1.5 "Primary Agreement" means the agreement to which this exhibit is attached.
- 1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.
- 1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary Software or products containing embedded or pre-loaded proprietary Software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the Software and Documentation.

Section 3 GRANT OF LICENSE

- 3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.
- 3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; (ii) identify the Open Source Software and provide Licensee a copy of the applicable Open Source



Software License (or specify where that license may be found); and, (iii) provide Licensee a copy of the Open Source Software source code, without charge, if it is publicly available (although distribution fees may be applicable).

Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4. When using Motorola's Radio Service Software ("RSS"), Licensee must purchase a separate license for each location at which Licensee uses RSS. Licensee's use of RSS at a licensed location does not entitle Licensee to use or access RSS remotely. Licensee may make one copy of RSS for each licensed location. Licensee shall provide Motorola with a list of all locations at which Licensee uses or intends to use RSS upon Motorola's request.

4.5. Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or



Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. The commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

Section 7 TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than RSS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.



8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 UNITED STATES GOVERNMENT LICENSING PROVISIONS

This Section applies if Licensee is the United States Government or a United States Government agency. Licensee's use, duplication or disclosure of the Software and Documentation under Motorola's copyrights or trade secret rights is subject to the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 (JUNE 1987), if applicable, unless they are being provided to the Department of Defense. If the Software and Documentation are being provided to the Department of Defense, Licensee's use, duplication, or disclosure of the Software and Documentation is subject to the restricted rights set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (OCT 1988), if applicable. The Software and Documentation may or may not include a Restricted Rights notice, or other notice referring to this Agreement. The provisions of this Agreement will continue to apply, but only to the extent that they are consistent with the rights provided to the Licensee under the provisions of the FAR or DFARS mentioned above, as applicable to the particular procuring agency and procurement transaction.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

13.1. COPYRIGHT NOTICES. The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. COMPLIANCE WITH LAWS. Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.



13.3. ASSIGNMENTS AND SUBCONTRACTING. Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.4. GOVERNING LAW. This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State Florida. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.5. THIRD PARTY BENEFICIARIES. This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.6. SURVIVAL. Sections 4, 5, 6.3, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.7. ORDER OF PRECEDENCE. In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.8 SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.



Exhibit B Payment Schedule

The Contract Price in U.S. dollars is _____. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution and in accordance with the following milestones.

- 1) 25% of Contract Value upon completion of Customer Design Review;
- 2) 50% of Contract Value upon Shipment of Equipment;
- 3) 15% of Contract Value upon Installation of Equipment; and
- 4) 10% of Contract Value upon System Acceptance

Motorola reserves the right to make partial shipments of equipment and to request payment upon shipment of such equipment. In addition, Motorola reserves the right to invoice for installations or civil work completed on a site-by-site basis, when applicable.





city commission agenda item

item type	Consent Agenda	meeting date	June 23, 2014
prepared by	Wes Hamil, Finance Director	approved by	<input checked="" type="checkbox"/> City Manager
department	Financial Services		<input checked="" type="checkbox"/> City Attorney
division	Finance		<input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A final vote		
strategic objective	<input type="checkbox"/> Exceptional Quality of Life <input checked="" type="checkbox"/> Fiscal Stewardship		
	<input type="checkbox"/> Intelligent Growth & Development <input type="checkbox"/> Public Health & Safety		
	<input type="checkbox"/> Investment in Public Assets & Infrastructure		

motion | recommendation

Approve resolution authorizing the use of BankUnited as a depository for City of Winter Park

background

BankUnited is the parent company of Pinnacle Public Finance, Inc., the underwriter for the \$7,680,000 Electric Refunding Revenue Bond, Series 2014 being issued to refund a portion of the Electric Revenue Bonds, Series 2005A. One of the options Pinnacle offered to the City was to reduce the interest rate on the bond from 2.84% to 2.74% if the City would deposit at least \$1,000,000 with BankUnited for at least one year.

BankUnited offers one year certificates of deposit at 0.60% or high yield reserve savings accounts at 0.40% for balances over \$1,000,000.01. These rates are comparable to what the City could earn on similar investment vehicles. The rates are net of any BankUnited fees. Importantly, BankUnited is a Qualified Public Depository in the State of Florida.

The attached resolution has been reviewed by the City Attorney and his suggestions have been incorporated.

alternatives | other considerations

Pay interest at 2.84%.

fiscal impact

A reduction in the interest rate of 0.10% will reduce average annual debt service by about \$4,700 per year, \$94,000 over the twenty year term of the bond.

A \$1,000,000 one year CD will earn interest of \$6,000 at 0.60%.



PUBLIC ENTITY RESOLUTION

The undersigned, Director of Finance of City of Winter Park, a Public Entity created by statute, with its principal place of business located at 401 Park Ave. S. Winter Park, FL 32789 (referred to herein as the "Public Entity"), hereby certifies to BankUnited, N.A. (referred to herein as "Bank") that I am the duly elected and qualified Treasurer of the Public Entity, and that at a meeting of the Public Entity duly called and held on _____, at which a quorum was present, the following resolutions were adopted and are now in full force and effect.

RESOLVED, THAT Bank be and is hereby designated a depository of this Public Entity.

FURTHER RESOLVED, THAT Bank is authorized to receive and accept any and all checks, drafts, notes, orders or other instruments for the payment of money payable to the Public Entity, or to its order, when bearing the apparent endorsement of this Public Entity, which endorsement, if any, may be in writing, by stamp, or otherwise affixed, with or without the designation or signature of any person purporting to be a member, manager, officer, agent or authorized signer of this Public Entity (collectively referred to herein as "Authorized Signer(s)"). Bank may receive any and all such checks, drafts, notes, orders or other instruments for the payment of money, and Bank may conclusively assume, without inquiry, that all such deposits, and all withdrawals, of the proceeds thereof, represent the exclusive property of this Public Entity, and this Public Entity hereby ratifies, confirms, and approves any and all acts of Bank in receiving for deposit such checks, notes, drafts, or other instruments for the payment of money for deposit from this Public Entity and permitting withdrawal of the proceeds thereof.

FURTHER RESOLVED, THAT any Authorized Signer(s) of this Public Entity is hereby authorized to endorse the name of this Public Entity on any and all checks, drafts, notes, orders or other instruments for the payment of money payable to the Public Entity, which endorsement, if any, may be in writing, by stamp, by facsimile or otherwise affixed with or without the designation or signature of any person purporting to be an Authorized Signer(s) of this Public Entity, it being understood that all prior endorsements on such items are guaranteed by this Public Entity, regardless of the lack of an express guarantee in the endorsement of this Public Entity.

FURTHER RESOLVED, THAT Bank be and is hereby directed to honor, pay and charge to the accounts of this Public Entity, without inquiry as to the circumstances of the issuance or application of the proceeds of checks, drafts, notes, orders or other instruments for the payment of money drawn against any accounts of this Public Entity with Bank when signed, whether by signature or facsimile thereof, on behalf of the Public Entity by any one Authorized Signer(s), or their successors in office, even if payable to, endorsed or negotiated by or for the credit of any person signing such item or any other member, manager, officer or agent of this Public Entity when signed by any of the Authorized Signer(s) of this Public Entity or such other person tendered in payment of such signer's individual obligation.

FURTHER RESOLVED, THAT any Authorized Signer(s) of this Public Entity is authorized to enter into a written lease for the purpose of renting, maintaining, or accessing a safe deposit box with Bank, and is further authorized to terminate any said lease and surrendering any box leased to this Public Entity by Bank.

FURTHER RESOLVED, THAT any Authorized Signer(s) of this Public Entity is authorized to implement treasury management and other general banking services, including, but not limited to, online banking, wire transfer, cash management and electronic services, and to enter into agreements with Bank relating to such services.

FURTHER RESOLVED, THAT each of the foregoing Resolutions and the authority conferred thereby shall remain in full force and effect until revoked or modified by written notice actually received by Bank at its office where the account of the Public Entity is maintained and signed by one purporting to be the executive director, finance director or board member of the Public Entity. The Treasurer of this Public Entity be and is authorized and directed to furnish Bank with a certified copy of these resolutions, the names and specimen signatures of the person(s) named herein, and such persons from time to time holding the positions named herein.

FURTHER RESOLVED, THAT this Public Entity agrees to be bound by all rules and regulations set forth in Bank's applicable disclosure statements, agreements and schedules of fees, as same may be amended from time to time, or other agreement received by this Public Entity from Bank with the same force and effect as if each and every term thereof were set forth in full herein and made a part hereof.

FURTHER RESOLVED, THAT Bank is authorized to deduct from the accounts of this Public Entity any and all applicable and then current fees and charges for any and all services rendered to this Public Entity by Bank.

I further certify that the following are the names and specimen signatures of the Authorized Signer(s) and that each presently holds the title or designation indicated and has full authority for all acts noted herein.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I further certify that all members of the Public Entity has, and at the time of adoption of this Resolution had, full power and authority to adopt the foregoing Resolutions and to confer the powers granted herein and that there is no provision in the articles of organization or operating agreement of this Public Entity limiting the power of the members of the Public Entity to manage the Public Entity as provided in the articles of organization of the Public Entity to pass the foregoing resolutions and that the same are in conformity with the provision of said articles or organization or operating agreement.

IN WITNESS WHEREOF, I have subscribed my name as Treasurer of the Public Entity and affixed the seal of said Public Entity hereto this ____ day of _____, 201_, and I do further acknowledge on behalf of the Public Entity that the foregoing resolutions constitute an agreement by the Public Entity with Bank in respect to the matters set forth herein.

Seal:

Wes Hamils CPA
Name

Director of Finance of the City of Winter Park



city commission agenda item

item type	Consent Agenda	meeting date	June 23, 2014
prepared by department division	Jeff Briggs Planning Dept.	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	N/A	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	final vote

Subject: Encroachment Agreement for Balconies on the Packwood Building at 110 E. Morse Blvd.

Mr. Mennello, owner of the Packwood Building at 110 E. Morse Blvd. (SE corner of Park/Morse) is requesting an Encroachment Agreement to add second floor balconies as shown in the attached plans. This requires an encroachment agreement because a portion of the balconies extend over the sidewalk/public right-of-way.

Background:

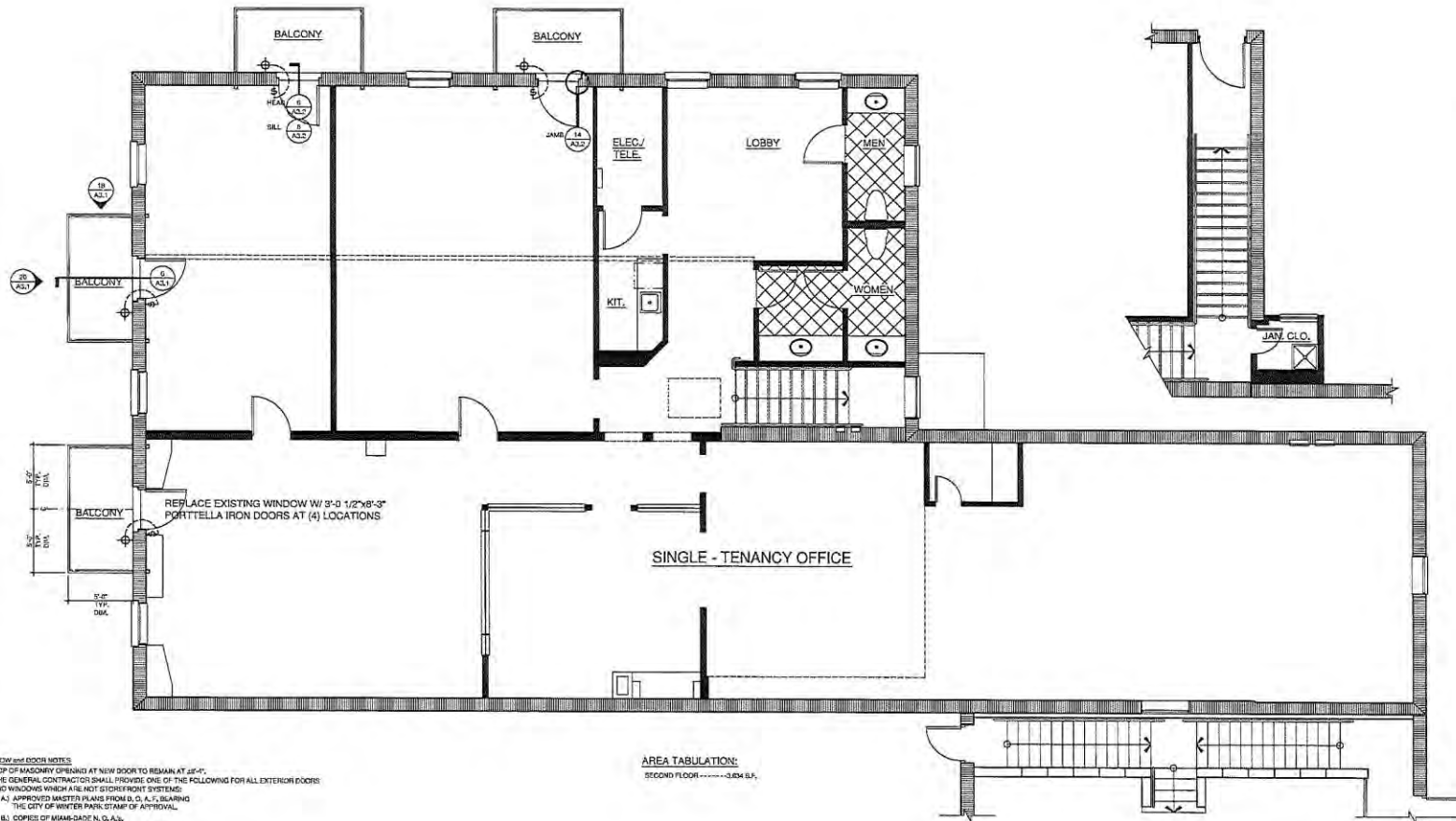
The staff has reviewed and approved this request, as it is consistent with the Park Avenue design guidelines. The balconies will not impair the historic architectural façade of this building. The Encroachment Agreement is the standard city template which was modified for this circumstance and has been reviewed and approved by the city attorney.

Staff Recommendation:

Approval







- WINDOW AND DOOR NOTES
- 1.) TOP OF MASONRY OPENING AT NEW DOOR TO REMAIN AT 2'-0".
 - 2.) THE GENERAL CONTRACTOR SHALL PROVIDE ONE OF THE FOLLOWING FOR ALL EXTERIOR DOORS AND WINDOWS WHICH ARE NOT SIGHT-FRONT SYSTEMS:
 - A.) APPROVED MASTER PLANS FROM B.O.B.A.F. BEARING THE CITY OF WINTER PARK STAMP OF APPROVAL.
 - B.) COPIES OF MANUFACTURER'S DATA.
 - C.) SIGNED AND SEALED TEST RESULTS AND SPECIFIC INSTALLATION DETAILS FROM AN APPROVED CERTIFIED TESTING LABORATORY.

AREA TABULATION:
SECOND FLOOR ----- 3,024 S.F.



BALCONIES ADDITION 2ND FLOOR PLAN

SCALE: 1/4"=1'-0"

DATE	REVISION FOR

452 N. WINTER PARK
SUITE 201
WINTER PARK, FL 32789
TEL: 407/857-2358
FAX: 407/857-2359

**ROBERT
HARRIS
ARCHITECT**

**PARKWOOD
BALCONIES
ADDITION**
110 MORSE BLVD.
WINTER PARK, FLORIDA 32789

The design of this document is the property of Robert Harris Architect, Inc. and shall remain the property of Robert Harris Architect, Inc. No part of this document shall be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Robert Harris Architect, Inc.

**BALCONIES
ADDITION
2nd FLOOR
PLAN**

PROJECT: 11-19-12
DRAWN: M.H. B.S.
CHECKED: M.H.
FILE: A1.1.dwg

A1.1

PLOT DATE: 11-19-12



WEST (FRONT) ELEVATION

SCALE: 1/8\"/>



NORTH (LEFT) SIDE ELEVATION

SCALE: 1/8\"/>

A WALL TYPES

SCALE: NTS

B GENERAL NOTES

SCALE: NTS

C KEY NOTES

SCALE: NTS

DATE	REVISION

555 E. WYCKHAM RD.
SUITE 200
TULSA, OK 74103
TEL: 918.451.1234
FAX: 918.451.1235
TULSA, OK 74103

**ROBERT
HARRIS
ARCHITECT**

**PARKWOOD
BALCONIES**
110 MORSE BLVD.
WINTER PARK, FLORIDA 32789

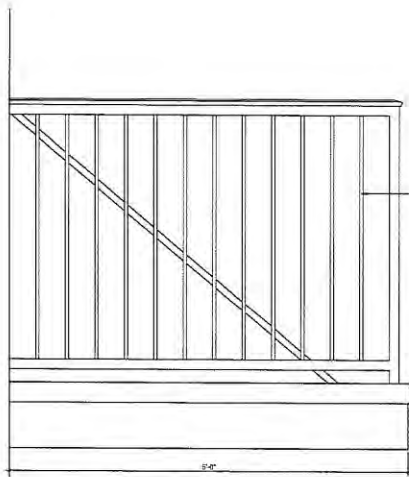
The client is the owner of the property and is responsible for obtaining all necessary permits and approvals from the local authorities. The architect is not responsible for the accuracy of the information provided by the client.

WEST & NORTH
EXTERIOR
ELEVATIONS

PROJECT: 13457
DRAWN: MH
CHECKED: RM
FILE: A2.1.dwg

A2.1

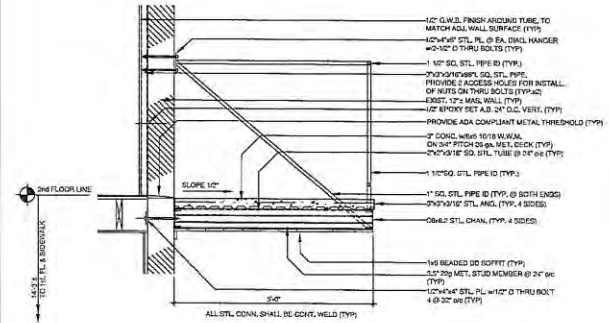
PLOT DATE: 11-19-15



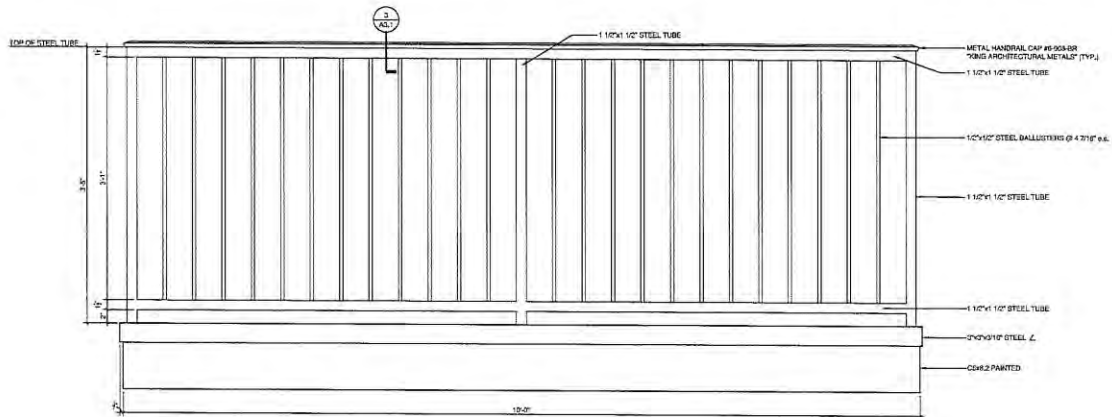
18 SIDE ELEVATION OF BALCONY RAILING
SCALE: 1/4"=1'-0"

RS-005

10 NOT USED
SCALE: NTS



6 BALCONY SECTION
SCALE: 3/4"=1'-0"



20 FRONT ELEVATION OF BALCONY RAILING
SCALE: 1/4"=1'-0"

RS-001

3 HANDRAIL & CAP
SCALE: 3/4"=1'-0"

4 NOT USED
SCALE: NTS

DATE	BY	CHKD	APPD

655 N. WYCKE ROAD
SUITE 100
WINTER PARK, FLORIDA 32789
TEL: 407/944-7743
FAX: 407/944-7743
CELL: 407/944-7743

**ROBERT
HARRIS
ARCHITECT**

**PARKWOOD
BALCONIES**
110 MORSE BLVD.
WINTER PARK, FLORIDA 32789

The data in this document represents preliminary information and is not to be used for construction without the approval of ROBERT H. HARRIS, ARCHITECT.

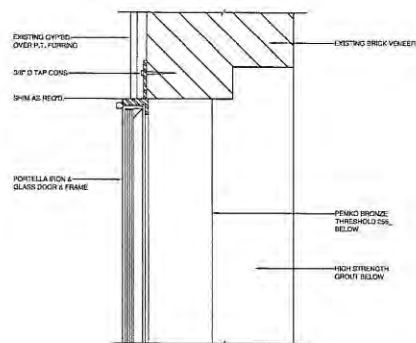
**BALCONY
SECTION &
ELEVATIONS**

PROJECT: 13-027
DRAWN: MH Ger
CHECKED: MH Ger
FILE: A3.1.dwg

A3.1

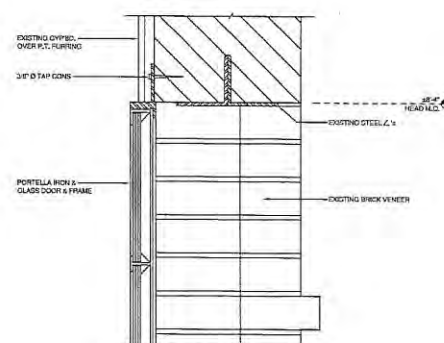
PLOT DATE: 11-18-13

17 NOT USED
SCALE: N.T.S.



18 NOT USED
SCALE: N.T.S.

14 DOOR JAMB DETAIL
SCALE: 1/4"=1'-0"

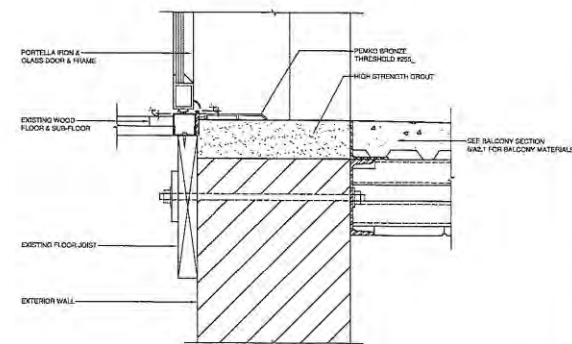


6 DOOR HEAD DETAIL

19 NOT USED
SCALE: K.T.S.

15 NOT USED

11 NOT USED



8 DOOR SILL DETAIL
SCALE: 3/4"=1'-0"

20 NOT USED
SCALE: N.T.S.

16 NOT USED

12 NOT USED
SCALE: N.T.S.

[illegible]

**ROBERT
A
HARRIS
ARCHITECT**

**PARKWOOD
BALCONIES**
110 MORSE BLVD.
WINTER PARK, FLORIDA 32789

The local environmental groups are providing signs to ROBERT A. HUBBARD, JR., and they are asking the department to act with confidence and assure it should not be supplanted in whole or part, nor dissolved or others, without the consent of ROBERT A. HUBBARD, JR.

DOOR HEAD
SILL &
JAMB

PROJECT:	13-007
DRAWN:	MM det
CHECKED:	RM
FILE:	A3.7.dwg

A3.2

Prepared by:
Catherine D. Reischmann, Esq.
Brown, Garganese, Weiss & D'Agresta, P.A.
P.O. Box 2873
Orlando, FL 32802-2873

Return to:
City Clerk
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

ENCROACHMENT LICENSE AGREEMENT

This Encroachment License Agreement ("Agreement") made this ____ day of _____, 2014, by and between the **CITY OF WINTER PARK**, a Florida municipal corporation, (hereinafter referred to as "City"), whose address is 401 Park Avenue South, Winter Park, FL 32789, and **MENNELLO PROPERTIES, LLC** (hereinafter referred to as "Owner") whose address is 1311 Via Tuscany, Winter Park, FL 32789.

WHEREAS, Owner presently owns that certain property described in Exhibit "A" attached hereto having a street address of 102 – 108 Park Avenue South, and 120 E. Morse Boulevard, Winter Park, Florida 32789, in Orange County, Florida (the "Property").

WHEREAS, Owner plans to build balconies on the northern and western facades of the structures located on the Property which will be five (5) feet from the exterior façade of the building and which will encroach over the City's Park Avenue and Morse Boulevard right-of-way (hereinafter "ROW"); and

WHEREAS, the parties hereto wish to enter into this Agreement to allow the balconies to encroach over the City's ROW, subject to the conditions of this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, the parties agree as follows:

1. The "whereas" clauses set forth above are true and accurate and are hereby incorporated herein.

2. The City hereby authorizes and allows Owner's balconies to extend five (5) feet from the building facades and encroach into the City's ROW.

3. Owner agrees to ensure that the Owner and the balconies do not damage any City owned improvements located in the ROW. In the event Owner or the balconies do in fact damage said City owned improvements, then Owner must repair said damage immediately and at Owner's expense; or at the option of the City, City will repair said damage and Owner must immediately thereafter reimburse City for said cost and expense. If Owner fails to reimburse City for the cost of repair and damage and additional costs incurred by City, City will have the right to impose these costs as a lien against the Property.

4. In the event that the balconies are destroyed, removed or demolished, this Agreement is terminated.

5. To the fullest extent permitted by law, Owner hereby indemnifies and agrees to hold harmless the City, its officers, agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, arising out of or resulting from the construction, location, and maintenance of the balconies over the City's ROW.

6. The City will not be restricted in any manner from accessing, maintaining, repairing or reconstructing the City's improvements located in the ROW.

7. This Agreement shall inure to the benefit of and be binding upon the respective heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals hereto on the day and year first above written.

[signatures to follow]

WITNESSES:

CITY OF WINTER PARK

By: _____

Kenneth W. Bradley, Mayor

(print)

ATTEST:

Cynthia S. Bonham, City Clerk

(print)

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Kenneth W. Bradley, Mayor who is personally known to me.

—

Notary Public – State of Florida
Print

Name: _____

My Commission expires:

WITNESSES:

MENNELLO PROPERTIES, LLC

By: _____

Michael Mennello

Its: Manager

(print)

(print)

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael Mennello as Manager of Mennello Properties, LLC_ (check one) ☐ who are personally known to me or ☐ who produced _____ as identification.

Notary Public – State of Florida
Print

Name: _____

My Commission expires:



city commission agenda item

item type	Action Item Requiring Discussion	meeting date	June 23, 2014
prepared by department division	City Management	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		
strategic objective	<input type="checkbox"/> Exceptional Quality of Life <input type="checkbox"/> Intelligent Growth & Development <input checked="" type="checkbox"/> Investment in Public Assets & Infrastructure <input type="checkbox"/> Fiscal Stewardship <input type="checkbox"/> Public Health & Safety		

subject

Creation of Library Facility Task Force

motion | recommendation

Authorize the creation of a Library Facility Task Force consisting of nine voting members and two ex officio members to study and make recommendations to the City Commission on the need, location, costs and funding strategy for a new or remodeled library facility. The membership would be appointed as follows: Each member of the City Commission would appoint one member. The Library Board would appoint four members and the Library Director and City Manager would serve as the ex officio members. The task force would sunset December 31, 2014 unless extended by the City Commission. Appointments would be made at the July 14, 2014 Commission Meeting.

background

At the request of the Library Board the City Commission held a work session on June 9, 2014 to discuss Library facility options. At that meeting there was consensus to consider creating a task force to explore the options and make a recommendation to the City Commission.

alternatives | other considerations

The size of the task force could be larger or smaller.

fiscal impact TBD



city commission public hearing

item type	Public Hearing	meeting date	June 23, 2014
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: Conditional Use request for the Whole Foods project and second reading of the change for Commercial FLU and C-3 Zoning on the property at 967 Cherokee Ave.

This public hearing is primarily for the Conditional Use request by the UP Fieldgate US Investments – Winter Park LLC for the Whole Foods project, which is the redevelopment of the properties at 1000 N. Orlando Avenue/ 1160 Galloway Drive (former Corporate Square offices); 1050 N. Orlando Avenue (former Winter Park Dodge) and 967 Cherokee Avenue (overflow Holler Hyundai parking lot). The Conditional Use (approval of the project) portion was tabled by the P&Z Board on May 6th and reheard on June 3rd by P&Z.

Also included is the 2nd reading to change the Comp. Plan FLU and Zoning of 967 Cherokee Avenue to Commercial (C-3). The second reading of the Ordinance vacating parts of Galloway/Friends Avenues has been delayed until utility easement matters can be addressed.

Planning and Zoning Board Recommendation on the Conditional Use:

Motion made by Mr. Gottfried, seconded by Mr. Slocum to approve the conditional use request to redevelop the former Corporate Square and Winter Park Dodge properties with a 40,000 square foot Whole Foods grocery and a 36,000 square foot retail building with three outparcel development sites on the properties at 1000/1050 N. Orlando avenue, 1160 Galloway Drive and 967 Cherokee Avenue subject to the following conditions:

1. The project being limited to monument signage for all ground signs in lieu of pole signs.
2. That for the final conditional use review, the applicant review opportunities for preservation of two major live oak trees on-site.
3. That for the final conditional use review, the city and applicant negotiate for a proportionate share of funding for traffic signal timing improvements.
4. That for the final conditional use review, a location in the rear of the project be provided for a sanitary sewer lift station, as may be required for this project.
5. That there be architectural conformity on the design of the out-parcel developments. This shall be administered by staff with the option of the applicant to appeal to P&Z/City Commission to resolve any design issues.
6. That the building and mechanical permits be designed and operate at all times under a maximum of 55 decibels at the property line from any air conditioning or other mechanical equipment to address sound containment of the AC and mechanical equipment and that there be certification as to such design by the engineer of record and any subsequent violation of the specific 55 decibel level shall be grounds for enforcement by the City and compliance by the property owner and/or tenant.

Motion carried unanimously with a 7-0 vote.

Project Summary:

Site and Context: The “development parcel” is the combination of these four properties wherein the project would demolish all the buildings, improvements and trees for a complete redevelopment of the combined 11.0 acre site. To the north, across Dixon Avenue is Holler Hyundai. To the south is the three story office building at 950 N. Orlando (also owned by the applicant) and other commercial properties including the Volvo Store. Across Orlando Avenue is the Ravaudage development.

Current Development Request: The application package for “preliminary” conditional use approval includes the site plan, architectural perspective images of the main building facades, conceptual landscape and storm water retention design and traffic impact report as required for the “preliminary” approval.

The major project components area 40,965 sq. ft. Whole Foods grocery store, another (to be determined) 36,600 sq. ft. retail store and three out-parcels of approximately 4,000 sq. ft. each which could be branch banks, restaurants or free-standing retail stores. The project meets the C-3 development standards in terms of density and intensity, parking, landscaping, storm water retention, etc. Based on the 11.0 acres, the project has a 19.0% building lot coverage and FAR (well within the 45% maximum FAR). Parking required for this total 89,565 square feet of commercial space (one per 250 sf) is 358 spaces. The development plan indicates 438 spaces are to be provided, averaging out to about 4.9 spaces per 1000 sf. This is primarily due to the desires of supermarkets and other major retailers to have 5 spaces per 1,000 sf provided versus the typical code of 4 per 1,000 sf. What the over-parking will allow is for the out-parcel retail buildings to become restaurant locations that need more parking than the 4 spaces per 1,000 sf.

Building Heights: The proposed major retail buildings are one-story but given the interior floor to ceiling heights desired and the parapets the heights generally compare to two-story buildings.

Architectural Elevations: The project elevations that have been provided to showcase the major retailers in the project depict a contemporary architectural image. While the elevations show the truck loading doors, you will not on the site plan that those features are in the rear and hidden from view. There is ample articulation of the building facades and the many undulations help immensely to break up the exterior façade of the building. One of the issues from the May 6th P&Z meeting was to insure architectural compatibility for the design of the buildings on the out-parcels. That was incorporated into the conditions of approval.

The applicant has agreed to use the city’s themed acorn lights along the Lee Road extension as part of the entry feature into the development and then will work with staff to provide adequate lighting as required by city code in the parking lots.

Tree Preservation: There are very few trees on the site except for on the perimeter of the 967 Cherokee parcel and two nice live oak trees in the right-of-way of Galloway Avenue. The new site plan commits to trying to save those two live oaks if reasonably possible.

Storm Water Retention: The site currently has no storm water retention. The redevelopment of this property will retrofit the site to conform to the storm water retention requirements of the City and St. Johns River Water Management District. At this “preliminary” conditional use stage, the storm water design is conceptual and the retention pond areas

provided appear to be adequate. The detailed design and calculations are submitted at the **"final" conditional use stage and the applicant is aware that the City Code prohibits any increase in the existing grades on the site above 2 feet.**

Landscaping: Overall the impervious coverage of the site will be within the code maximum of 85% with 19% open space. There are larger landscape areas (20 ft. width versus 8 foot width) along the Orlando Avenue frontage. A specific detailed landscape plan with types, sizes, quantities, etc. is reviewed at the **"final" conditional use step.**

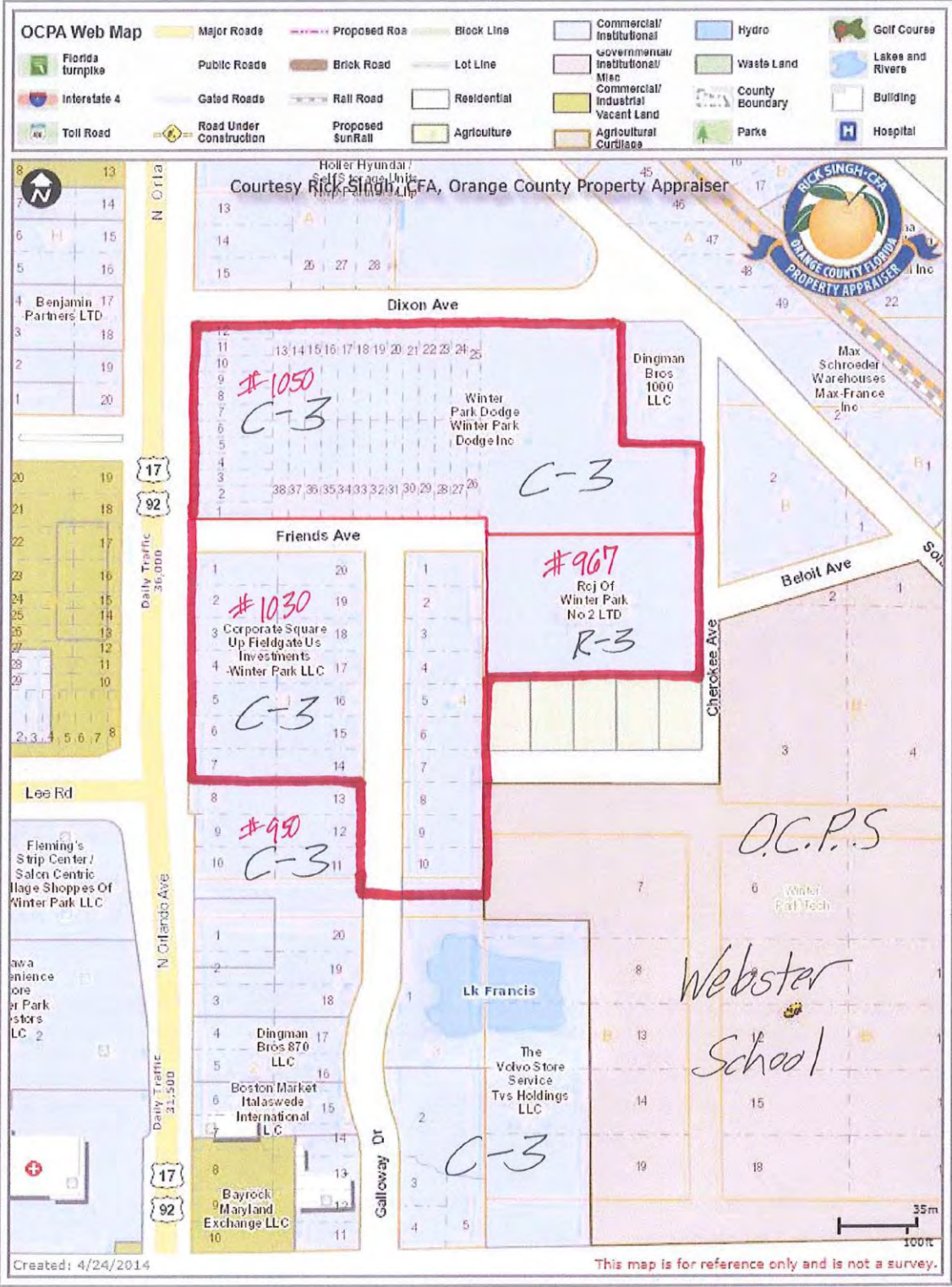
Traffic Impact: The applicant has submitted a lengthy traffic study addressing the traffic generation from this project. This is available upon request. On May 12th the City Commission **approved the Resolution supporting the project's desire to obtain FDOT permission to change the three leg intersection of Lee Road and Orlando Avenue into a four legged intersection thereby providing traffic light access to and from this project and to support the extension of Lee Road through the Orange County Public Schools – Webster School property via the alignment "B" which turns the road south to connect with Webster Avenue, where a traffic light will be added.** Again the final design will be seen during the final review including methods to deal with deceleration at the entrance.

Site and Urban Design – The City staff in the May 6th staff report raised the issue that the **Whole Foods project is reminiscent of a 1960's shopping center design.** It does have larger landscape areas (20 ft. width versus 8 foot width) along the Orlando Avenue frontage but the view of 35,000 cars a day traveling past each day on Orlando Avenue is a retail shopping center and what was called a **"sea of parking"**. Meanwhile the perception of the Fresh Market Shopping Center down at Orlando's new Mills & Nebraska development is very positive and it was cited as shopping center design that is the state-of-art to emulate.

All of things that the city staff ultimately requested have been complied with. These included flipping the drive-in bank so that the attractive side faces Orlando Avenue and the less attractive teller lanes face the interior. Also revising the retail out-parcels **"B" and "C" to re-orient the buildings length-wise facing Orlando Avenue** which is a more attractive image, provides more exposure for those out-parcel tenants and more effectively screens the interior parking. The applicant has moved the large Retail building on the north of the property to create a sense of space on the parcel and included parking on three sides of the building. The applicants have agreed to provide for enhanced landscaping to create an appealing front door appearance of the project.

Project Signage - The City will require that the project be limited to monument signage for all ground signs in lieu of pole signs and the applicant has agreed to that condition. Buildings are still entitled to wall signage, awning signage, etc.

Traffic Light Coordination - There are limited options for traffic flow improvements in this immediate area but one thing the City **is exploring is an effort to install "smart signal technology" along the Orlando Avenue corridor.** As traffic increases with redevelopment of this quadrant, the City is looking to upgrade the signal technology for enhanced coordination between the traffic lights and to adjust to patterns and create better flow. The City is requiring the developer of Ravaudage to provide their proportionate share of this cost and the City would similarly look to this project and as K-Mart redevelops to participate. The exact specific requirements are something the City would detail with you in the Final Conditional Use stage but we wanted to make you aware of this at this time and the applicant has agreed to work with the City on this.





LOCHRANE
Consulting Engineers • Surveyors

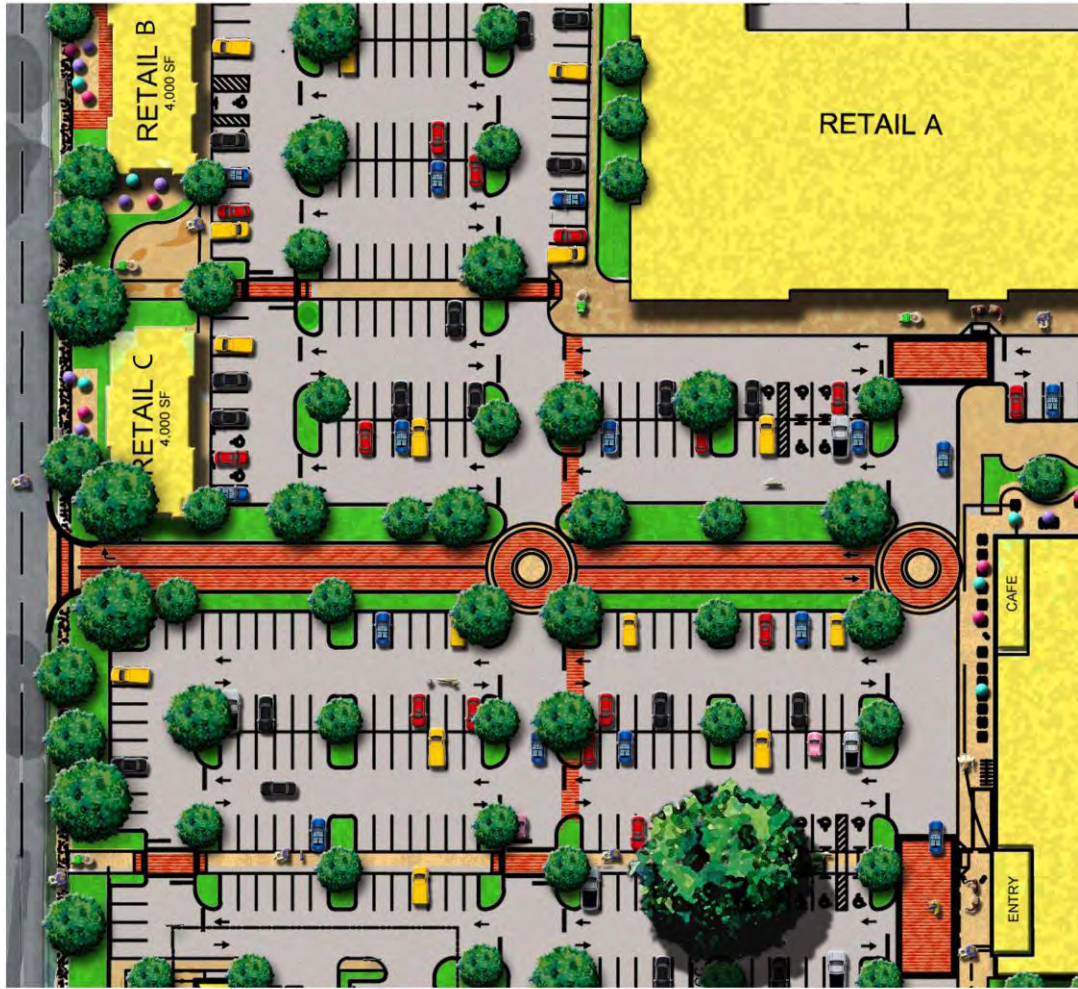


ELEVEN
18
ARCHITECTURE



LOCHRANE
Consulting Engineers • Surveyors

ELEVEN
18
ARCHITECTURE
A WOMAN'S BUSINESS ENTERPRISE



LOCHRANE
Consulting Engineers • Surveyors

ELEVEN
18
ARCHITECTURE
A WORLD'S BUSINESS ENTERPRISE

ELEVEN
18
ARCHITECTURE

WINTER PARK
WHOLE FOODS
1792& LEE rd.



ELEVEN
18
ARCHITECTURE

WINTER PARK
WHOLE FOODS
1792 & LEE RD.





ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL FUTURE LAND USE TO COMMERCIAL ON THE PROPERTY AT 967 CHEROKEE 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, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments amending the future land use designation of property; and

WHEREAS, the owner of a property on Cherokee Avenue, as petitioner for a future land use amendment, is desirous of amending the future land use designation from Medium Density Multi-Family Residential to Commercial; and

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

WHEREAS, the 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 May 6, 2014, 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 on June 9, 2014 and June 23, 2014 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. Future Land Use Map Amendment. 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 from Medium Density Multi-Family Residential to Commercial on the property at 967 Cherokee Avenue, more particularly described as follows:

BEG 330 FT S & 450 FT W OF NE COR OF SE 1/4 OF NE 1/4 RUN S 330 FT W 330 FT N 330 FT E 330 FT (LESS S 114 FT) IN SEC 01-22-29

Parcel ID# 01-22-29-0000-00-016

SECTION 2. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

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

SECTION 4. Effective Date. An amendment adopted under this paragraph does not become effective until 31 days after adoption. If timely challenged, an amendment may not become effective until the state land planning agency or the Administration Commission enters a final order determining that the adopted small scale development amendment 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 _____, 2014.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO COMMERCIAL (C-3) DISTRICT ZONING ON THE PROPERTY AT 967 CHEROKEE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owner of a property at 967 Cherokee Avenue has requested a Zoning map amendment consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the 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 of the City of Winter Park has recommended approval of this Ordinance at their May 6, 2014 meeting; and

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

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

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

SECTION 1. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designation from Medium Density Multi-Family (R-3) District to Commercial (C-3) District on the property at 967 Cherokee Avenue, more particularly described as follows:

BEG 330 FT S & 450 FT W OF NE COR OF SE 1/4 OF NE 1/4 RUN S 330 FT W 330 FT N 330 FT E 330 FT (LESS S 114 FT) IN SEC 01-22-29

Parcel ID# 01-22-29-0000-00-016

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 _____ does not become effective, then 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 _____, 2014.

Mayor

Attest:

City Clerk



CITY OF WINTER PARK Planning & Zoning Board

**Regular Meeting
City Hall, Commission Chambers**

**June 3, 2014
6:00 p.m.**

MINUTES

Chairman James Johnston called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Chairman, Randall Slocum, Peter Gottfried, Shelia De Ciccio, Tom Sacha, Peter Weldon, and Robert Hahn. Absent: Ross Johnston. Staff: Planning Manager, Jeff Briggs and Recording Secretary Lisa Smith.

PUBLIC HEARINGS

REQUEST OF UP FIELDGATE US INVESTMENTS – WINTER PARK LLC FOR:
CONDITIONAL USE APPROVAL TO REDEVELOP THE FORMER CORPORATE
SQUARE AND WINTER PARK DODGE PROPERTIES WITH A 40,000 SQUARE FOOT
WHOLE FOODS GROCERY AND A 36,000 SQUARE FOOT RETAIL BUILDING WITH
THREE OUTPARCEL DEVELOPMENT SITES ON THE PROPERTIES AT 1000/1050
N. ORLANDO AVENUE, 1160 GALLOWAY DRIVE AND 967 CHEROKEE AVENUE.

Jeffrey Briggs presented the staff report. He noted that the request was tabled by the P&Z Board at the May 6th meeting. The applicant is requesting preliminary conditional use request for approval of the plans for the redevelopment of the properties at 1000 N. Orlando Avenue and 1160 Galloway Drive (former Corporate Square offices); 1050 N. Orlando Avenue (former Winter Park Dodge) and 967 Cherokee Avenue (overflow Holler Hyundai parking lot). The applicant presented revised plans to the Board at their workshop on May 27, 2014. He said that all of the property upon approval by the City Commission will be zoned Commercial (C-3). The development combines and assembles these properties and includes the vacating and abandonment of the portions of public right-of-ways of Galloway Drive and Friends Avenue interior to this assemblage. The 11 acre “development parcel” is the combination of these four properties. He reviewed the details of the current development request, building heights, architectural elevations, tree preservation, storm water retention, landscaping, traffic impact, site and urban design, project signage, traffic light coordination, and the conditional use process. He reviewed the provisions of the City’s conditional use process. He explained that for major projects the Code provides for a Preliminary Approval which approves the entitlements and site layout and then a Final Conditional Use Approval wherein the City approves at the Final Conditional Use stage more specific design plans including storm water design, site lighting plan, project signage, landscape and streetscape plans, etc. He noted that most of the staff conditions will then be reflected in the Final Conditional Use submittal. Staff recommended approval of the “preliminary” conditional use subject to:

1. The project being limited to monument signage for all ground signs in lieu of pole signs.
2. That for the final conditional use review, the applicant review opportunities for preservation of two major live oak trees on-site.
3. That for the final conditional use review the city and applicant will negotiate for a proportionate share of funding for traffic signal timing improvements.

4. That for the final conditional use review a location in the rear of the project be provided for a sanitary sewer lift station as may be required for this project.
5. Architectural conformity on the design of the out-parcel developments. This shall be administered by staff with the option of the applicant to appeal to P&Z/City Commission to resolve any design issues.

Mr. Briggs responded to Board member questions and concerns.

Heather Heinz, 420 South Orange Avenue, represented the applicant. She agreed with the details of the staff report and stated that they also concur with the conditions of approval. She introduced the project engineer, Bob Lochrane to detailed the changes that had been made since the last public hearing. She said that the development team feels that they have adequately addressed the concerns of both staff and the public that were raised at the last public hearing.

Bob Lochrane, Lochrane Engineering, 201 South Bumby Avenue, walked the Board members and public thru the details of the new site plan. He specifically touched on the areas of major concerns (i.e.: the large area of asphalt between the buildings and 17/92, a flavor of Winter Park into the project, impacts to the adjacent residential and the pedestrian safety). He responded to Board members questions and concerns.

The Board received public comment from the following:

Joe Terranova, 151 North Virginia Drive, spoke favorably concerning the revised site plan. He expressed support because no variances are required and the plan now incorporates elements that make it compatible with Winter Park. He complimented City staff and the Developer for working together to come up with a better site plan.

Dan Bellows, 411 West New England Avenue, stated that he not against the project. He expressed major concerns with regard to the potential removal of the Glendon Parkway median cut. Mr. Bellows detailed his opposition to the proposed removal. He said that he feels that closing that would be very problematic.

Lurline Fletcher, 811 English Court, stated her concerns with the proposed traffic pattern for the development. She said that she is extremely concerned with the safety of the adjacent residential off Denning Drive.

Daniel Assael, 1144 Park Green Place, represented the Park Green HOA, he expressed that he is agrees with the comments of Mr. Bellows with regard to the possible removal of the Glendon Parkway median cut. He said that he feels that a traffic light is a much better solution but otherwise was in support of the project.

No one else wished to speak concerning the request.

Ms. Heinz was allowed an opportunity to respond. She acknowledged Mr. Bellows concerns and said that now that the City Commission has voted in favor of the Lee Road extension, they will take the traffic study back to FDOT for its blessing and examine with FDOT modifications to US 17-92. She said that Mr. Bellows will be invited to be a part of those discussions.

The Public Hearing was closed.

Mr. Briggs responded to Board member concerns with regard to traffic patterns on 17/92. He explained that this is only the preliminary phase where the Board approves the entitlements to the square footage and the site plan so that the applicant can move forward. He noted that the Board is not approving

anything outside the boundaries of the 11 acre parcel that is the subject of tonight's hearing. He said that will be addressed at the final.

Mr. Gottfried stated that the off-site traffic improvements on Orlando Avenue and with the Lee Road extension greatly affect the project. He stated that he expects to see the answers to these off-site traffic concerns when this project returns for final approval.

Mr. Weldon disclosed that he has had conversations about certain aspects of the proposed conditional use with Commissioner Leary, City staff, and the City attorney in order to have a better grasp of the City's position with regard to this development. He asked the applicant to consider 'brick' paving in the section of the Lee Road extension from Orlando Avenue alongside the project, both as helping to slow traffic and to give the project the "Winter Park" look and feel.

Mr. J. Johnston stated that he feels that the current plans are a great improvement compared to the previous one presented. Mr. Hahn indicated he was pleased with the enhanced pedestrian and bicycle access to the project. He said that he feels that they have taken into consideration the adjacent residents and pedestrian safety issue by improving the layout of the site. Mr. Slocum stated that the outdoor plaza is a tremendous improvement over the previous plan and thanked the applicant for working with the Board and the City to make these site layout improvements. He said that with the improvements, he is much more supportive of the plan. Mr. Sacha thanked the applicant for taking all the comments received into consideration and working with City staff to make the project better. Mr. Weldon also voiced support for a much improved project than the previous. Mr. Gottfried and Mr. Sacha raised the question of sound protection for the adjacent residents and the board agreed to add the same condition that had been placed upon the Trader Joe's project with respect to design and operational standards for such mechanical and AC noise.

Motion made by Mr. Gottfried, seconded by Mr. Slocum to approve the conditional use request to redevelop the former Corporate Square and Winter Park Dodge properties with a 40,000 square foot Whole Foods grocery and a 36,000 square foot retail building with three outparcel development sites on the properties at 1000/1050 N. Orlando avenue, 1160 Galloway Drive and 967 Cherokee Avenue subject to the following conditions:

7. The project being limited to monument signage for all ground signs in lieu of pole signs.
8. That for the final conditional use review, the applicant review opportunities for preservation of two major live oak trees on-site.
9. That for the final conditional use review, the city and applicant negotiate for a proportionate share of funding for traffic signal timing improvements.
10. That for the final conditional use review, a location in the rear of the project be provided for a sanitary sewer lift station, as may be required for this project.
11. That there be architectural conformity on the design of the out-parcel developments. This shall be administered by staff with the option of the applicant to appeal to P&Z/City Commission to resolve any design issues.
12. That the building and mechanical permits be designed and operate at all times under a maximum of 55 decibels at the property line from any air conditioning or other mechanical equipment to address sound containment of the AC and mechanical equipment and that there be certification as to such design by the engineer of record and any subsequent violation of the specific 55 decibel level shall be grounds for enforcement by the City and compliance by the property owner and/or tenant.

Motion carried unanimously with a 7-0 vote.



city commission public hearing

item type	Public Hearing	meeting date	June 23, 2014
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	5-0 final vote

Subject: Request for Multi-Family future land use and R-3 Zoning on the properties at the northeast corner of Michigan and Schultz Avenues.

SECOND READINGS

This item is the request by 1776 Real Estate Advisors LLC, who have a contract to purchase (contingent upon rezoning) the vacant 0.94 acres on the northeast corner of Schultz and Michigan Avenues.

The entire vacant property is 310 feet along Michigan Avenue and 131.5 feet along Schultz Avenue and is 40,765 sq. ft. (0.94 acres). The eastern 100 feet (0.30 acres) is zoned R-3 and the western 200 feet (0.64 acres) is zoned R-2. That western 200 feet (0.64 acres) is what is requested to be rezoned from R-3 to R-2 along with the companion future land use change. There also is 10 feet of commercial property on the furthest eastern end that is changing from Commercial (C-3) to Multi-family (R-3).

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. Weldon to approve the request to change the future land use map designation from low density residential to medium density multi-family residential future land use on the 0.64 acres of vacant property at the northeast corner of Schultz and Michigan avenues. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Sacha, seconded by Mr. Slocum to change the zoning from Low Density Residential (R-2) district to Medium Density Multi-Family Residential (R-3) district on the 0.64 acres of vacant property at the northeast corner of Schultz and Michigan avenues. Motion carried unanimously with a 5-0 vote.

Summary:

The R-3 zoning allows 17 units per acre and the R-2 zoning allows 10 units per acre. On this combined blended zoning site, that would entitle the owners to 11 units. The site plan presented shows a proposed project of 12 total units. Thus, the request is just marginally more than what could be built under the existing zoning.

The R-3 zoning allows a maximum 110% FAR and the R-2 zoning allows a maximum 55% FAR. On this blended zoning site that would entitle the owners to 23,523 square feet of total building living and garage space. The site plan presented shows approximately the potential for 36,000 square feet as 12 units of 3,000 square feet each inclusive of garage space. That is a floor area ratio of 88% midway between the R-2 and R-3 FAR.

Neighborhood Zoning Background:

All of these blocks of Michigan, Miller, Indiana and Harmon Avenues have commercial zoning along the eastern half of the blocks that front on Orlando Avenue and then R-2 zoning as a transition into the R-2 neighborhood streets west of Schultz Avenue.

These R-2 sections of Michigan, Miller, Indiana and Harmon Avenues are comprised of older **1960's duplexes and newer townhome development**. **There is a very nice, six unit townhouse** project built in 1990 on the corner of Harmon and Schultz Avenues, built to R-2 standards, that fits in well with the neighborhood, across the street from Orwin Manor.

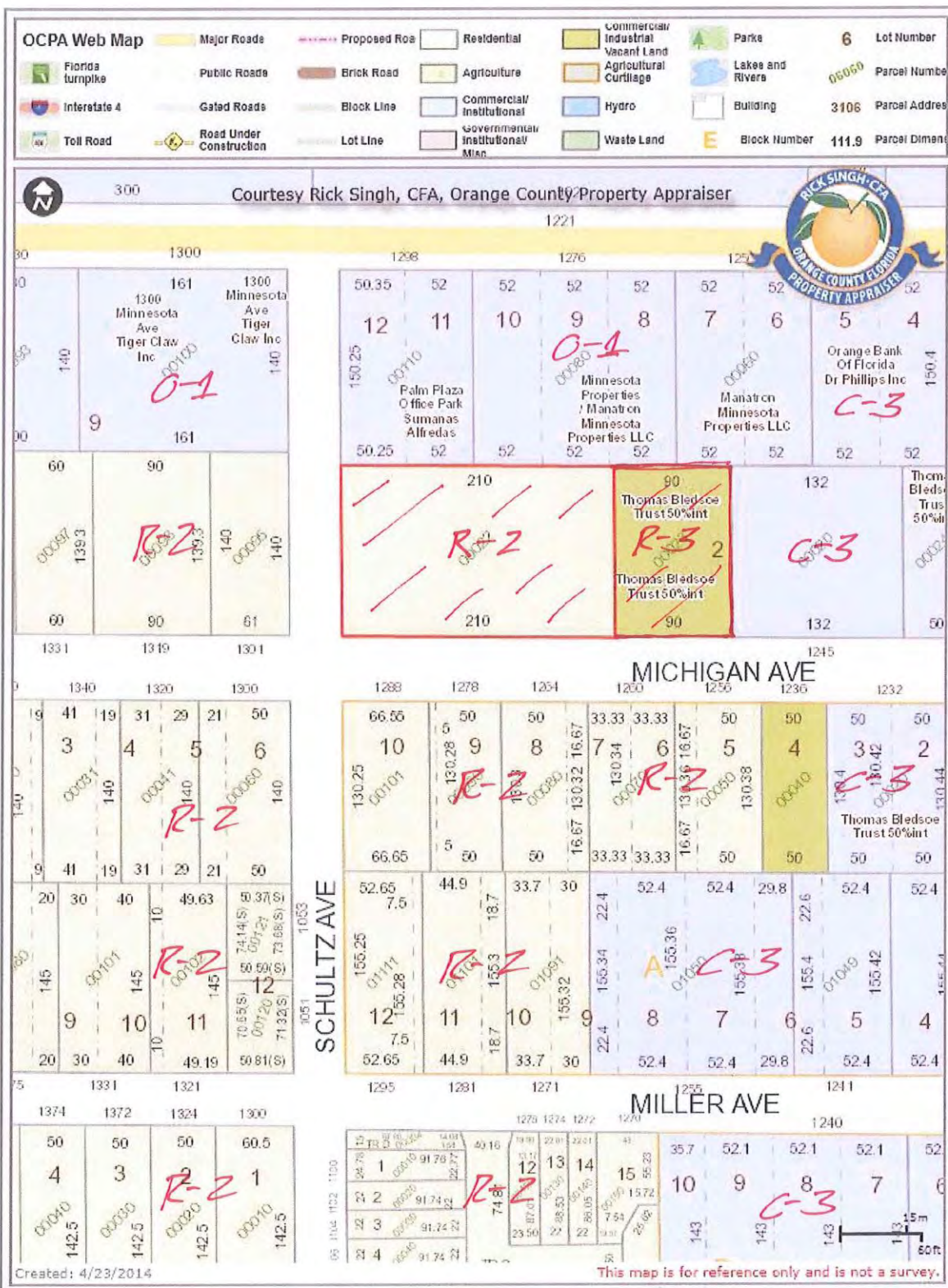
The more recent townhouse project, built in 2004, that has been very well received is the Townhouses at Harper Place. This is the 21 unit project along Schultz Avenue between Miller and Indiana Avenues. These are 21 units of about 2,400 square feet living area and garage that have sold for \$300,000-\$400,000. That property was also **similar to the applicant's** property in that it was also a blended site with a portion of the site with R-3 entitlements and a portion with R-2 zoning. The resultant Harper Place townhouse project is at a density of one unit for each 3,000 square feet of land. If one applied that formula of density to this request it would allow 13 units versus the 12 requested so they are very similar in residential unit density. The total project is at a floor area ratio of approximately 80%.

Staff Analysis of the Applicant's Requests:

The Development Plan presented to the City does not fully utilize all of the development potential of the R-3 code. For example, once all this property is zoned R-3 it would allow 16 units versus the 12 units shown. Also while the Development Plan shows two story units, the Code would allow 2 ½ story units. The proposed two story townhouse project with two car garages depicted on the Development Plan is a total of 36,000 square feet, the R-3 zoning would potentially allow a 16 unit apartment project of up to 45,000 square feet of building area with a surface outdoor parking lot around a single building. As the applicants may develop this project or may flip the property to others with different plans, the applicant and staff have agreed upon voluntary limitations to be imposed on the R-3 zoning as to scale and character.

The applicant has agreed (in the attached email) to accept the limitations of 12 units; two stories and 36,000 square feet. These terms have then been formalized in a Development Agreement (approved by the City Attorney) and referenced within the text of the Zoning Ordinance.

Staff believes that just as the Townhomes at Harper Place have fit in nicely with the scale and character of the neighborhood, this project also, within these limitations will also blend in very well with the surrounding area. This project is just about the same residential density in terms of units/acre, it is similar as a two story product and similar in total floor area ratio.



Jeffrey Briggs

From: Michael O'Shaughnessy <44@MichaelOShaughnessy.com>
Sent: Friday, April 25, 2014 3:07 PM
To: Jeffrey Briggs
Cc: Randall Glidden; paulfbryan@mindspring.com; John Cunningham; Michael O'Shaughnessy; Larry Adams; Tom Bledsoe; Michael O'Shaughnessy
Subject: Michigan
Attachments: 1776 - Michigan & Schultz MO EditsV2 2014-04-25.docx

Jeff,

Thank you for working with us on the Michigan & Shultz property and helping us come to a mutually workable solution, with respect to our rezoning application. We appreciate your and staff feedback.

We have reviewed the suggested Agreement that you sent to Randall. It looks good, with a few minor revisions. I have attached the revised document (nothing substantive), for you to take a look. I think that you will be fine with the changes, but let me know if we need to discuss.

I am confirming with this email that the terms of the Agreement are acceptable to me, as the applicant, for the R3 rezoning application regarding the Michigan & Shultz property, specifically:

- Rezone the property to R-3, with the Developer Agreement as a condition of rezoning
- Developer Agreement contains the following terms:
 - 2 story restriction
 - 12 units maximum
 - total square footage of 36,000 maximum [average 3,000 per unit, but unit sizes can vary]

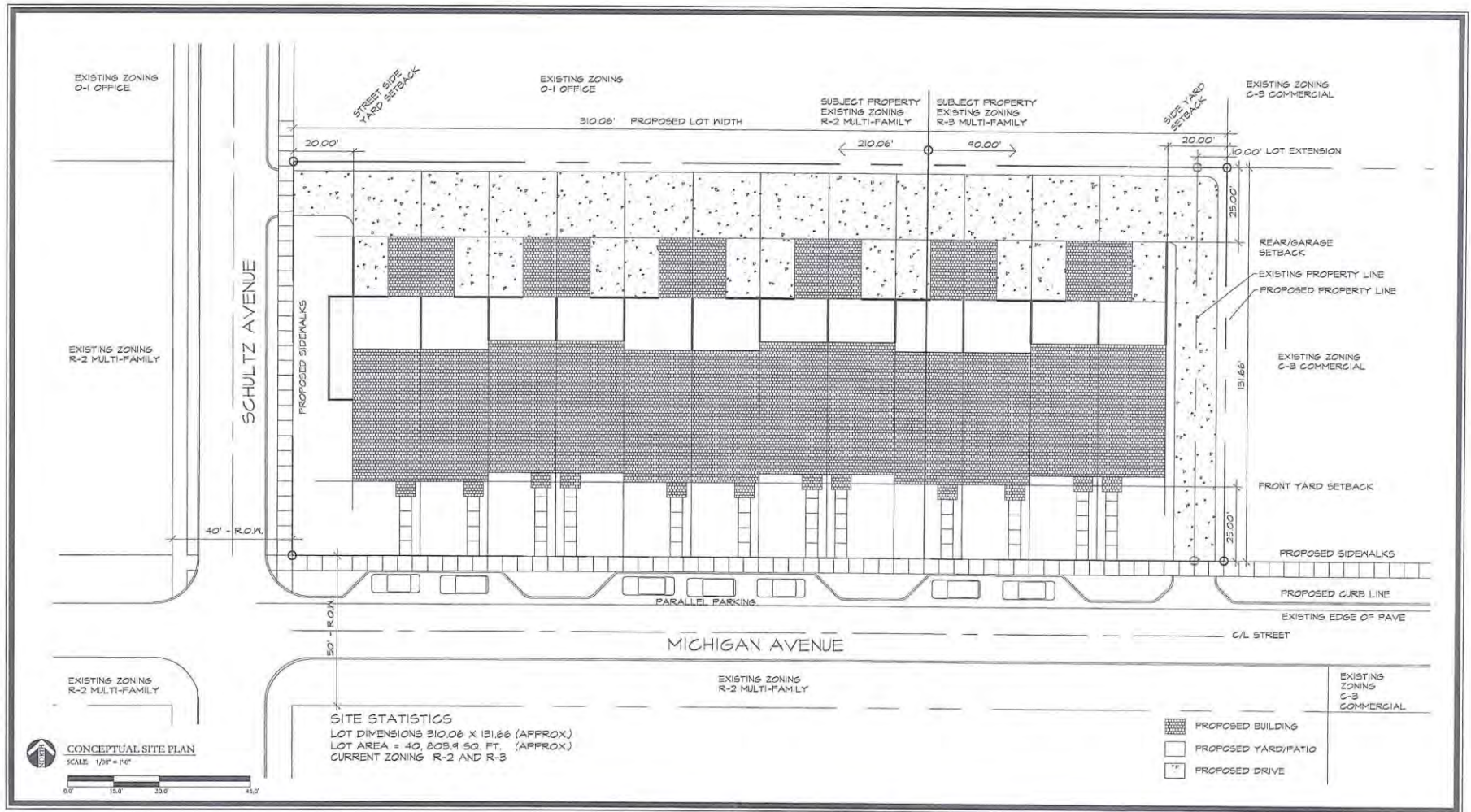
If you need further confirmation of my agreement, please advise and I can provide you with "formal" letter. Have a good weekend.

Michael



Have a great day!

Michael O'Shaughnessy
Michael O'Shaughnessy Inc.
Real Estate Brokers
"since 1986"
201 West Canton Ave #44

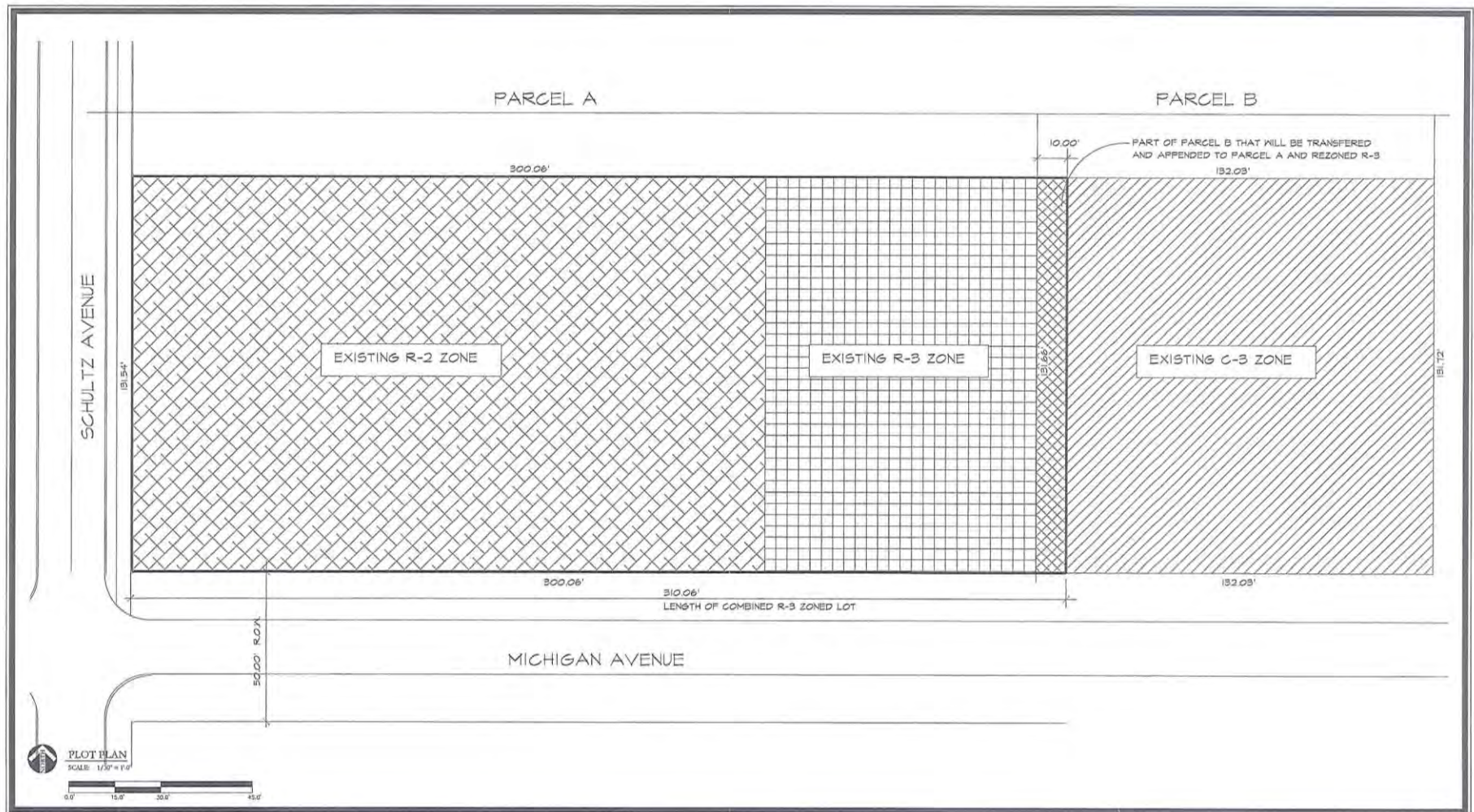


REZONING of LAND at the CORNER of MICHIGAN & SCHULTZ AVENUES.
Winter Park, Florida

APRIL 2, 2014



THIS CONCEPTUAL SITE PLAN IS PREPARED AS AN ADVICE TO THE CLIENT AND IS NOT A GUARANTEE OF ANYTHING. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.





CONCEPTUAL PHOTOS

REZONING of LAND at the CORNER of MICHIGAN & SCHULTZ AVENUES.
Winter Park, Florida

APRIL 2, 2014

FL REG: AA0002940

955 North Pennsylvania Avenue - Winter Park, FL - (T)407-740-8405 - (F)407-740-8406 - acistudios.com



THIS PRELIMINARY PLAN IS PRESENTED AS AN EXHIBIT TO ACCOMPANY A REZONING APPLICATION. IT DOES NOT REPRESENT THE FINAL DEVELOPMENT PLAN. THE FINAL DEVELOPMENT PLAN SHALL BE SUBMITTED TO THE CITY OF WINTER PARK FOR A CONCEPTUAL SITE APPROVAL FOR THE SAME DEVELOPMENT.

THE DEVELOPER CERTAINS, CONSIDERING ALL FACTORS, INCLUDING BUT NOT LIMITED TO, THE PRESENT DEVELOPMENT OF THE SUBJECT PROPERTY, THE FINAL DEVELOPMENT PLAN SHALL BE SUBMITTED TO THE CITY OF WINTER PARK FOR A CONCEPTUAL SITE APPROVAL FOR THE SAME DEVELOPMENT.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL FUTURE LAND USE ON THE PROPERTY AT THE NORTHEAST CORNER OF MICHIGAN AND SCHULTZ AVENUES AND CHANGING THE WEST 10 FEET OF 1245 MICHIGAN AVENUE FROM COMMERCIAL TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL FUTURE LAND USE, 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, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments amending the future land use designation of property; and

WHEREAS, the owner of a property on Michigan Avenue, as petitioner for a future land use amendment, is desirous of amending the future land use designation from Low Density Residential to Medium Density Multi-Family Residential; and

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

WHEREAS, the 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 May 6, 2014, 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 on June 9, 2014 and June 23, 2014 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. Future Land Use Map Amendment. 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 from Low Density Residential to Medium Density Multi-Family Residential on the property at the northeast corner of Michigan and Schultz Avenues, more particularly described as follows:

The West 210 feet of Lot 2, Henkel's Addition to the Town of Winter Park subdivision as recorded in Plat Book "F", Page 1 of the Public Records of Orange County, Florida.

SECTION 2. Future Land Use Map Amendment. 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 from Commercial to Medium Density Multi-Family Residential on the west 10 feet of the property at 1245 Michigan Avenue, more particularly described as follows:

The East 10 feet of the West 310 feet of Lot 2, Henkel's Addition to the Town of Winter Park subdivision as recorded in Plat Book "F", Page 1 of the Public Records of Orange County, Florida.

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

SECTION 4. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 5. Effective Date. An amendment adopted under this paragraph does not become effective until 31 days after adoption. If timely challenged, an amendment may not become effective until the state land planning agency or the Administration Commission enters a final order determining that the adopted small scale development amendment 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 _____, 2014.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE LOW DENSITY RESIDENTIAL (R-2) ZONING TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING ON THE PROPERTY AT THE NORTHWEST CORNER OF MICHIGAN AND SCHULTZ AVENUES AND CHANGING THE WEST 10 FEET OF 1245 MICHIGAN AVENUE FROM COMMERCIAL (C-3) TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owner of a property on Michigan and Schultz Avenues has requested a Zoning map amendment consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the 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 of the City of Winter Park has recommended approval of this Ordinance at their May 6, 2014 meeting; and

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

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

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

SECTION 1. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designation from Low Density Residential (R-2) District to Medium Density Multi-Family (R-3) District on the property at northeast corner of Michigan and Schultz Avenues, subject to the implementation of a voluntary development agreement for the property providing for limitations on development potential. The property is more particularly described as follows:

The West 210 feet of Lot 2, Henkel's Addition to the Town of Winter Park subdivision as recorded in Plat Book "F", Page 1 of the Public Records of Orange County, Florida.

SECTION 2. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designation from Commercial (C-3) District to Medium Density Multi-Family (R-3) District on the east 10 feet of the property at 1245 Michigan Avenue, subject to the implementation of a voluntary development agreement for the property providing for limitations on development potential. The property is more particularly described as follows:

The East 10 feet of the West 310 feet of Lot 2, Henkel's Addition to the Town of Winter Park subdivision as recorded in Plat Book "F", Page 1 of the Public Records of Orange County, Florida.

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

SECTION 4. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall become effective upon the effective date of Ordinance _____. If Ordinance _____ does not become effective, then 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 _____, 2014.

Mayor

Attest:

City Clerk

Prepared by: Jeff Briggs
City of Winter Park, Florida
401 Park Avenue South
Winter Park, Florida 32789

Return to: Cindy Bonham, City Clerk
City of Winter Park, Florida
401 Park Avenue South
Winter Park, Florida 32789

VOLUNTARY COMMITMENT AGREEMENT
(MICHIGAN AND SHULTZ AVENUES)

THIS VOLUNTARY COMMITMENT AGREEMENT (“Agreement”) is made this __ day of _____, 2014, between the **CITY OF WINTER PARK, FLORIDA**, a Florida municipality (“City”), whose address is City Hall, 401 Park Avenue South, Winter Park, Florida 32789, and the **1776 REAL ESTATE ADVISORS, LLC**, A Florida limited liability company, (“Owner”) whose address is 201 West Canton Avenue, Suite 44, Winter Park, Florida 32789.

RECITALS

WHEREAS, the City and Owner desire to modify the City’s Comprehensive Plan future land use designation and zoning district designation for the property at the northeast corner of Michigan and Schultz Avenues, referred to as the “Property”, more particularly described as:

The West 310 feet of Lot 2, Henkel’s Addition to the Town of Winter Park subdivision as recorded in Plat Book “F”, Page 1 of the Public Records of Orange County, Florida.

and,

WHEREAS, the Owner has made a voluntary commitment for future redevelopment to occur within limitations as to residential density on the Property as are incorporated within this Agreement, and

WHEREAS, the Owner has further committed to these restrictions being recorded in the public records and running with title to the land.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, the parties agree as follows:

1. **RESTRICTIONS TO DENSITY:** The Owner voluntarily agrees that future development on the Property shall not exceed two stories in height (35 feet), that the

maximum residential density shall be twelve (12) residential units, and that the cumulative maximum floor area density (floor area ratio) shall be no more than 36,000 square feet in total for all 12 units on the Property, as defined by the definition of floor area ratio within the City Zoning Code.

2. **BINDING EFFECT:** This Agreement shall be binding upon City and the Owner and their successors and assigns in interest and all other parties acquiring any interest in the Property, and shall inure to the benefit of the City, and shall be a covenant running with the land.
3. **AUTHORITY:** Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this Agreement have been taken or followed, as the case may be, and that upon execution of this Agreement by both parties, this Agreement shall be valid and binding upon the parties hereto and their successors in interest.
4. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
5. **SEVERABILITY:** If any provisions of this Agreement are found to be illegal or invalid, the other provisions of this Agreement shall remain in full force and effect.
6. **RECITATIONS:** The Recitals are hereby incorporated as if fully set forth herein.
7. **THIRD PARTY BENEFICIARIES:** This Agreement gives no rights or benefits to anyone other than the City and Owner and has no third-party beneficiaries, except as otherwise provided herein.
8. **AMENDMENT.** This Agreement may be amended or terminated only by a written instrument executed by the parties hereto or by their respective successors in interest or assigns, and approved by the City Commission after public hearing.
9. **RECORDING.** This Agreement shall be recorded by the City, at Developer's expense, among the Public Records of Orange County, Florida. The recordation of this Agreement shall not constitute or impose any lien or encumbrance upon the title in the Property and shall instead only constitute record notice of governmental regulations which govern the development and use of the Property.
10. **SUBORDINATION/JOINDER.** Unless otherwise agreed to by the City, all liens, mortgages and other encumbrances not satisfied or released of record, must be

subordinated to the terms of this Agreement or the lienholder must join in this Agreement. It shall be the responsibility of the Developer to promptly obtain the said subordination or joinder, in form and substance acceptable to the City Attorney, prior to the City's execution of this Agreement.

11. **NOTICES:** Any notices required or permitted to be made or given to either party pursuant to this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written notification of receipt; or (iii) by email or facsimile transmission upon acknowledgment of receipt of electronic transmission. Notices shall be addressed to the parties identified below, unless otherwise changed by proper notice to the respective parties.

OWNER:

1776 Real Estate Advisors LLC
201 West Canton Avenue, Suite 44
Winter Park, Florida 32789
Attn: Michael O'Shaughnessy

CITY:

City of Winter Park
401 South Park Avenue
Winter Park, Florida 32789
Attn: City Manager

12. **SPECIFIC PERFORMANCE:** The parties hereto shall have the right to enforce the terms and conditions of this Agreement by an action for specific performance.

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

Signed, sealed and delivered
in the presence of :

CITY OF WINTER PARK, FLORIDA
a municipal corporation

Signature

By: _____
Kenneth W. Bradley, Mayor

Print Name

ATTEST:

Signature

By: _____
Cynthia S. Bonham, City Clerk

Print Name

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

Acknowledged before me this _____ day of _____ 2014, by Kenneth W. Bradley as Mayor of the City of Winter Park, who is personally known to me or has produced _____ (type of identification) as identification and he acknowledged that he executed the above document for the City.

Notary Public, State of Florida

Print, Type or Stamp Commissioned Name of
Notary Public

1776 REAL ESTATE ADVISORS, LLC
a Florida limited liability company

Signature

Print Name

By: _____
Michael O'Shaughnessy, Manager

Signature

Print Name

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

Acknowledged before me this _____ day of _____ 2014, by Michael O'Shaughnessy, Manager of 1776 REAL ESTATE ADVISORS, LLC, a Florida limited liability company, who is personally known to me or has produced _____ (type of identification) as identification

Notary Public, State of Florida

Print, Type or Stamp Commissioned Name of
Notary Public



city commission public hearing

item type	Public Hearing	meeting date	June 23, 2014
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	5-0 final vote

Subject: Request for Central Business District future land use and C-2 Zoning on the properties at 298 and 313 West New England Avenue.

SECOND READINGS

These public hearings involve requests by Garment Ltd. (property owner) of 298 W. New England and TGG Ltd. (property owner) of 313 W. New England Avenue to change the Comp. Plan and Zoning to Central Business District (C-2). The property at 298 W. New England, on the southeast corner of New England and Virginia Avenues, is 38,768 sq. ft. in size (0.89 acres) and has existing C-3, C-3A and R-3 zoning. The property at 313 W. New England, on the north side of New England Avenue is 13,000 sq. ft. in size (0.30 acres) and has existing R-3 zoning. See map attached.

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. R. Johnston to approve the request to change the future land use map designation from Commercial to Central Business District on the properties at 298 and 313 W. New England Avenue. Motion carried unanimously with a 5-0 vote.

Motion made by Mr. Sacha, seconded by Mr. Weldon to approve the request to change the existing zoning designations from General Commercial (C-3), Limited Commercial (C-3A) and Medium Density Multi-Family Residential (R-3) districts to Commercial (C-2) district on the properties at 298 and 313 W. New England Avenue. Motion carried unanimously with a 5-0 vote

Summary:

When the Community Redevelopment Area was established in 1994, one of the primary goals was to encourage the redevelopment of that portion of West New England Avenue from Pennsylvania to New York Avenue. To that end, the City administratively changed the Comprehensive Plan future land use map in 1995 for all the properties fronting on New England Avenue to a Commercial FLU. In that way, anyone buying a property would know they were guaranteed to be able to get that property rezoned from residential to commercial. By "commercial" that meant being rezoned to the general commercial C-3 or to C-3A districts.

When the redevelopment of New England Avenue began in earnest shortly thereafter, with the redevelopment of the Dexters building, the zoning needed for that density and building setback, up close to the street, was the central business district, C-2 designation.

All of the successive redevelopment of New England Avenue between Pennsylvania and Virginia Avenues has been undertaken utilizing C-2 central business district zoning. This has been consistent with the goal to emulate on West New England Avenue, the style, density and character of Park Avenue. The goal has also been to someday have the redevelopment continue down to New York Avenue so the Park Avenue shopping district is physically connected **to the Hannibal Square business district. In that way, one's shopping trip would be up and down Park Avenue and up and down West New England Avenue.**

During 2007-2008, in the preparation of the current Comprehensive Plan, which was adopted in 2009, there was much discussion with the Planning Board and City Commission on what the **appropriate density should be for this last 'block' of the redevelopment West New England Avenue.** This debate on either Commercial or Central Business District FLU for New England Avenue from Virginia to New York Avenues was specifically referred to the Planning Commission for a recommendation in October 2008. You will hear or read of this as described as the **difference between 'red' and 'pink', as red is the color of commercial and pink is the color of the CBD.** Those materials are attached.

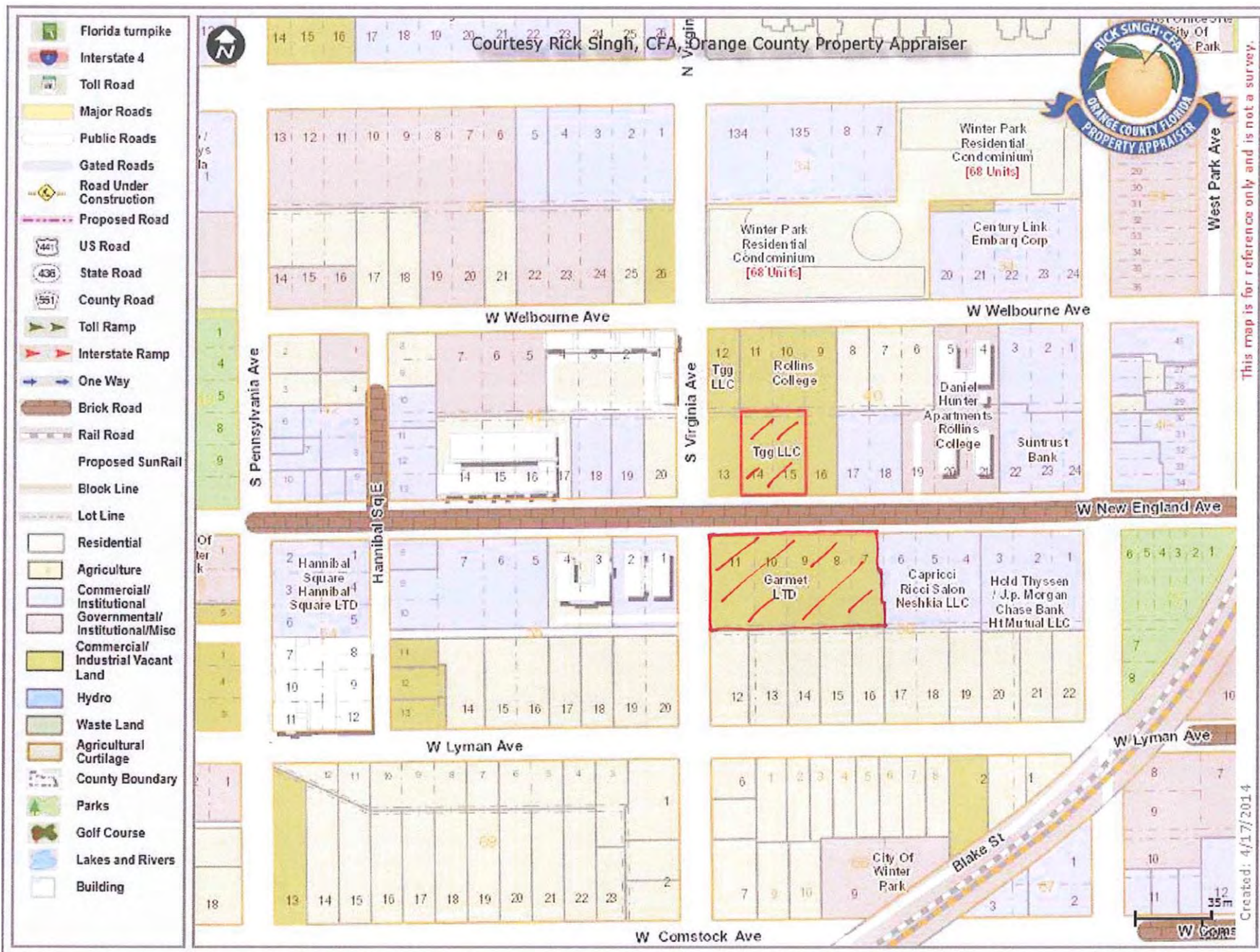
At that time in 2008, the staff recommendation was in favor of the Central Business District FLU. This was based on continuing the redevelopment pattern that had already occurred along New England Avenue. It also was based on the recognition that the City still has the review and approval control over all redevelopment since the Code requires P&Z/City Commission approval of any building/building addition over 500 sq. ft. However, the P&Z recommendation was to compromise between the two and establish a maximum 100% FAR for this block of New England Avenue so that the style and character of the redevelopment could continue but in a slightly smaller scale. This Policy was then adopted by the City Commission as shown below:

Policy 1-3.2.4: New England Avenue Transitional Development Standards. In addition to the policy parameters outlined above, the portion of the Hannibal Square Neighborhood Commercial District comprising properties that front on New England Avenue between Virginia and New York Avenues may be developed with enhanced density and intensity. **Notwithstanding the limitations otherwise imposed upon properties designated with Commercial future land use, for any lots fronting on New England Avenue from Virginia to New York Avenues, development may be permitted enhanced density and intensity up to a maximum 100% floor area ratio (FAR).**

By changing the Future Land Use on these properties from Commercial to Central Business District, this Policy would not apply and the owners would be permitted up to a maximum 200% FAR and the setbacks of C-2 zoning.

The staff recommendation in October 2008 was in favor of CBD and C-2 zoning for this area and the staff continues to believe that is appropriate based on continuing the redevelopment pattern that has already occurred along New England Avenue. It also was based on the recognition that the City still has the review and approval control over all redevelopment since the code requires P&Z/City Commission approval of any building/building addition over 500 sq. ft.

Also note that the former Grant Chapel property at 301 West New England in this same area is already designated CBD and zoned C-2. That was done prior to the Comp. Plan Policy change in 2009. It is important to note that the transition in density for this block (200% FAR vs. 100% FAR) will still be in effect on the eastern half of the block.





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 COMMERCIAL TO CENTRAL BUSINESS
DISTRICT ON THE PROPERTIES AT 298 AND 313 WEST NEW
ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED
HEREIN.**

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

WHEREAS, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments amending the future land use designation of property; and

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

WHEREAS, the 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 May 6, 2014, 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 on June 9, 2014 and June 23, 2014 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 commercial to central business district on the properties at 298 and 313 West New England Avenue, being more particularly described as follows:

Lots 7, 8, 9, 10 & 11, and the north half of the vacated alley adjacent thereto within Block 56, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida.

Property Tax ID # 05-22-30-9400-56-070

Lots 14 & 15 and the south half of the vacated alley adjacent thereto within Block 40, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida.

Property Tax ID # 05-22-30-9400-40-140

SECTION 2. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

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

SECTION 4. Effective Date. An amendment adopted under this paragraph does not become effective until 31 days after adoption. If timely challenged, an amendment may not become effective until the state land planning agency or the Administration Commission enters a final order determining that the adopted small scale development amendment 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 _____, 2014.

Mayor
Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3), COMMERCIAL (C-3A) AND (C-3) DISTRICT ZONING TO COMMERCIAL (C-2) DISTRICT ZONING ON THE PROPERTIES AT 298 AND 313 WEST NEW ENGLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owners of properties at 298 and 313 W. New England Avenue have requested a Zoning map amendment consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the 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 of the City of Winter Park has recommended approval of this Ordinance at their May 6, 2014 meeting; and

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

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

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

SECTION 1. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designations of Medium Density Multi-Family (R-3) District and Commercial (C-3A) and (C-3) District to Commercial (C-2) on the properties at 298 and 313 W. New England Avenue, more particularly described as follows:

Lots 7, 8, 9, 10 & 11, and the north half of the vacated alley adjacent thereto within Block 56, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida.

Property Tax ID # 05-22-30-9400-56-070

Lots 14 & 15 and the south half of the vacated alley adjacent thereto within Block 40, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida.

Property Tax ID # 05-22-30-9400-40-140

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 _____ does not become effective, then 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 _____, 2014.

Mayor

Attest:

City Clerk

**CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION**

**Staff Report
October 1, 2008**



COMPREHENSIVE PLAN POLICY REFERRAL

The City Commission referred back to the Planning Commission for a recommendation, the decision on the appropriate Future Land Use designation for the properties fronting on New England Avenue generally in between Pennsylvania and New York Avenue. (See attached map) The choice is between Commercial (red), as now exists in the Comprehensive Plan and a change to Central Business District (pink):

Background

In 1994, the City established and adopted our Community Redevelopment Area (CRA) Plan including the Hannibal Square neighborhood. The key component of the CRA Plan was to encourage the redevelopment of the properties that fronted on New England Avenue and Morse Boulevard in order to eliminate the blighted conditions (rooming houses, bars, vacant properties, etc.). In particular, New England Avenue was envisioned as becoming an expansion or extension of Park Avenue with shoppes, restaurants and apartments upstairs. The CRA Plan indicated a future 'mixed use' zoning. Staff at that time drafted and proposed a new Mixed Use zoning district but it was opposed by neighborhood residents who did not want zoning in their neighborhood that was different than the zoning used throughout the rest of the City. So it was decided that we would work with the existing zoning options which are C-3, C-3A and C-2.

In 1995, the City amended the Comprehensive Plan future land use map to designate all the properties fronting on New England Avenue as commercial (red). Commercial (red) indicates C-3 or C-3A zoning. This was to make it easier for future buyers/developers to invest since they could count on the certainty of rezoning.

Four other important policy decisions evolved after that action:

1. Based upon incremental requests from the Sydgan Corp. investors, the City on a case by case basis approved rezoning/comp. plan changes to Central Business District (C-2) zonings. This permitted the scale and intensity of buildings which have been developed over the ensuing years which is greater than the Commercial (C-3/C-3A) codes would have permitted.
2. In order to encourage mixed use buildings with residential components, the City limited buildings to no more than two stories unless the third floor was used as residential and deed restricted for that residential use. So every three story building along New England Avenue has residential on the third floor and it is deed restricted to that use.

3. Expansion onto any property fronting on Lyman Avenue (for building or parking) is absolutely prohibited. So there will be no expansion of any commercial building or parking lot beyond the dimensions of the lots fronting on the south side of New England Avenue.
4. Expansion onto a portion of properties fronting on Welbourne Avenue has been permitted provided that Welbourne Avenue maintains a residential face such as the Liner Apartment building at the SW corner of Welbourne and Virginia Avenues. So it is possible that parking for developments on the north side of New England Avenue may ask (via comp. plan and rezoning) to use the southern 50%-65% of the residential lots fronting on Welbourne Avenue as parking.

Primary Differences in the Commercial and CBD designations

There are two primary differences in the Commercial (C-3/C-3A) and Central Business District (C-2) designations. They are setbacks and floor area ratio.

The C-3/C-3A zoning has 10 foot front setbacks, 5 foot side setbacks and 30 foot rear setbacks for buildings. The C-2 zoning has up to a zero front setback, zero also on the sides and 10 feet in the rear. The difference in the rear setbacks is moot because virtually every scenario will have parking in the rear. However, if the City wants to continue the streetscape pattern that already exists for the majority of New England Avenue then the C-2 setbacks are the most appropriate. It is however possible, since the City Commission can grant setbacks variances, to continue the existing streetscape pattern and still utilize the C-3/C-3A zoning. That is if you believe that any kind of variance (for anything!) is possible in this current political environment. So this may or may not be a major factor in your decision.

The C-3/C-3A zoning has up to a 45% floor area ratio (FAR). The C-2 zoning has up to a 200% FAR. This appears to be a big difference except for the role parking plays in development scenarios.

Regardless, of the future land use or zoning designation, any new building has to provide parking to meet the code. The entire development world revolves around parking. With surface parking, commercial or office buildings max out at 45% FAR. You do not have any enough land to provide enough parking that allows you to exceed the 45% FAR. It is only because of the parking garage, now under construction at the 362 S. Pennsylvania Avenue building and the basement parking under the 450 New England Avenue building, that allowed the density of the existing buildings that exist along New England Avenue.

It is also important to mention that any prospective parking garage in the future will count toward the FAR since it will be a "Private parking garage" defined as "any parking structure within which parking is provided as required by the parking requirements of the Land Development Code to meet the code requirements for the private (non-public) use of building space, be it for retail, office, restaurant, residential uses, etc. This floor area of the private parking space is counted toward the floor area ratio. Regardless of the fact that the "public" uses the parking garage spaces as customers, clients, residents, visitors, or employees if the parking space floor area is necessary to meet the code requirements it is defined as private parking."

As you are aware, the floor area of private parking garages were previously excluded from the floor area ratio limitation within the CBD.

Potential Development under the CBD designation

When you look at the property sizes that exist within the remaining properties left for redevelopment along New England Avenue, there does not exist any current property that is big enough to hold a parking garage and a building. It may be possible for a building to have parking within a basement under a building footprint but otherwise redevelopment will consist of buildings and surface parking. Realistically, the only advantage to the property owners in gaining a CBD designation is the additional FAR possible by using the second or third floors as residential (since the parking requirement are less) or with the basement parking scenario. The resultant FAR's would be in the 80%-100% range.

The questions for the Planning Commission are twofold. Do you want to see a continuation of the development pattern that currently exists on New England Avenue for the balance of its length ? Buildings up front and the bulk of the parking hidden to the rear. If you do, then the CBD (C-2) setbacks are required.

The second question is whether you want to continue to see building projects along New England Avenue with residential components within them, as we have seen in the projects developed to-date along New England Avenue. It is less likely that a developer will build residential units within buildings if they are limited to a 45%/60% FAR when space can be rented or sold at higher prices as commercial or office space. Why would you build the same square footage and rent/sell it for less ? The additional FAR you will get from the CBD (C-2) designation (above 60%) is the incentive needed to encourage residential units in future building projects. If you think the apartments within the buildings along New England Avenue were a bad idea then keeping the Commercial future land use designation will insure that the City does not get any more residential units along New England Avenue.

Staff Recommendation

Staff understands that any issue that involves granting property owners more building size is dead on arrival with many citizens. Makes no difference what the merits are.

It just seems like we are halfway done on New England Avenue and we should keep the same development pattern. The buildings cannot be as big as we have seen because they do not have the option for a parking garage. However, they can be larger than the 45%/60% FAR that is the maximum in the Commercial designation. Otherwise we will have one block (Penn. to Virginia) that looks like Park Avenue and the next block (Virginia to New York) that will look like Aloma Avenue. (Buildings surrounded by surface parking lots)

THE STAFF RECOMMENDATION IS FOR DESIGNATING THE REMAINING BLOCK FRONTAGES ON NEW ENGLAND AVENUE AS CENTRAL BUSINESS DISTRICT.



city commission **public hearing**

item type	Public Hearing	meeting date	June 23, 2014
prepared by department division	Troy Attaway Public Works Department	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: Ordinance to Vacate a Portion of Loren Avenue within Ravaudage.

The ordinance has been amended per the June 9, 2014 Commission meeting.

(This information is pulled forward from June 9 meeting):

Benjamin Partners Ltd. and the Sydgan Corp. representing Bubbalou's Inc. have requested the City to vacate a portion of Loren Avenue within the Ravaudage PD area. The map attached and the exhibit shows that portion of Loren Avenue, as well as the three other streets that were vacated by the City commission in June 2013. Those streets were:

1. The right-of-way of Elvin Avenue lying between Bennett Avenue and Loren Avenue;
2. The right-of-way of Loren Avenue lying between Elvin Avenue and Glendon Parkway;
3. The right-of-way of Kindel Avenue lying between Bennett Avenue and Lewis Drive.

The staff's approval of this request is based upon the applicant's offer to convey to the City an easement for a private road running from the north end of the public street of Loren Avenue, west out to Bennett Avenue thereby avoiding the creation of a dead end street. Also attached is a site plan of the proposed 274 unit American Land Ventures apartment project and the proposed easement language. Staff has discussed this item with the owners of the Winter Park Veterinary Clinic at 1601 Lee Road and they understand this will have no impact on their existing access from Bennett Avenue. Also, the new access road will support delivery trucks accessing the Bubbalous restaurant.

Staff Recommendation:

The Public Works Department recommends adoption of this Ordinance conditioned upon provision of the easement, as described above.



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

Attorneys at Law

111 N. Orange Ave., Suite 2000
P.O. Box 2873
Orlando, Florida 32802-2873
Phone (407) 425-9566
Fax (407) 425-9596

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

June 16, 2014

Michelle Bernstein, Assistant City Clerk
Cindy Bonham, City Clerk
Jeff Briggs, Director, Planning Department
Dori Stone, Director, Economic Development
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

via email only

Re: Ordinance vacating portion of Loren Avenue / Ravaudage

Dear Michelle, Cindy, Jeff and Dori:

Enclosed please find a redline and blackline revised Ordinance concerning the vacation of Loren Avenue within Ravaudage. I am also enclosing the redline and blackline revisions to the Public Access Easement and Maintenance Agreement. At the City Commission meeting on June 9, I was directed to resubmit this Ordinance for second reading subject to a reversionary interest. As you can see by the redline edits shown, I have amended the title to refer to the reversionary interest and in other places make it clear that the Ordinance is subject to a reversionary interest. Without specific direction from staff, I have concluded that the project should be fully permitted and entitled on or before June 1, 2015, and constructed within two years thereafter or the City will take the right-of-way back by reversion. Please adjust the deadlines if you deem that required, for second

June 16, 2014
Page 2

reading of this Ordinance. I have also inserted this reversionary language and construction deadlines into the Agreement.

Please contact me if you have any questions regarding this. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'U2B' with a stylized flourish extending to the right.

Usher L. Brown

ULB:tla

Enclosures

cc: Randy Knight, City Manager (w/encl.)
City Commissioners (w/encl.)
Mayor Kenneth Bradley (w/encl.)

Prepared by and
Return to:
Usher L. Brown, Esq.
Brown, Garganese, Weiss & D'Agresta, P.A.
P.O. Box 2873
Orlando, FL 32802

PUBLIC ACCESS EASEMENT AND MAINTENANCE AGREEMENT

This Public Access Easement and Maintenance Agreement ("Agreement") is entered effective this ____ day of _____, 2014, between the City of Winter Park ("City") and jointly and severally, the party of the second part, Benjamin Partners, Ltd. and Sydgan Corporation (hereafter jointly referred to as the "Developer").

For the consideration hereinafter mentioned, which consideration includes the exchange of mutual promises, the adequacy of which is deemed and agreed to be sufficient, the City and the Developer agree as follows:

RECITALS

WHEREAS, the Developer, representing Bubbalou's, Inc. has requested that the City vacate a portion of Loren Avenue within the Ravaudage PD area; and

WHEREAS, the City has vacated previously certain right-of-way in June, 2013, at the request of the Developer and to facilitate the development of the Ravaudage PD; and

WHEREAS, the City has vacated or will do so within sixty (60) days hereof, the requested portion of Loren Avenue (hereinafter referred to as the “Vacated Portion of Loren Avenue”) by ordinance; and

WHEREAS, the Developer has agreed to grant to the City an easement for public use of a private road running from the north end of the public street of Loren Avenue west to Bennett Avenue, (hereinafter referred to as the “Private Road”), more particularly described and shown on Exhibit “A” to this Agreement, (said exhibit being incorporated herein by reference), so as to avoid the creation of a dead-end street within the Ravaudage PD, and also for the purpose of providing public access into proposed parking garages for the Ravaudage project; and

WHEREAS, Exhibit “A” and the Private Road shall also constitute the Easement Area provided by this Agreement; and

WHEREAS, the City Commission of the City of Winter Park by approval of this Agreement has determined that this arrangement providing for the public use of the Private Road is in the municipal interest.

NOW THEREFORE, for the consideration previously acknowledged above, the parties covenant, agree and are bound as follows:

1. Incorporation of Recitals. The Recitals, including Exhibit “A” that describes the Private Road, are incorporated into the Agreement by reference and are fully made a part of this Agreement, and the same are fully binding upon the parties.

2. Grant of Easement. In consideration of the City’s past vacation of certain right-of-way within the Ravaudage PD and in specific consideration of the vacation of the Vacated Portion of Loren Avenue (also referred to as the “Easement Area”), the Developer hereby irrevocably grants an easement to all members of the public to use the Private Road in all lawful

and customary purposes for which the public may use a public road and right of way. Public use is subject to the condition that all uses shall be lawful and conducted in a reasonable manner in compliance with the laws and local ordinances concerning motor vehicle safety, vehicular traffic, and the operation of vehicles of any type (including non-motorized vehicles such as bicycles, and/or pedestrian use). All duly certified law enforcement officers may enforce the laws and local ordinances on or about the Easement Area, and this right is part of the easement granted.

3. Term. The term of this Agreement shall be ninety-nine (99) years. Unless the parties in writing mutually agree to terminate this Agreement upon expiration of the initial ninety-nine (99) year term, the Agreement shall extend automatically for successive and additional ninety-nine (99) year terms.

4. Recordation of Agreement. The easement granted in paragraph 2, above, shall be sufficient to establish the right of the public to use the Private Road for all lawful public purposes as provided therein. This Agreement shall be recorded to give due public notice of these rights conferred pursuant to this easement. The cost of the recordation shall be reimbursed by the Developer.

5. Developer's Expenses. Developer agrees to pay the City Seven Hundred Fifty Dollars (\$750.00) to cover the City's time and expenses in processing this Developer request and time and expenses related to prior vacation of right-of-way as requested by the Developer.

6. Standards and Maintenance. Developer agrees that the Private Road subject to the public easement shall be permitted and constructed in accordance with City regulations, procedures and standards. The Developer agrees to abide by directives issued by the City Manager or his designee with respect to rulings concerning procedures and construction standards for the Private Road. In addition, the Developer agrees to abide by the City Manager's

or designee's rulings on the standard of maintenance thereafter to be achieved and maintained during the term of the easement and this Agreement. The Developer and successors of the Developer shall be responsible for the expenses associated with maintaining the Private Road in accordance with City standards as the City may determine those standards to exist from time to time in the future. The Developer may maintain the road using its own forces (including this option being available to any successor of the Developer) or the Developer may contract with the City to maintain the Private Road and pay the expenses for such maintenance to the City pursuant to subsequent agreement.

If the Developer fails to maintain in accordance with City standards, then the City, pursuant to its right of easement and access conferred in paragraph 2, above, and pursuant to the specific rights of access and easement contained herein, shall have the right to enter upon the premises of the Private Road and any other surrounding property as reasonably necessary to effectuate appropriate repair and/or maintenance, and the cost of such maintenance or repair shall constitute a lien on all property of the Developer within the Ravaudage PD (including a lien upon all property of any successor of the Developer within the Ravaudage PD). Additionally, payment of Developer Expenses and costs identified in paragraphs 4 and 5 hereof are enforceable by lien and the provisions of this paragraph.

Except in a case of an emergency as determined by the City to put at risk the health, safety or welfare of persons in the community, the City shall give the Developer ten (10) days' written notice of any deficiency in repair or maintenance of the Private Road and shall allow the Developer the opportunity to cure the deficiency in repair or maintenance within the ten (10) day cure period or, if the nature of the default is such that the Developer cannot completely cure the problem within ten (10) days, the City, so long as there is not an immediate danger to the health,

safety or welfare of persons, shall allow the Developer to commence the cure within said ten (10) day period of time and thereafter to continuously work in a *bona fide* significant manner towards achieving a complete cure of the default. If the Developer fails to timely respond and cure in accordance with the standards set out in this paragraph, then the City shall have the remedy previously mentioned whereby it may access and enter the premises, effectuate the repair or maintenance, and lien the Developer or successor for all costs associated with the repair or maintenance. Additionally, the Developer or its successor shall be immediately liable to pay upon demand and subject to breach of contract action and to foreclose any such lien to enforce the payment of all amounts due if the City is required to effectuate a repair or to conduct maintenance of the Private Road.

7. Assurance That Lots Currently Owned Or Controlled By The Developer Will Have Access Across The Existing Pavement On Loren Avenue, Even Following Vacation. Notwithstanding anything in this Agreement to the contrary, all lots adjacent to or abutting the vacated portion of Loren Avenue, including but not limited to those lots currently owned or controlled by the Developer, Bubbalou's, Inc. or any affiliate thereof, or any successor of any of them in title, shall irrevocably grant to the public, an easement over the existing roadway of Loren Avenue so that all of said lots are accessible. This easement shall terminate only at such time that the owner of any such lot shall enter an agreement with another or develops the land for a purpose that will render access by the public to such lot unnecessary as determined in the sole and absolute discretion of the owner of such lot. In such event the agreement showing that it is no longer necessary for the public to have access to such lot shall be recorded in the Public Records of Orange County.

~~8.~~ 8. Public Dedication. The Developer shall dedicate to the City of Winter Park in ownership the easement property as public road right-of-way with respect to the easement established by this Ordinance. The timing of the dedication shall be upon development of the road in accordance with City standards, and acceptance by the City. Until such time the easement granted hereunder shall remain in full force and effect.

~~9.~~ 9. Miscellaneous.

- a. Venue of any dispute arising out of or related to this Agreement or the Private Road shall be exclusively in the court of appropriate jurisdiction in Orange County, Florida.
- b. The law of Florida shall apply with respect to the enforcement of this Agreement.
- c. The City has not waived its sovereign immunity pursuant to this Agreement. Therefore, the City is only responsible to perform the express provisions of this Agreement, and there are no other implied, equitable or common law obligations. The City reserves all of its rights, privileges and authority under the doctrine of sovereign immunity (including those rights set out in Section 768.28, Florida Statutes, as it may be amended, with respect to presuit notification procedures and limitations of liability).
- d. There are no third party beneficiaries to this Agreement. Only Sydgan and Benjamin Partners, on the one hand (i.e., the Developer) and the City of Winter Park, on the other hand, shall have any rights pursuant to this Agreement. Notwithstanding, any successor to the Developer shall be bound by the duties and requirements imposed by this Agreement.

- e. This Agreement shall be binding upon all successors of the parties, and shall run with the ownership of the Private Road.
- f. In any litigation between or among the parties, each party shall bear its own attorneys' fees and legal costs unless a cause of action may lawfully be brought pursuant to a statute which provides for an award of attorneys' fees. There is no contractual right of attorneys' fees with respect to the enforcement of this Agreement. Notwithstanding the foregoing, in the event the Developer receives notice of a default or deficiency respecting the need for repair or maintenance of the Private Road and fails to timely cure, the City of Winter Park shall have the right to recover its reasonable attorneys' fees incurred in recovering the amount of damages necessary to recompense the City for the all costs it may incur in notifying the Developer of the deficiency, effectuating the repair or maintenance, lienning the amount incurred, and legal process and procedures needed to collect the amount due from the Developer for such reasons. The reciprocity provision in Section 57.105, Florida Statutes, as it may be amended, shall apply only with respect to an action the City may bring to recover damages for a default in repair or maintenance of the Private Road.
- g. The Developer irrevocably agrees that it will accept, as will its successors, all rulings made by the City Manager or his or her designee concerning the appropriate standard of the City of Winter Park governing repair and maintenance of the Private Road.

Agreed, as of the Effective Date first mentioned above. The parties acknowledge and accept all provisions in this Agreement by their signatures on the following pages:

Remainder of page intentionally left blank

Witnesses:

BENJAMIN PARTNERS, LTD.

Print name: _____

By: _____
Print name: _____
Title: _____

Print name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of June, 2014 by _____, as _____ of BENJAMIN PARTNERS, LTD., who is personally known to me or who has produced _____ as identification and who did take an oath and who acknowledged to me that he/she executed the same for the purposes set forth herein.

NOTARY PUBLIC

(Name typed or printed)

(Seal/Stamp)

Commission Expires: _____

Witnesses:

SYDGAN CORPORATION

Print name: _____

By: _____
Print name: _____
Title: _____

Print name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of June, 2014 by _____, as _____ of SYDGAN CORPORATION, who is personally known to me or who has produced _____ as identification and who did take an oath and who acknowledged to me that he/she executed the same for the purposes set forth herein.

NOTARY PUBLIC

(Name typed or printed)

Commission Expires: _____

(Seal/Stamp)

Witnesses:

CITY OF WINTER PARK, FLORIDA

Print name: _____

By: _____

Print name: _____

Title: _____

Print name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of June, 2014 by _____, as _____ of CITY OF WINTER PARK, FLORIDA, who is personally known to me or who has produced as identification and who did take an oath and who acknowledged to me that he/she executed the same for the purposes set forth herein.

NOTARY PUBLIC

(Name typed or printed)

(Seal/Stamp)

Commission Expires: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING A PORTION OF LOREN AVENUE WITHIN THE RAVAUDAGE PLANNED DEVELOPMENT AND HOME ACRES SUBDIVISION AREA, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING FOR REVERSION IF DEVELOPMENT OF THE VACATED ROAD IS NOT TIMELY PERMITTED AND CONSTRUCTED.

WHEREAS, the City Commission desires to foster the development of the Ravaudage Planned Development by vacating and abandoning certain platted streets within the Home Acres subdivision as platted in Plat Book "M", Page 97 of the Public Records of Orange County, Florida, so that an alternate street system can be developed to better serve the economic growth of this area, and

WHEREAS, this Ordinance meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to abutting property owners 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 city public works department has provided for participation by the public in the process by providing information as requested and has also rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the proposed Ordinance 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.

NOW, THEREFORE, BE IT ENACTED as follows:

Section 1. The City Commission of the City of Winter Park hereby vacates and abandons that portion of the right-of-way of Loren Avenue lying approximately 235 feet south of the platted right-of-way of Kindel Avenue per the plat of Homes Acres, as recorded in Plat Book "M", Page 97, as more particularly described in Exhibit "A".

Section 2. This Ordinance is conditioned upon the receipt by the City of an easement to be recorded in the Public Records of Orange County for a private street to run from the terminus of the north end of Loren Avenue west to the right-of-way of Bennett Avenue, so as to eliminate the creation of a dead-end road.

Section 3. This Ordinance and all agreements and procedures relating to the vacation of a portion of Loren Avenue within the Ravaudage PD area are subject to the reversionary interest stated herein. Notwithstanding the vacation and abandonment of municipal right-of-way as provided in Sections 1 and 2 hereof, the subject right-of-way of Loren Avenue as set out in Sections 1 and 2 shall be null and void, and the City shall by reversion take title to the public right-of-way otherwise vacated and abandoned if

development requiring the vacated roadway is not fully entitled and building permits issued on or before June 1, 2015. And, if permits for construction are timely issued on or before June 1, 2015, then the development requiring the vacated roadway shall be fully constructed and a certificate of occupancy issued on or before June 1, 2017. Unless these deadlines are extended by action of the City Commission, the municipal right-of-way described in Sections 1 and 2 hereof shall by reversion, revert back into the ownership of the City of Winter Park to be used for any lawful purpose consistent with public right-of-way, including but not limited to usage as public roads.

Section 4. Assurance That Lots Currently Owned Or Controlled By The Developer Will Have Access Across The Existing Pavement On Loren Avenue, Even Following Vacation. Notwithstanding anything in this Ordinance to the contrary, all lots adjacent to or abutting the vacated portion of Loren Avenue, including but not limited to those lots currently owned or controlled by the Developer, Bubbalou's, Inc. or any affiliate thereof, or any successor of any of them in title, shall irrevocably grant to the public, an easement over the existing roadway of Loren Avenue so that all of said lots are accessible. This easement shall terminate only at such time that the owner of any such lot shall enter an agreement with another or develops the land for a purpose that will render access by the public to such lot unnecessary as determined in the sole and absolute discretion of the owner of such lot. In such event, the agreement showing that it is no longer necessary for the public to have access to such lot shall be recorded in the Public Records of Orange County.

Section 5. Public Dedication. The Developer shall dedicate to the City of Winter Park the ownership of the land subject to the easement created in Section 2 hereof, as public right-of-way. Such dedication shall occur upon development of the road in accordance with City standards, and acceptance by the City. Until such time the easement granted in Section 2 hereof shall remain in full force and effect.

Section 6. Incorporation of Easement Agreement. The Ordinance is subject to the Developer's compliance with each provision in the Public Access Easement and Maintenance Agreement, attached hereto and incorporated herein by reference as Exhibit "A" to this Ordinance, and made fully a part hereof.

Section 7~~3~~. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 8~~4~~. This ordinance shall become effective upon the delivery to the City and recording in the Public Records of Orange County of an easement for the private access road, as detailed in section 2 of this Ordinance.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, on the _____ day of _____, 2014.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham, MMC



city commission public hearing

item type	Public Hearing	meeting date	June 23, 2014
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: Comp. Plan FLU/Rezoning & Cond. Use for Morse/Virginia Townhouses.

This public hearing involves the request by the Phil Kean Design Group, who have a contract to purchase (contingent upon rezoning) the two properties at the 403 & 421 W. Morse Boulevard, which is the northwest corner of Morse and Virginia Avenue. They are requesting rezoning of 421 W. Morse and Conditional use approval for an eight unit townhouse project on the combined two properties. In addition to the attached plans, the applicant has a fly-around for the City Commission presentation.

Planning and Zoning Board Recommendation:

Motion made by Mr. Weldon, seconded by Mr. Gottfried to approve amending the "comprehensive plan" future land use map so as change the designation of commercial to central business district on the property at 421 West Morse Boulevard. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Weldon, seconded by Mr. Sacha to approve amending the official zoning map so as change the existing zoning of Multi-Family Residential (R-3) District to Commercial (C-2) district on the property at 421 W. Morse Boulevard. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Weldon, seconded by Mr. Gottfried to approve the conditional use redevelop the properties at 403 and 421 West Morse Boulevard, zoned C-2, into eight, three-story residential units with a total project size of 28,964 square feet with the condition that the live oak tree on the northern property line be preserved. Motion carried unanimously with a 7-0 vote.

Summary:

The site consists of the former Alan Parker real estate office building at the corner at 403 W. Morse, zoned Commercial (C-2) and the adjacent 421 W. Morse property, which is a former homestead, zoned R-3. The entire property is 145 feet along Morse Blvd. and 143 feet along Virginia Avenue and is 21,038 sq. ft. (0.48 acres). See maps attached.

Both buildings are proposed to be demolished for redevelopment of this combined property into **eight "Brownstone" townhouses** of three stories in height and with a project size of 28,924 square feet. The project is a Conditional Use because it is a building over 10,000 square feet and because any three story building in the C-2 zoning requires Conditional Use approval.

CRA/Zoning Background:

When the Community Redevelopment Area was established in 1994, one of the primary goals was to encourage the redevelopment of West New England Avenue from Pennsylvania to New York Avenue and West Morse Boulevard. To that end, the City administratively changed the Comprehensive Plan future land use map in 1995 for all the properties along Morse Blvd. which were Residential to a Commercial future land use. In that way, anyone buying a property would know they were guaranteed to be able to get that property rezoned from residential to **office or commercial**. By “commercial” that meant at that time, to be rezoned to general commercial C-3 or C-3A.

However, when the redevelopment of Morse Boulevard began in earnest in 1999 with the redevelopment of the office buildings and parking garage at the NW corner of Morse and Pennsylvania, the zoning needed for that density and building setback, up close to the street, was the central business district, C-2 designation. In turn, several other properties along West Morse Blvd have been designated for Central Business District future land use such as the vacant NE corner of Morse and Pennsylvania in 2000; the Regions Bank site in 2003 and also **Alan Parker’s former office property (403 W. Morse) in 2003.**

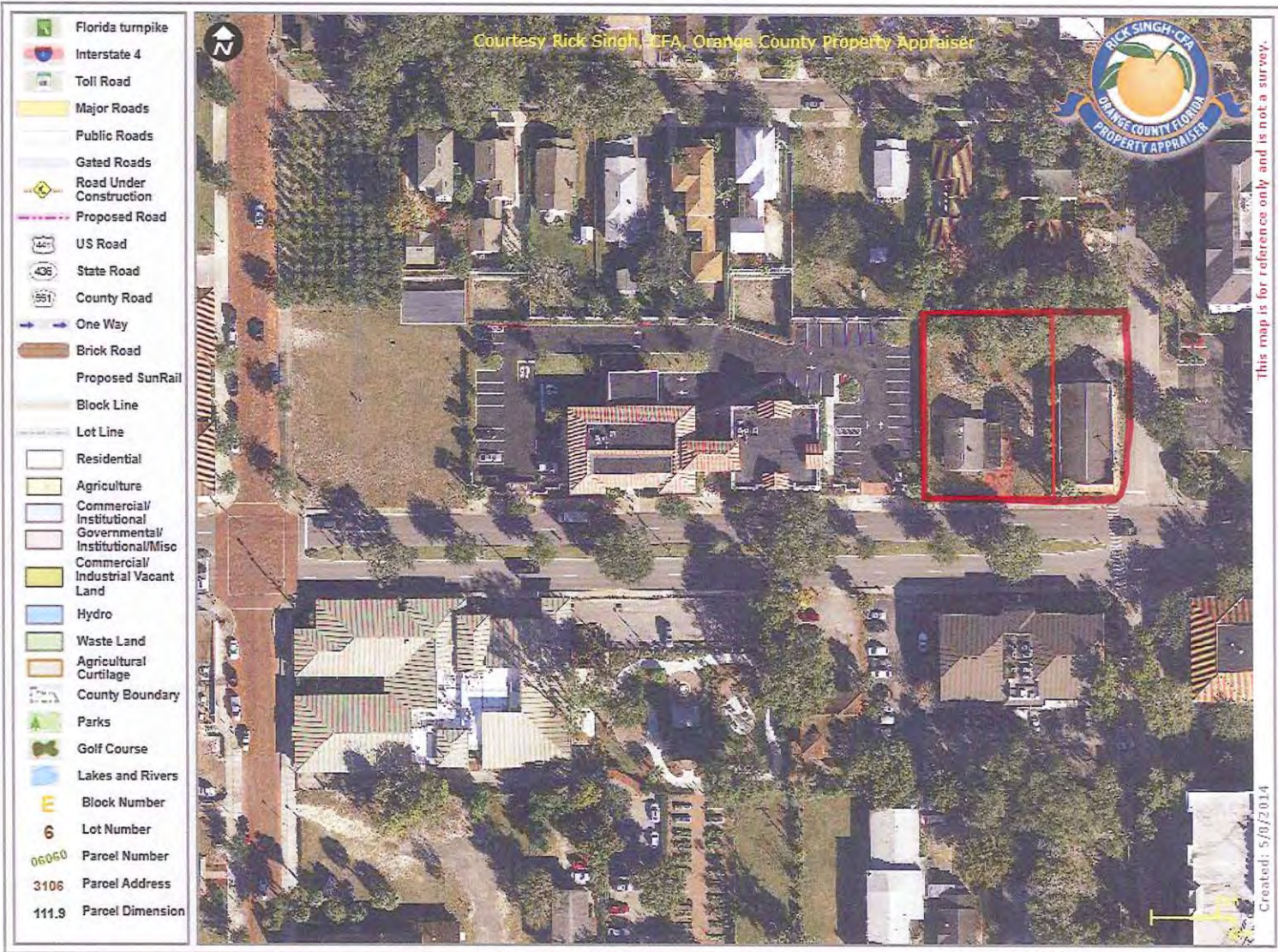
Project Development Standard Parameters:

The CBD land use and C-2 zoning allows a maximum of 17 units/acre. Based on this lot size, these eight units are the maximum number permitted. The CBD/C-2 has a maximum FAR of 200% and this project is at 138%. The height limit for three story buildings is 40 feet and this project is at 36 feet plus the allowable parapet and mechanical/elevator height. The Code requires that the third floor be stepped back from the façade of the first two floors in order to articulate or break up the street facing facades. In this case, the design takes different approaches by protruding or bumping out parts of the facades of each unit on the first and second floors as well the traditional approach for one unit on Virginia. These design variations all accomplish the intent of building articulation and not have one flat building façade.

The street front setbacks could be at zero feet in C-2 but they have chosen to stay generally in line with the 10 foot front setback of the adjacent Regions Bank development which also allows the opportunity for front stairs leading down to the street from the main living space level on **the second floor, which is a key design element of the “Brownstones” theme of this project.** Parking is being provided per Code (2 ½ spaces per unit) as well as providing space for a trash dumpster and area for storm water retention.

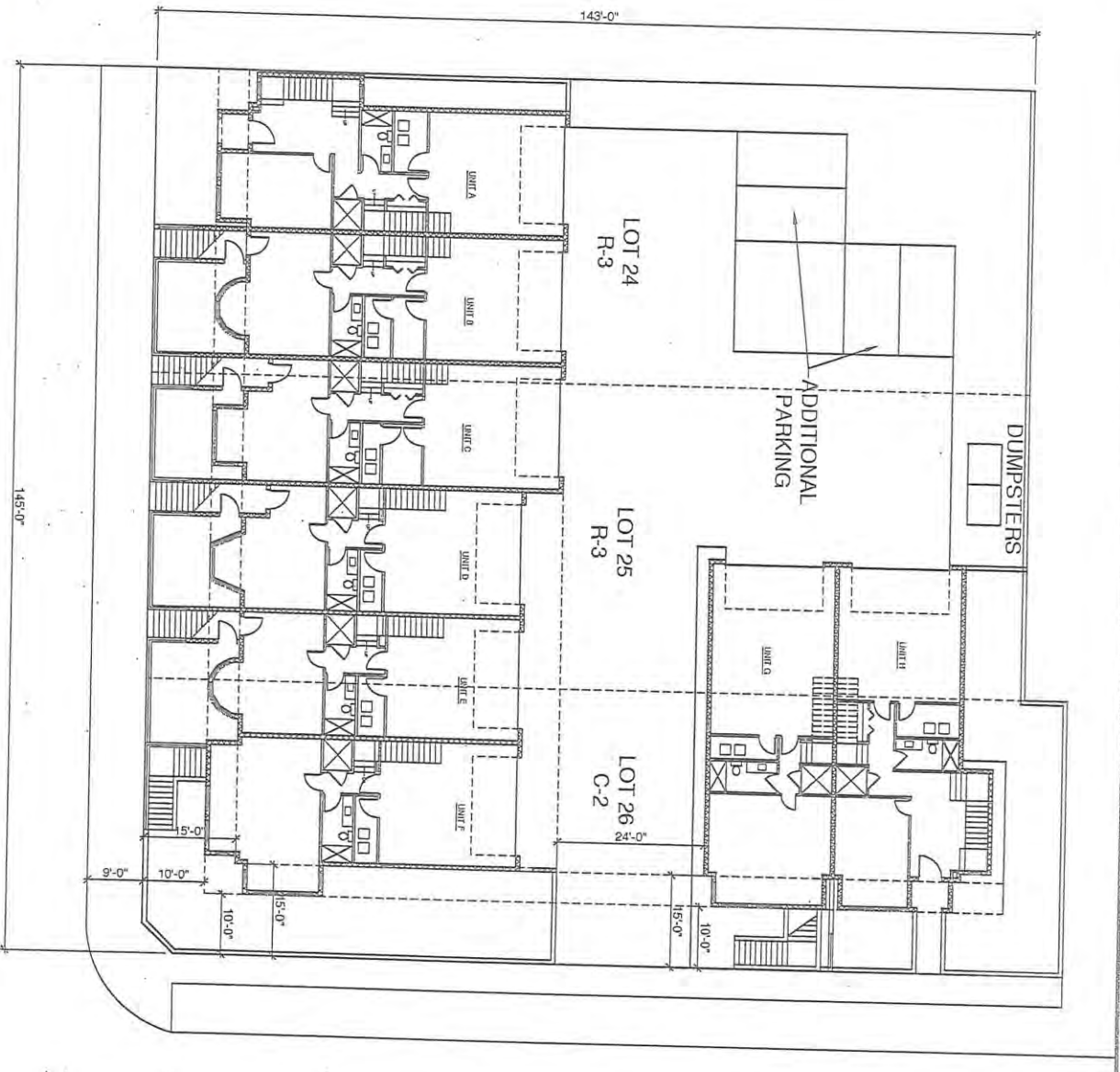
Staff Analysis of the Applicant’s Requests:

The proposed changes to the Comp. Plan FLU and Zoning are consistent with how the rest of the north side of this block is designated. There is a great market desire for residential units within close proximity to Park Avenue. The layout allows these units to be sold as fee simple units subject to a Homeowners Association for the common elements. The development plan presented to the City does not fully utilize all of the development potential of the CBD land use and C-2 zoning code. This will be a quality architectural product that fits in with the context of the surrounding area.





PROPOSED SITE PLAN
SCALE: 1" = 10'-0"



BROWNSTONE



MORSE & VIRGINIA
WINTER PARK, FLORIDA

DESIGNER:

PHIL KEAN DESIGN GROUP
ARCHITECTURE & CONSTRUCTION / INTERIORS
10136 Fairbanks Avenue
Winter Park, Florida 32789
(407) 870-0001 / FAX (407) 870-0002
WWW.PHILKEANDSIGN.COM

ENGINEER:

PROJECT INFO:

421 W. Morse Blvd
&
403 W. Morse Blvd

PLAN HISTORY:

DATE	DESCRIPTION
12-11-13	PRELIM DESIGN
03-26-14	PL&Z REVIEW

SHEET DATA:

DESIGNED BY: PHIL KEAN
DRAWN BY: JASON PLUSKE

SHEET DESCRIPTION:

COVERSHEET

SHEET:

CS

NOTES

BASED ON THE FLORIDA RESIDENTIAL BUILDING CODE 2010

TO THE BEST OF THIS ENGINEER'S INTERPRETATION, THESE DRAWINGS MEET THE REQUIREMENTS OF CHAPTER 3 OF THE FLORIDA RESIDENTIAL BUILDING CODE 2010 EDITION, AS DEVELOPED AND MAINTAINED BY THE FLORIDA BUILDING COMMISSION, AND ADMINISTERED AND ENFORCED BY LOCAL JURISDICTIONS.

CONSTRUCTION NOTES

CONTRACTOR SHALL VERIFY ALL DIMENSIONS IN THE FIELD AND NOTIFY THE ENGINEER OF THE DISCREPANCIES PRIOR TO CONSTRUCTION. THE FLORIDA BUILDING CODE 2010 EDITION IS APPLICABLE TO THIS PROJECT. ALL CONSTRUCTION SHALL BE BRACED AND SHORED BY THE CONTRACTOR AS REQUIRED TO SAFELY PERFORM THE WORK. THERE SHALL BE NO WOOD STAKES USED IN ANY FOUNDATION OR SLAB AREA FOR GRADING, PLUMBING, REINFORCING OR FOR ANY OTHER USE IN THESE AREAS.

ROOF COVERINGS

ALL ROOF COVERINGS SHALL BE NOTED ON PLANS AND COMPLY WITH CHAPTER 9. A POCKET CONTAINING ALL MATERIALS FOR UNDERLYMENT, FLASHING, AND COVERINGS AND ALL MANUFACTURER'S INSTALLATION REQUIREMENTS SHALL BE FURNISHED BY THE GENERAL CONTRACTOR AS AN ATTACHMENT TO THIS PLAN SET AT THE TIME OF APPLICATION FOR PERMIT WHEN REQUIRED BY THE PERMITTING AUTHORITY.

WINDOWS AND DOORS

ALL WINDOWS AND DOORS SHALL BE DESIGNED TO MEET AT LEAST THE MINIMUM REQUIREMENTS SHOWN ON THESE PLANS. THE MANUFACTURER'S CERTIFICATION AND INSTALLATION INSTRUCTIONS SHALL BE FURNISHED BY THE GENERAL CONTRACTOR AS AN ATTACHMENT TO THIS PLAN SET AT THE TIME OF APPLICATION FOR PERMIT IF STRUCTURAL WOOD BLOCKS ARE TO BE USED. THE BLOCK SHALL BE ATTACHED TO THE SUBSTRATE FOR THESE PLANS AND THE ATTACHMENT TO THE BLOCK SHALL BE FOR THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.

STAIR AND RAILING NOTES

STAIRS SHALL BE CONSTRUCTED IN ACCORDANCE WITH SECTION R01.7. HANDRAILS SHALL BE CONSTRUCTED IN ACCORDANCE WITH SECTION R01.12. GUARDRAILS SHALL BE CONSTRUCTED IN ACCORDANCE WITH SECTION R01.2.

MEANS OF EGRESS

MEANS OF EGRESS SHALL COMPLY WITH THE MINIMUM REQUIREMENTS OF CHAPTER 3, SECTION E01.1.

MECHANICAL AND HVAC

ALL MECHANICAL SYSTEMS SHALL COMPLY WITH THE MINIMUM REQUIREMENTS OF CHAPTER 13 AND 14. ENERGY CALCULATIONS FOR HEATING AND COOLING CAPACITIES SHALL BE FURNISHED BY THE GENERAL CONTRACTOR AS AN ATTACHMENT TO THIS PLAN SET AT THE TIME OF APPLICATION FOR PERMIT.

TERMITE

SECTION R01.6 PROTECTION AGAINST TERMITES

TERMITE PROTECTION SHALL BE PROVIDED BY REGISTERED TERMITICIDES, INCLUDING FOR APPLIED PREVENTIVE, BAITING SYSTEMS, AND PRETREATMENTS APPLIED TO WOOD, OR OTHER APPROVED METHODS OF TERMITE PROTECTION LABELED FOR USE AS A PREVENTIVE TREATMENT TO NEW CONSTRUCTION (SEE SECTION 202, REGISTERED TERMITICIDES). UPON COMPLETION OF THE APPLICATION OF THE TERMITE PROTECTIVE TREATMENT, A CERTIFICATE OF COMPLIANCE SHALL BE ISSUED TO THE BUILDING DEPARTMENT BY THE LICENSED PEST CONTROL COMPANY THAT CONTAINS THE FOLLOWING STATEMENT: "THE BUILDING HAS RECEIVED A COMPLETE TREATMENT FOR THE PREVENTION OF SUBTERNEAN TERMITE. TREATMENT IS IN ACCORDANCE WITH RULES AND LAWS ESTABLISHED BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES."

NOTES:

- 1) METHOD OF TREATMENT SHALL BE APPROVED BY THE GOVERNING JURISDICTION. LIQUID BORATE OR BORACOPY PRODUCT METHODS MUST BE OBTAINED AT PERMIT STAGE AND PRODUCT APPROVAL DATA MUST BE ON FILE WITH THE BUILDING DEPARTMENT.
- 2) PRESURE TREATED LUMBER THAT HAS BEEN CUT OR DRILLED THAT EXPOSES UNTREATED PORTIONS OF WOOD ARE REQUIRED TO BE FIELD TREATED TO PREVENT INSECT INFESTATION.
- 3) BORATE APPLIED TO ALL FRAME MEMBERS WITHIN 24" A.F.F.

INDEX

SHEET | PROJECT NAME:

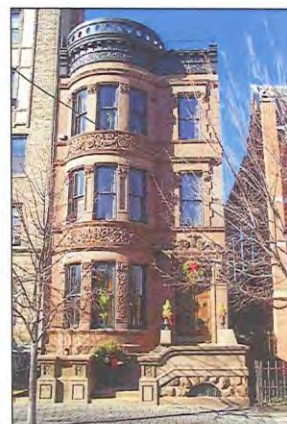
GENERAL

CS | COVER SHEET

ARCHITECTURAL

AS	SITE PLAN
1	BUILDING 1 GARAGE LEVEL
2	BUILDING 1 MAIN LEVEL
3	BUILDING 1 UPPER LEVEL
4	BUILDING 1 ROOF LEVEL
5	BUILDING 2 GARAGE LEVEL
6	BUILDING 2 MAIN LEVEL
7	BUILDING 2 UPPER LEVEL
8	BUILDING 2 ROOF LEVEL
9	ELEVATIONS

BROWNSTONE INSPIRATIONS



DESIGNER:	
PHIL KEAN DESIGN GROUP ARCHITECTURE / CONSTRUCTION / INTERIORS 807 W. End Avenue Westport, NY 10596 914 861-0000, FAX 914 861-0001 WWW.PHILKEANDSGROUP.COM	
ENGINEER:	
PROJECT INFO:	
421 W. Morse Blvd & 403 W. Morse Blvd	
PLAN HISTORY:	
DATE	DESCRIPTION
12-11-13	PRELIM DESIGN
03-26-14	P&Z REVIEW
SHEET DATA:	
DESIGNED BY:	PHIL KEAN
DRAWN BY:	JASON PLUSKE
SHEET DESCRIPTION:	
INSPIRATION PICTURES	
SHEET:	
IN-1	



PERSPECTIVE ALONG MORSE BOULEVARD



PERSPECTIVE ALONG MORSE BOULEVARD



PERSPECTIVE ALONG VIRGINIA AVENUE



FACADE FACING MORSE BOULEVARD



FACADE FACING VIRGINIA AVENUE

DESIGNER:

PHIL KEAN DESIGN GROUP
ARCHITECTURE / CONSTRUCTION / INTERIORS

307 W. Fairbank Avenue
Waukegan, IL 60087
(847) 933-0000 / FAX (847) 933-0001

WWW.PHILKEANDSIGN.COM

ENGINEER:

PROJECT INFO:

421 W. Morse Blvd
&
403 W. Morse Blvd

PLAN HISTORY:

DATE	DESCRIPTION
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03-26-14	PI&Z REVIEW

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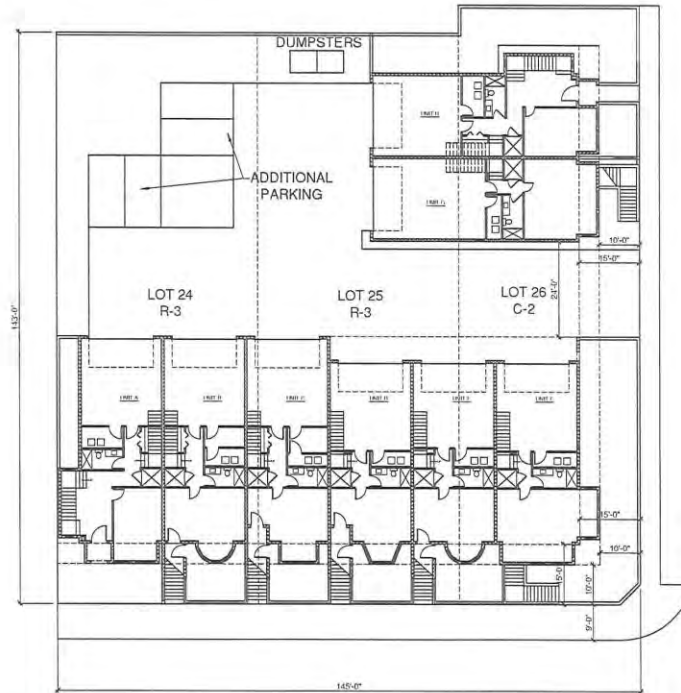
DESIGNED BY: PHIL KEAN
DRAWN BY: JASON PLUSKE

SHEET DESCRIPTION:

PERSPECTIVE RENDERINGS

SHEET:

PR-1



PROPOSED SITE PLAN
SCALE: 1" = 10'-0"



AREA MAP
SCALE: 1" = 10'-0"

Storm & Virginia IIR Calculations CALCULATIONS:

Zoning: C-2
Construction: 3-Story
MAX. Building Height: 40'

IMPERVIOUS CALCULATIONS:

Lot Size: 21,024 SF (544.44 Jany)

Building 1
Main AC
Garage/Mech
Entry

16,056
4,599
168

Total

21,422

Building 2
Main AC
Garage/Mech
Entry

1,839
1,839
68

Total

7,542

Development
Main AC
Garage/Mech
Entry

22,494
8,279
252

Total Development

28,994

Impervious Allowed
Impervious Provided
Impervious Differential

42,676 SF
28,994 SF
(13,112) SF

OR
OR
OR

200.00%
137.67%
40.33%

Parking Required
Parking Provided

20
20

DESIGNER:

PHIL KEAN DESIGN GROUP

ARCHITECTURE / CONSTRUCTION / INTERIORS
1001 W. LANTANA PARKWAY
MIDDLE PARK, FLORIDA 32711
PH: 407.599.1234 FAX: 407.599.1235

WORKING WITH CLIENTS SINCE 2008

ENGINEER:

PROJECT INFO:

421 W. Morse Blvd
&
403 W. Morse Blvd

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12-11-13 PRELIM DESIGN
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DESIGNED BY: PHIL KEAN
DRAWN BY: JASON PLUSKE

SHEET DESCRIPTION:

SITE PLAN

SHEET:

AS

BUILDING 1 - UNITS A-F

TOTAL	
LIVING AREA	16,631
GARAGE AREA	4,589
ENTRY	100
TOTAL UNDER FOOT	21,422
BALCONY	455

DESIGNER:

PHIL KEAN DESIGN GROUP
ARCHITECTS & CONSULTANTS (P) (C) (T) (S)
100 W. 1st Avenue, Suite 100, Lincoln, NE 68501
(402) 441-1111
www.philkeandesign.com

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&
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03-26-14	PLZ REVIEW

SHEET DATA:

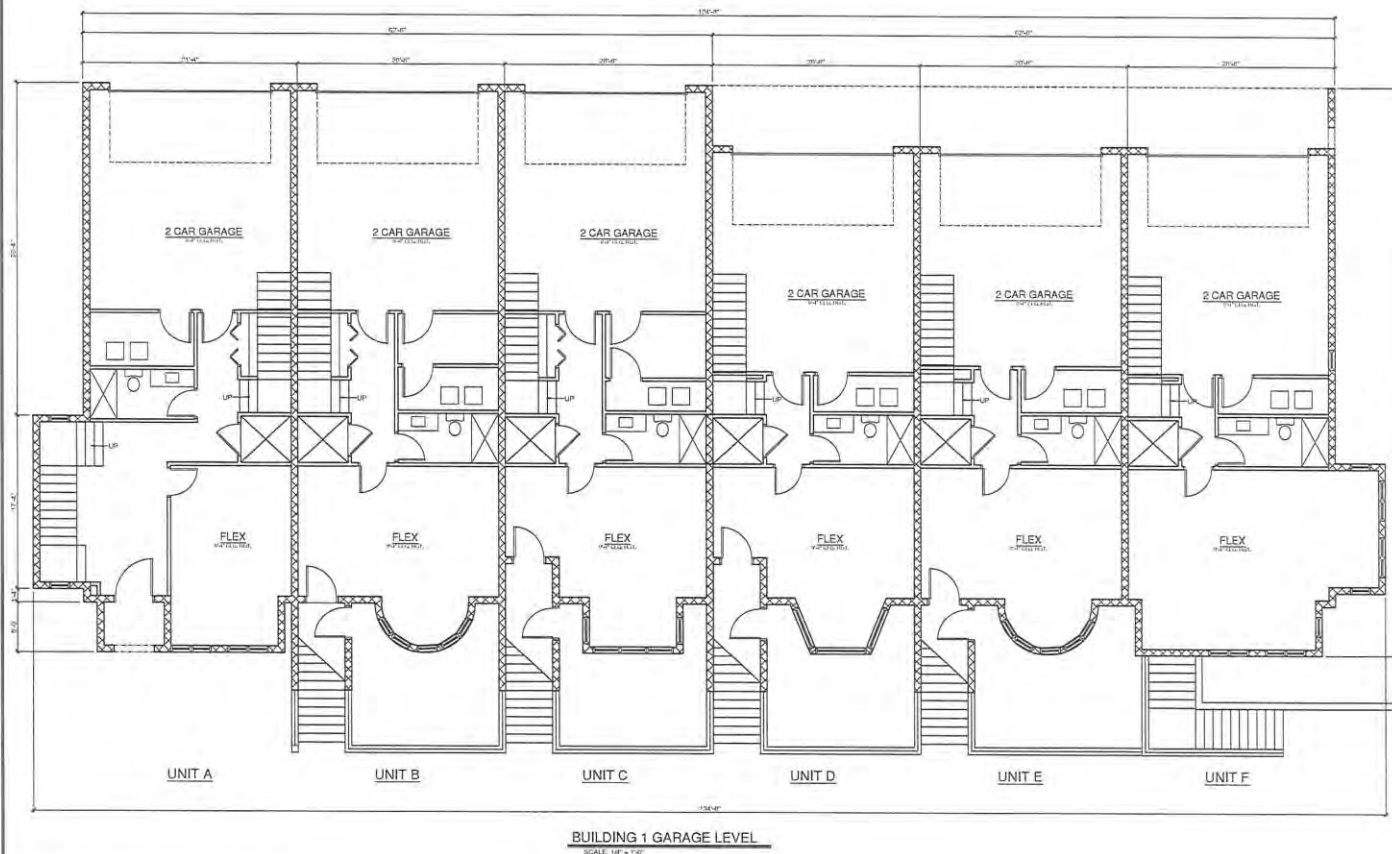
DESIGNED BY: PHIL KEAN
DRAWN BY: JASON PUSKE

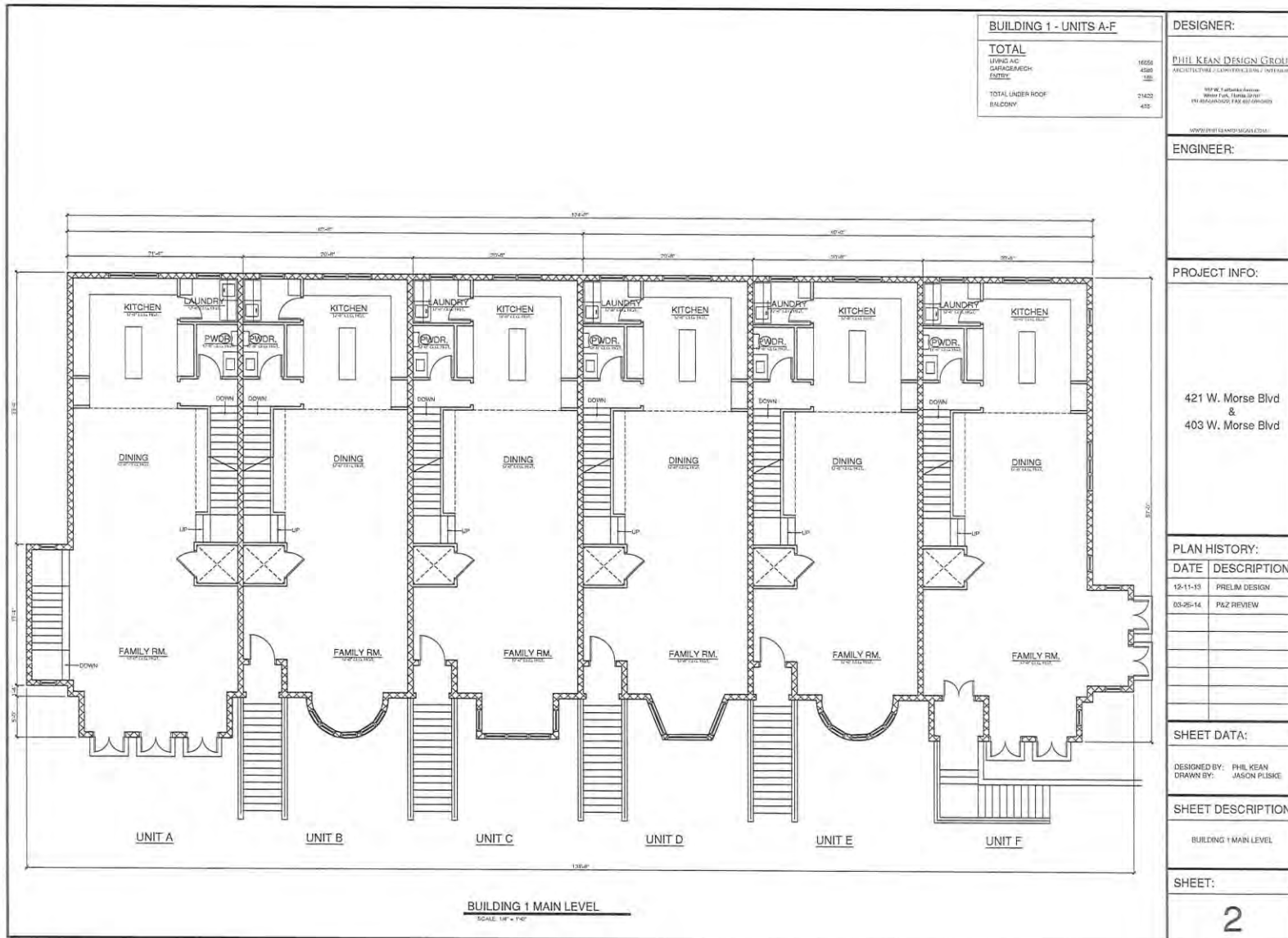
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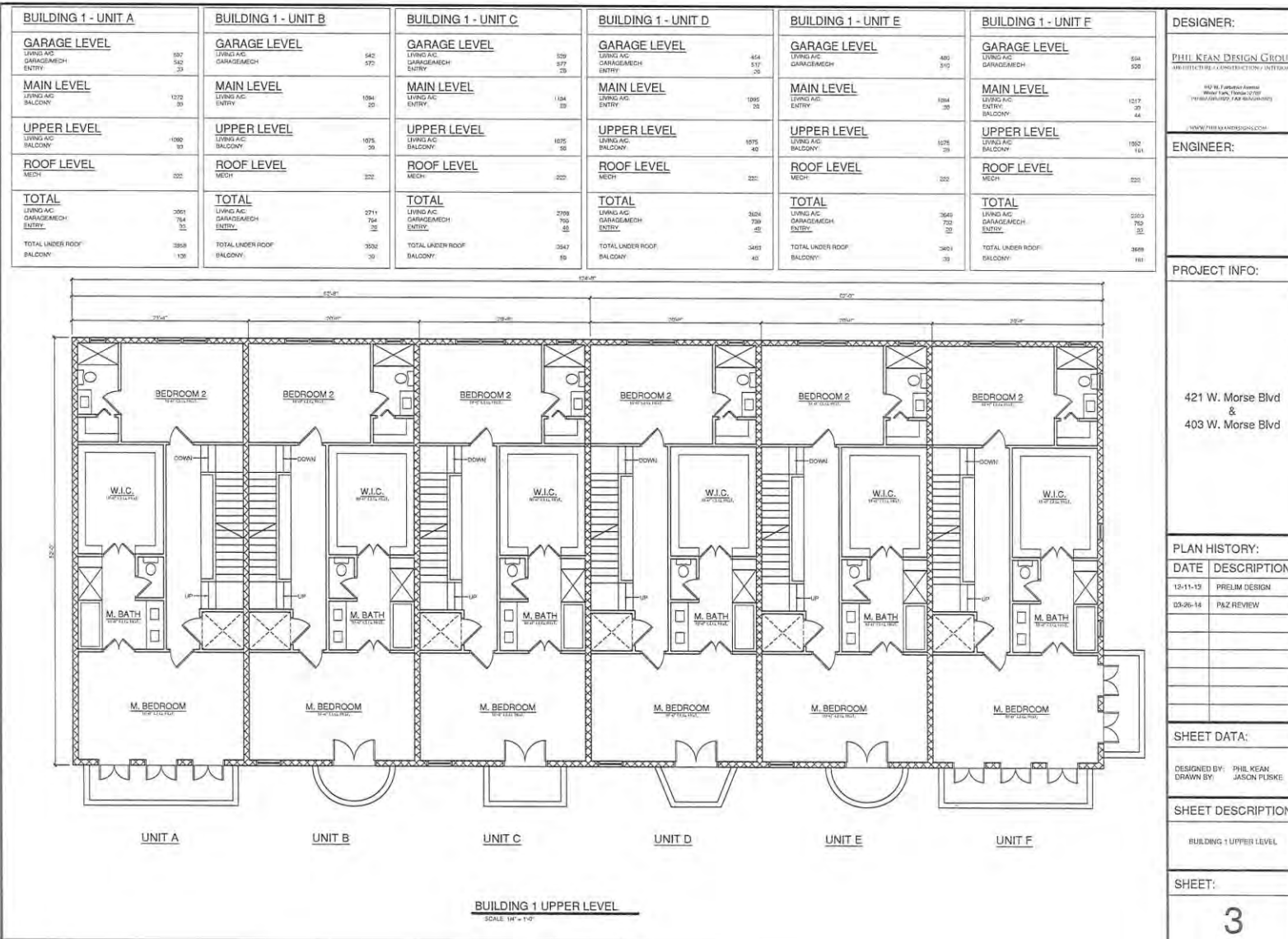
BUILDING 1 GARAGE LEVEL

SHEET:

1







DESIGNER:

PHIL KEAN DESIGN GROUP
ARCHITECTS • CONSTRUCTION • INTERIORS

100 W. Lafayette Avenue
West Palm Beach, Florida 33411
(772) 833-0001 / FAX (772) 833-0002

WWW.PHILKEANDSIGN.COM

ENGINEER:

PROJECT INFO:

421 W. Morse Blvd
&
403 W. Morse Blvd

PLAN HISTORY:

DATE	DESCRIPTION
12-11-13	PRELIM DESIGN
03-26-14	PA2 REVIEW

SHEET DATA:

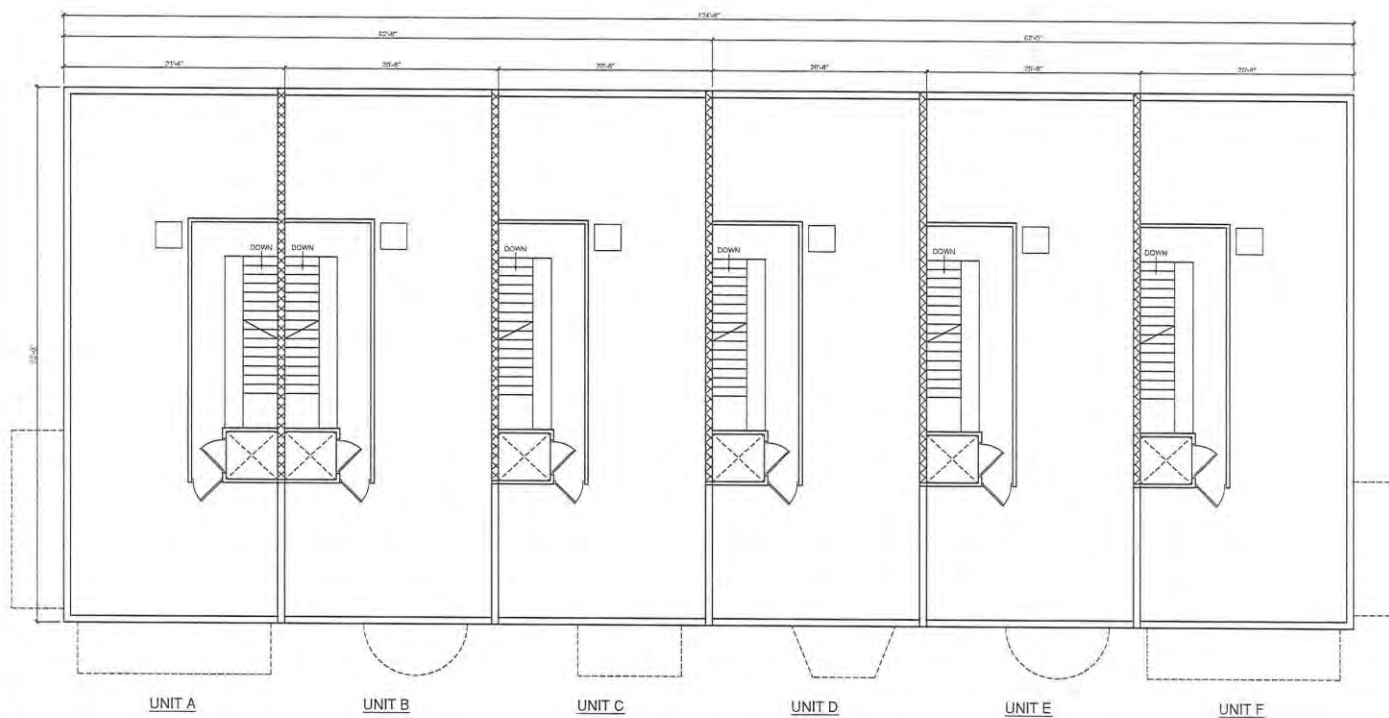
DESIGNED BY: PHIL KEAN
DRAWN BY: JASON FUSKE

SHEET DESCRIPTION:

BUILDING 1 UPPER LEVEL

SHEET:

3



BUILDING 1 ROOF LEVEL

SCALE: 1/4" = 1'-0"

DESIGNER:

PHIL KEAN DESIGN GROUP
ARCHITECTURE + INTERIORS + EXTERIORS

250 W. Tarrant Avenue
Reno, NV 89501
PH: 775.784.2222 FAX: 775.784.2222

WWW.PHILKEANDSIGN.COM

ENGINEER:

PROJECT INFO:

421 W. Morse Blvd
&
403 W. Morse Blvd

PLAN HISTORY:

DATE	DESCRIPTION
12-11-13	PRELIM DESIGN
03-26-14	PAZ REVIEW

SHEET DATA:

DESIGNED BY: PHIL KEAN
DRAWN BY: JASON PLUSKE

SHEET DESCRIPTION:

BUILDING 1 ROOF LEVEL

SHEET:

4

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 MULTI-FAMILY
RESIDENTIAL TO CENTRAL BUSINESS DISTRICT ON THE
PROPERTY AT 421 WEST MORSE BOULEVARD, MORE
PARTICULARLY DESCRIBED HEREIN.**

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

WHEREAS, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments amending the future land use designation of property; and

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

WHEREAS, the 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 June 3, 2014, 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 on June 23, 2014 and July 14, 2014 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 to central business district on the property at 421 West Morse Boulevard, more particularly described as follows:

Lots 24 & 25 and the south half of the vacated alley adjacent thereto within Block 32, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida.

Property Tax ID # 05-22-30-9400-32-240

SECTION 2. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

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

SECTION 4. Effective Date. An amendment adopted under this paragraph does not become effective until 31 days after adoption. If timely challenged, an amendment may not become effective until the state land planning agency or the Administration Commission enters a final order determining that the adopted small scale development amendment 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 _____, 2014.

Mayor

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO COMMERCIAL (C-2) DISTRICT ZONING ON THE PROPERTY AT 421 WEST MORSE BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owners of property at 421 W. Morse Boulevard have requested a Zoning map amendment consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the 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 of the City of Winter Park has recommended approval of this Ordinance at their June 3, 2014 meeting; and

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

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

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

SECTION 1. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designation of Medium Density Multi-Family (R-3) District to Commercial (C-2) on the property at 421 W. Morse Boulevard, more particularly described as follows:

Lots 24 & 25 and the south half of the vacated alley adjacent thereto within Block 32, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida.

Property Tax ID # 05-22-30-9400-32-240

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 _____ does not become effective, then 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 _____, 2014.

Mayor

Attest:

City Clerk

Planning and Zoning Board minutes – June 3, 2014

REQUEST OF PHIL KEAN DESIGN GROUP FOR: AN ORDINANCE AMENDING THE "COMPREHENSIVE PLAN" AND THE FUTURE LAND USE MAP SO AS CHANGE THE FUTURE LAND USE MAP DESIGNATION OF COMMERCIAL TO CENTRAL BUSINESS DISTRICT ON THE PROPERTY AT 421 W. MORSE BOULEVARD.

REQUEST OF PHIL KEAN DESIGN GROUP FOR: AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP SO AS CHANGE THE EXISTING ZONING DESIGNATION OF MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT TO COMMERCIAL (C-2) DISTRICT ON THE PROPERTY AT 421 W. MORSE BOULEVARD.

REQUEST OF PHIL KEAN DESIGN GROUP FOR : CONDITIONAL USE APPROVAL TO REDEVELOP THE PROPERTIES AT 403 AND 421 WEST MORSE BOULEVARD, ZONED C-2, INTO EIGHT, THREE STORY RESIDENTIAL UNITS WITH A TOTAL PROJECT SIZE OF 28,964 SQUARE FEET.

Mr. Briggs presented the staff report and explained that the applicant, the Phil Kean Design Group, has a contract to purchase (contingent upon rezoning) the two properties, 403 & 421 W. Morse Boulevard, located on the northwest corner of Morse Boulevard and Virginia Avenue. He said that both buildings are proposed to be demolished for redevelopment of this combined property into eight "Brownstone" townhouses. He explained that the applicant is seeking a change to the Comprehensive Plan future land use and zoning for 421 W. Morse property to Central Business District and C-2 zoning. In addition, the applicant requests conditional use approval to build the three-story residential townhouse project of eight units comprising a total project size of 28,924 square feet. The project is a Conditional Use because it has a building over 10,000 square feet and because any three-story building in the C-2 zoning requires Conditional use approval. Mr. Briggs discussed the property history with regard to zoning and the CRA plan, and the project development standard parameters. He said that from staff's perspective, the proposed changes to the Comp. Plan FLU and Zoning are consistent with designations on the north side of the block. He said that staff feels that there is a great market desire for residential units within close proximity to Park Avenue. The layout allows these units to be sold as fee simple units subject to a Homeowners Association for the common elements. The development plan presented to the City does not fully utilize all of the development potential of the CBD land use and C-2 zoning code. He said that staff feels that this will be a quality architectural product that fits within the context of the surrounding area. Mr. Briggs added that no variances are requested by the applicant for this redevelopment. Last, he said that the adjacent property owner (Joe Terranova) pointed out that there is an existing beautiful live oak tree in the area where the dumpster is shown on the proposed plan. He said that staff recommends that the applicant work to save the tree. Staff recommended approval of the request for Central Business District FLU and C-2 Zoning for 421 W. Morse Blvd., and approval of the Conditional Use for the three story, eight unit townhouse project, with the condition that the applicant preserve the live oak. Mr. Briggs responded to Board member questions and concerns.

Jim Lucia, Phil Kean Design Group, 912 West Fairbanks Avenue, stated that he agrees with the staff report. He said that they were aware of the tree on the property, and will that they have ensured that there is enough flexibility in to plan to accommodate saving the tree. He presented a 3D fly-around of the proposed project. He said that massing has been setback further than is required by the Code. He said that he feels that the proposed project is totally appropriate and will be an asset to Morse Boulevard. He noted that the plans will be refined as the project progresses. Mr. Lucia responded to Board member questions and concerns.

The Board received public comments from the following:

Joe Terranova, 151 North Virginia Avenue, stated that he supports the project. He stated that his main concern is the large live oak tree that sits on the property line. He added that he feels that protection of the tree should be incorporated into the approval of the project.

Lurline Fletcher, 811 English Court, spoke her concerns for the amount of requested rezonings and comprehensive plan amendments in the West Side neighborhood. She said that although the project will be residential development, she does not feel that the look is compatible with the existing residential neighborhood.

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

Mr. Gottfried and Mrs. DeCiccio expressed some concern with regard to the “look” of brownstones and fitting in with the surrounding neighborhood but agreed that the use of the property for townhomes and the proposed rezoning was a positive redevelopment. Mr. Slocum asked about the unbroken row of thirteen steps down from each unit and asked the applicant to consider breaking that run of stairs with a landing, as they have done on some of the units. Mr. Weldon stated that he feels that the project is compatible with the surrounding neighborhood because of what exists in the immediate surrounding neighborhood with a large four story multi-family building to the east and offices to the west and south. Other members voiced support for the request.

Motion made by Mr. Weldon, seconded by Mr. Gottfried to approve amending the “comprehensive plan” future land use map so as change the future land use map designation of commercial to central business district on the property at 421 West Morse Boulevard. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Weldon, seconded by Mr. Sacha to approve amending the official zoning map so as change the existing zoning designation of Multi-Family (R-3) District to Commercial (C-2) district on the property at 421 W. Morse Boulevard. Motion carried unanimously with a 7-0 vote.

Motion made by Mr. Weldon, seconded by Mr. Gottfried to conditional use approval to redevelop the properties at 403 and 421 West Morse Boulevard, zoned C-2, into eight, three-story residential units with a total project size of 28,964 square feet with the condition that the live oak tree on the northern property line be preserved. Motion carried unanimously with a 7-0 vote.



city commission public hearing

item type	Public Hearing	meeting date	June 23, 2014
prepared by	David Zusi	approved by	<input checked="" type="checkbox"/> City Manager
department	Water & Wastewater Utility		<input checked="" type="checkbox"/> City Attorney
division	Administration		<input type="checkbox"/> N/A
board approval	UAB	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no <input type="checkbox"/> N/A 8-0 final vote
strategic objective	<input type="checkbox"/> Exceptional Quality of Life <input type="checkbox"/> Fiscal Stewardship <input checked="" type="checkbox"/> Intelligent Growth & Development <input type="checkbox"/> Public Health & Safety <input type="checkbox"/> Investment in Public Assets & Infrastructure		

subject

West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program

motion | recommendation

Recommend Commission approval of the West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program.

background

The Economic Development Department and the Water and Wastewater Utility Department are recommending an impact fee deferral program to incentivize existing and new businesses to connect to the newly constructed sewer on West Fairbanks Avenue. The program will allow existing customers to spread out the impact fee payments over a 24 month period and similarly encourage new businesses to redevelop along this important gateway to Winter Park. The program allows an initial payment of 20% due at permit issuance, and the remaining 80% to be paid over a 24 month period upon issuance of a TCO or CO. To be eligible for the program, customers would have to be located inside the City limits or agree to be annexed into the City. Other minor eligibility requirements are included.

Connection to city sanitary sewer will increase utility revenues and provide potential environmental benefits to nearby lakes.

alternatives | other considerations

Various alternate versions of the program were discussed but the specific terms outlined in the proposed program are the most consistent with the goals of the program and other city initiatives.

fiscal impact

Fiscal impact of the program is minimal because the program defers the impact fees and does not reduce or waive the fees. After 24 months from project completion, all of the water and sewer impact fees will be collected by the city.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, **AMENDING CHAPTER 102, UTILITIES TO ADD SECTION 102-2**, ESTABLISHING THE WEST FAIRBANKS AVENUE WATER/SEWER IMPACT FEE DEFERRAL PROGRAM; AMENDING SECTIONS **102-57 and 102-92** OF THE CODE OF ORDINANCES TO INCORPORATE THIS IMPACT FEE DEFERRAL PROGRAM; AND ALLOWING THE CITY MANAGER OR MAYOR UNDER THE TERMS AND CONDITIONS SPECIFIED HEREIN TO SIGN CERTAIN CONTRACTS RELATING TO THE IMPLEMENTATION OF THE IMPACT FEE DEFERRAL PROGRAM; PROVIDING FOR CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park, Florida has previously found and determined it to be in the best interest of the safety, health, and welfare of the citizens of the City of Winter Park to establish certain impact fees, including the water and sewer utility impact fees to require new development to pay their equitable share of public improvements that must be constructed to serve new growth; and

WHEREAS, the City Commission of the City of Winter Park, Florida, has found and determined that it is in the best interest of the City to promote and stimulate economic development for both new and existing businesses that currently use or wish to use City sewer and water service; and

WHEREAS, the City has ~~completed planned for and is implementing~~ upgrades to the water and sewer infrastructure and services along West Fairbanks Avenue, and it is anticipated that this upgrade of utility service will be a benefit to the citizens and will promote economic development in the City; and

WHEREAS, the City Commission of the City of Winter Park, Florida, has found and determined that an impact fee deferral program may encourage the use of the City's sewer and water service being enhanced and improved along the West Fairbanks Avenue corridor; and

WHEREAS, the proposed impact fee deferral program will not exempt any individuals or businesses from paying the water and sewer impact fee, but will serve to extend the time during which an individual or business may pay a portion of its water and sewer impact fee; and

WHEREAS, the proposed impact fee deferral program is in the best interest of the health, safety, and welfare of the citizens of the City of Winter Park; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

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NOW, THEREFORE, the City Commission of the City of Winter Park, Florida, hereby ordains as follows:

1. **Section 1.** Recitals. The foregoing recitals are hereby adopted and confirmed.

2. **Section 2.** Code Amendment. In Chapter 102, a new section 102-2 is added, as follows:

Section 102-2. West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program. There is hereby established, subject to the terms and conditions stated herein, the West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program (the "Program").

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- a. Purpose. The purpose of the Program is to incentivize economic development, encourage use of City utility service, and provide an incentive to business owners to relocate or expand existing business to the West Fairbanks corridor.
- b. Description of the Benefit Extended to Approved Applicants. If an applicant is accepted into the Program, then the applicant will receive the benefit provided herein with respect to water/sewer impact fees owed. The applicant will only pay twenty percent (20%) of the assessed water and sewer impact fees otherwise due in full at the time of permitting, with the remaining eighty percent (80%) due to be paid in twelve (12) equal monthly installments, with the first payment due on the date of the issuance of a temporary or final certificate of occupancy, whichever occurs first.
- c. Eligibility to Participate In the Program. Eligible participants will include both commercial uses and residential properties, including multi-family uses treated by the City as a commercial use, y owners and businesses within the designated West Fairbanks Avenue district, more particularly described in a map of the West Fairbanks Avenue District, maintained in the City's Department of Public Works, as follows:
(hereinafter the "West Fairbanks Avenue District"). However, in order to be eligible, the applicant must be assessed at least one thousand dollars (\$1,000.00) in water/sewer impact fees.
- d. Program Requirements.
 1. The applicant must be a business or property owner located in the West Fairbanks Avenue District.
 2. The applicant must be assessed an impact fee of at least one thousand dollars (\$1,000.00) as the result of an assessment issued by the City's Water and Wastewater Department.
 3. The applicant must contract to use City sewer and water service.
 4. The applicant must contract to use City electric service if it is available to the address.

5. If the property is not located within the City of Winter Park's municipal boundary at the time of application, the applicant must agree to annex into the City of Winter Park.
 6. The applicant must be in good standing with the City, including no outstanding Code Enforcement prosecutions, fines or liens, and must be current on all outstanding taxes and fees owed to the City of Winter Park at the time of application.
- e. Application and Contract. The City Manager or his designee is authorized to develop an application form that is consistent with the requirements of the Program, and that is not in conflict with these requirements. The City Manager or his designee is also directed to develop in consultation with the City Attorney a form contract that each approved applicant must enter as a condition of participating in the Program. The requirements for the application and contract shall include the following provisions:
1. The applicant and the party entering the contract must be an owner or authorized agent on behalf of the property that is participating in the Program. If requested by the owner, the tenant may also become a party to the contract.
 2. The application and contract must make provision for the applicant being in good standing with the City with regard to financial and compliance matters.
 3. The application and contract will include provisions for annexation into the City of Winter Park if the property is not currently located within the municipal boundary.
 4. The application and contract will include a binding commitment to use utility service available to the property and to make payments of the utility service in accordance with the requirements of the City of Winter Park and its utility divisions.
 5. The application and contract will have provisions requiring payment of the deferred eighty percent (80%) of impact fees, commencing with the receipt of a temporary or final certificate of occupancy, whichever is first, with the balance being paid in twelve (12) equal monthly installments. The applicant will agree to a lien, in the nature of an assessment or enforcement lien, recorded in the event that the applicant defaults in making payments due to the City pursuant to the Program.
 6. The City Manager is directed to make both the form contract and form application available on the City's website. The City Manager shall make provision for promoting the Program so that eligible participants are reasonably made aware of the availability of the Program for qualified applicants.

7. The City Manager and the Mayor are authorized to sign Program agreements entered with qualified and approved applicants. The City Manager shall make provision for reporting to the City Commission the extent of participation in the Program and the status and degree of fulfillment of Program requirements, including payment of deferred impact fees.
- f. Municipal Discretion. The City of Winter Park has the sole authority to determine eligibility of any applicant pursuant to these Program guidelines. The City Manager or his designee may make minor procedural changes to the manner in which the Program is implemented, but any change made by the City Manager or his designee should be reported to the City Commission, and no change will be made that is substantive or material in relationship to the overall scope of the Program without obtaining prior approval from the City Commission. Any material change in the Program that deviates from the specific requirements as provided in this Section will require an amendment by ordinance.
- g. Sunset. This is a temporary incentive program and applications will only be accepted through December 31, 2014. This section will sunset on December 31, 2015, unless the Program is extended by action of the City Commission of the City of Winter Park.
- h. Additional General Conditions.
1. Impact fee credits only vest equal to the amount of fees actually paid. If the applicant defaults or for any other reason fails to make full payment due, the property will only receive credit for the amount of funds actually collected.
 2. A property that has participated in the Program may not be deannexed out of the City of Winter Park, to the fullest extent allowed by law.

Section 3. Code Amendment. Chapter 102. Section 102-57 is amended as follows ~~to add this language~~:

Section 102-57. Water impact fees. (d). ~~Add at the end of the existing section:~~

* * *

(d) Due date. Such charges shall be in addition to all other charges and shall be paid when the water connection permit is issued. "This impact fee is subject to the West Fairbanks Avenue District Wwater/Ssewer Iimpact Ffee Ddeferral Pprogram established in Section 102-2 of the Municipal Code."

* * *

Section 4. Code Amendment. Chapter 102. Section 102-92 is amended as follows ~~to add this language~~:

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Section. 102-92(d). Impact fees.

* * *

Add at the end of the existing section: "

(d) Due date. Such charges shall be in addition to all other charges and shall be paid when the sewer connection permit is issued. This impact fee is subject to the West Fairbanks Avenue District Water/Sewer Impact Fee Deferral Program established in Section 102-2 of the Municipal Code.

* * *

Section 54. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 65. Incorporation Into Code. This ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 67. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 78. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 89. Effective date. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, held at City Hall, Winter Park, Florida, on the ____ day of _____, 2014~~2~~.

Mayor Kenneth Bradley

Attest:

Cynthia Bonham, City Clerk

<G:\docs\Cities\Winter Park\Ordinances and Resolutions General\Impact Fee Deferral Program - Fairbanks wastewater 2014\impact fee deferrment ordinance 5-13-14 redline.docx>

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 102, UTILITIES TO ADD SECTION 102-2, ESTABLISHING THE WEST FAIRBANKS AVENUE WATER/SEWER IMPACT FEE DEFERRAL PROGRAM; AMENDING SECTIONS 102-57 and 102-92 OF THE CODE OF ORDINANCES TO INCORPORATE THIS IMPACT FEE DEFERRAL PROGRAM; AND ALLOWING THE CITY MANAGER OR MAYOR UNDER THE TERMS AND CONDITIONS SPECIFIED HEREIN TO SIGN CERTAIN CONTRACTS RELATING TO THE IMPLEMENTATION OF THE IMPACT FEE DEFERRAL PROGRAM; PROVIDING FOR CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park, Florida has previously found and determined it to be in the best interest of the safety, health, and welfare of the citizens of the City of Winter Park to establish certain impact fees, including the water and sewer utility impact fees to require new development to pay their equitable share of public improvements that must be constructed to serve new growth; and

WHEREAS, the City Commission of the City of Winter Park, Florida, has found and determined that it is in the best interest of the City to promote and stimulate economic development for both new and existing businesses that currently use or wish to use City sewer and water service; and

WHEREAS, the City has completed upgrades to the water and sewer infrastructure and services along West Fairbanks Avenue, and it is anticipated that this upgrade of utility service will be a benefit to the citizens and will promote economic development in the City; and

WHEREAS, the City Commission of the City of Winter Park, Florida, has found and determined that an impact fee deferral program may encourage the use of the City's sewer and water service being enhanced and improved along the West Fairbanks Avenue corridor; and

WHEREAS, the proposed impact fee deferral program will not exempt any individuals or businesses from paying the water and sewer impact fee, but will serve to extend the time during which an individual or business may pay a portion of its water and sewer impact fee; and

WHEREAS, the proposed impact fee deferral program is in the best interest of the health, safety, and welfare of the citizens of the City of Winter Park; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, the City Commission of the City of Winter Park, Florida, hereby ordains as follows:

1. **Section 1.** Recitals. The foregoing recitals are hereby adopted and confirmed.

2. **Section 2.** Code Amendment. In Chapter 102, a new section 102-2 is added, as follows:

Section 102-2. West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program.
There is hereby established, subject to the terms and conditions stated herein, the West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program (the "Program").

- a. Purpose. The purpose of the Program is to incentivize economic development, encourage use of City utility service, and provide an incentive to business owners to relocate or expand existing business to the West Fairbanks corridor.
- b. Description of the Benefit Extended to Approved Applicants. If an applicant is accepted into the Program, then the applicant will receive the benefit provided herein with respect to water/sewer impact fees owed. The applicant will only pay twenty percent (20%) of the assessed water and sewer impact fees otherwise due in full at the time of permitting, with the remaining eighty percent (80%) due to be paid in twelve (12) equal monthly installments, with the first payment due on the date of the issuance of a temporary or final certificate of occupancy, whichever occurs first.
- c. Eligibility to Participate In the Program. Eligible participants will include both commercial uses and residential properties, including multi-family uses treated by the City as a commercial use, and businesses within the designated West Fairbanks Avenue district, more particularly described in a map of the West Fairbanks Avenue District, maintained in the City's Department of Public Works,, (hereinafter the "West Fairbanks Avenue District"). However, in order to be eligible, the applicant must be assessed at least one thousand dollars (\$1,000.00) in water/sewer impact fees.
- d. Program Requirements.
 1. The applicant must be a business or property owner located in the West Fairbanks Avenue District.
 2. The applicant must be assessed an impact fee of at least one thousand dollars (\$1,000.00) as the result of an assessment issued by the City's Water and Wastewater Department.
 3. The applicant must contract to use City sewer and water service.
 4. The applicant must contract to use City electric service if it is available to the address.
 5. If the property is not located within the City of Winter Park's municipal boundary at the time of application, the applicant must agree to annex into the City of Winter Park.

6. The applicant must be in good standing with the City, including no outstanding Code Enforcement prosecutions, fines or liens, and must be current on all outstanding taxes and fees owed to the City of Winter Park at the time of application.
- e. Application and Contract. The City Manager or his designee is authorized to develop an application form that is consistent with the requirements of the Program, and that is not in conflict with these requirements. The City Manager or his designee is also directed to develop in consultation with the City Attorney a form contract that each approved applicant must enter as a condition of participating in the Program. The requirements for the application and contract shall include the following provisions:
 1. The applicant and the party entering the contract must be an owner or authorized agent on behalf of the property that is participating in the Program. If requested by the owner, the tenant may also become a party to the contract.
 2. The application and contract must make provision for the applicant being in good standing with the City with regard to financial and compliance matters.
 3. The application and contract will include provisions for annexation into the City of Winter Park if the property is not currently located within the municipal boundary.
 4. The application and contract will include a binding commitment to use utility service available to the property and to make payments of the utility service in accordance with the requirements of the City of Winter Park and its utility divisions.
 5. The application and contract will have provisions requiring payment of the deferred eighty percent (80%) of impact fees, commencing with the receipt of a temporary or final certificate of occupancy, whichever is first, with the balance being paid in twelve (12) equal monthly installments. The applicant will agree to a lien, in the nature of an assessment or enforcement lien, recorded in the event that the applicant defaults in making payments due to the City pursuant to the Program.
 6. The City Manager is directed to make both the form contract and form application available on the City's website. The City Manager shall make provision for promoting the Program so that eligible participants are reasonably made aware of the availability of the Program for qualified applicants.
 7. The City Manager and the Mayor are authorized to sign Program agreements entered with qualified and approved applicants. The City Manager shall make provision for reporting to the City Commission the extent of participation in the Program and the status and degree of

fulfillment of Program requirements, including payment of deferred impact fees.

- f. Municipal Discretion. The City of Winter Park has the sole authority to determine eligibility of any applicant pursuant to these Program guidelines. The City Manager or his designee may make minor procedural changes to the manner in which the Program is implemented, but any change made by the City Manager or his designee should be reported to the City Commission, and no change will be made that is substantive or material in relationship to the overall scope of the Program without obtaining prior approval from the City Commission. Any material change in the Program that deviates from the specific requirements as provided in this Section will require an amendment by ordinance.
- g. Sunset. This is a temporary incentive program and applications will only be accepted through December 31, 2014. This section will sunset on December 31, 2015, unless the Program is extended by action of the City Commission of the City of Winter Park.
- h. Additional General Conditions.
 - 1. Impact fee credits only vest equal to the amount of fees actually paid. If the applicant defaults or for any other reason fails to make full payment due, the property will only receive credit for the amount of funds actually collected.
 - 2. A property that has participated in the Program may not be deannexed out of the City of Winter Park, to the fullest extent allowed by law.

Section 3. Code Amendment. Chapter 102. Section 102-57 is amended as follows:

Sec. 102-57. Water impact fees. .

* * *

(d) Due date. Such charges shall be in addition to all other charges and shall be paid when the water connection permit is issued. This impact fee is subject to the West Fairbanks Avenue District Water/Sewer Impact Fee Deferral Program established in Section 102-2 of the Municipal Code.

* * *

Section 4. Code Amendment. Chapter 102. Section 102-92 is amended as follows:

Sec. 102-92. Impact fees.

* * *

(d) Due date. Such charges shall be in addition to all other charges and shall be paid when the sewer connection permit is issued. This impact fee is subject to the West Fairbanks Avenue District Water/Sewer Impact Fee Deferral Program established in Section 102-2 of the Municipal Code.

* * *

Section 5. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 6. Incorporation Into Code. This ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 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. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, held at City Hall, Winter Park, Florida, on the ____ day of _____, 2014.

Mayor Kenneth W. Bradley

Attest:

Cynthia S. Bonham, City Clerk



city commission public hearing

item type	Public Hearing	meeting date	June 23, 2014
prepared by	Cindy Bonham, City Clerk	approved by	<input checked="" type="checkbox"/> City Manager
department	Citizen Petition Initiative Per City		<input type="checkbox"/> City Attorney
division	Charter		<input type="checkbox"/> N/A
board approval		<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A	final vote
strategic objective	<input type="checkbox"/> Exceptional Quality of Life		<input type="checkbox"/> Fiscal Stewardship
	<input type="checkbox"/> Intelligent Growth & Development		<input type="checkbox"/> Public Health & Safety
	<input type="checkbox"/> Investment in Public Assets & Infrastructure		

subject

Ordinance prohibiting the construction of a professional minor league baseball stadium in Martin Luther King, Jr. Park.

motion | recommendation

In accordance with the City Charter, the Commission can choose to accept or reject the ordinance.

Background

Article V of the City Charter (attached) authorizes qualified voters of the City to propose ordinances to the City Commission. If the Commission fails to adopt the proposed ordinance without any change in substance within sixty (60) days, the proposed ordinance must be submitted to the voters of the City at a regular or special election within the time requirements of Section 5.08 of the Charter. **Section 5.08 states: "If no regular city election is to be held within the period prescribed in this subsection, the commission shall provide for a special election." In this case if the ordinance is not adopted, the City must hold a special election.**

According to the Supervisor of Election's Office, no special election can be held before December 9 and would be done by mail ballot.

A petitioners' committee of five (5) qualified voters commenced initiative proceedings to propose an ordinance prohibiting the construction of a professional minor league baseball stadium at Martin Luther King, Jr. Park on March 21, 2014. All papers of the initiative petition filed with the City Clerk have been determined to be sufficient. All petitions were reviewed by the Supervisor of Elections Office and found that the committee had enough valid signatures to move forward with the ordinance process.

alternatives | other considerations

Do not adopt the ordinance and hold a special election.

fiscal impact

A special election by mail ballot would cost the city approximately \$30,330.00.

ORDINANCE NO. [____]-14

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROHIBITING THE CONSTRUCTION OF A PROFESSIONAL MINOR LEAGUE BASEBALL STADIUM IN MARTIN LUTHER KING, JR. PARK (FORMERLY KNOWN AS LAKE ISLAND PARK), A CITY PARK BOUNDED BY W. MORSE BOULEVARD, S. DENNING DRIVE, HARPER ST., AND W. COMSTOCK AVE.; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THIS ORDINANCE.

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

SECTION 1. AUTHORITY FOR THIS ORDINANCE. This Ordinance is enacted pursuant to the provisions of Article V, "Initiative, Referendum and Recall," of the Charter of the City of Winter Park and other applicable provisions of law.

SECTION 2. LEGISLATIVE FINDINGS. It is hereby ascertained, determined, and declared that:

A. Article V of the City Charter authorizes qualified voters of the City to propose ordinances to the City Commission. If the Commission fails to adopt the proposed ordinance without any change in substance within sixty (60) days, the proposed ordinance must be submitted to the voters of the City at a regular or special election within the time requirements of Section 5.08 of the Charter.

B. A petitioners' committee of five (5) qualified voters commenced initiative proceedings to propose an ordinance prohibiting the construction of a professional minor league baseball stadium at Martin Luther King, Jr. Park (formerly known as Lake Island Park), a City park bounded by West Morse Boulevard, South Denning Drive, Harper Street, and West Comstock Avenue in Winter Park. All papers of the initiative petition filed with the City Clerk have been determined to be sufficient. Pursuant to Section 5.08(a) of the Charter, when determined to be sufficient by the City Clerk, the City Commission shall consider the proposed initiative ordinance.

SECTION 3. CONFLICTS. All ordinances or parts of ordinances and all resolutions or parts thereof in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word, or provisions of this Ordinance is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, facial, or other

reasons, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective immediately upon its final passage and enactment.

ENACTED after reading by title at a meeting of the City Commission of the City of Winter Park held in City Hall, Winter Park, Florida, on this ____ day of _____, 2014.

Mayor Kenneth W. Bradley

ATTEST:

City Clerk Cynthia S. Bonham, MMC

Ordinance No. _____

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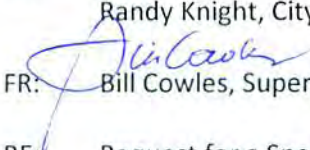
BILL COWLES
Supervisor of Elections
Orange County, Florida



OUR MISSION IS TO:

*Ensure the integrity of the electoral process.
Enhance public confidence.
Encourage citizen participation.*

June 16, 2014

TO: Winter Park Mayor and City Council
Randy Knight, City Manager
FR:  Bill Cowles, Supervisor of Elections
RE: Request for a Special Mail Ballot Election

At our recent Municipal Clerks Meeting, Cindy Bonham, Winter Park City Clerk, shared with us of a potential need for a Special Mail Ballot Election concerning a possible baseball stadium. Since that meeting, we have verified and certified the petitions submitted by the City. Last week, we were contacted by Cindy as to when we could conduct the mail ballot election.

In 1993, then-Supervisor of Elections Betty Carter removed municipal elections from countywide elections. The conditions then are still relevant (imagine your 2012 Presidential Election Ballot with city contest and/or city amendments added to it). This November's General Election ballot may have as many as 10 amendments on it. I have provided this as background for your understanding. The earliest this office could conduct a Special Mail Ballot Election is on December 9, 2014.

While I understand that the City is not requesting to piggyback with the two countywide elections, it isn't practicable to hold a mail ballot election when absentee ballots are being mailed for the fall elections beginning July 11th. State law requires absentee ballots be mailed 20 days prior to the election date. For a December 9 election the ballot would be mailed on November 19 after we have certified the November 4th General Election. The County Canvassing Board is responsible for the canvassing any mail ballot election held in the county.

Please feel free to contact me or my staff as you continue to decide your course of action on this issue.

cc: Cindy Bonham, Winter Park City Clerk

ARTICLE V. INITIATIVE, REFERENDUM AND RECALL

Sec. 5.01. Initiative.

The qualified voters of the city shall have power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election.

Sec. 5.02. Referendum.

The qualified voters of the city shall have the power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election.

Sec. 5.03. Recall.

The qualified voters of the city shall have the power to recall and to remove from office any elected official of the city as provided by general law.

Sec. 5.04. Commencement of proceedings.

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the clerk or other official designated by the commission an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying one street address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk or other official designated by the commission may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

Sec. 5.05. Petitions.

(a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least ten (10) percent of the total number of qualified voters registered to vote at the last regular city election.

(b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the

persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) *Time for filing referendum petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.

Sec. 5.06. Procedure for filing.

(a) *Certificate of clerk; amendment.* Within twenty (20) days after the petition is filed (five (5) working days for a referendum), the city clerk or other official designated by the commission shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by certified mail. Grounds for insufficiency are only those specified in Section 5.05. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk or other official designated by the commission within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of Section 5.05, and within five (5) days after it is filed the clerk or other official designated by the commission shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by certified mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request commission review under subsection (b) of this section within the time required, the clerk or other official designated by the commission shall promptly present the certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) *Commission review.* If a petition has been certified insufficient and the petitioners' com-

mittee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the commission. The commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the commission's determination shall then be a final determination as to the sufficiency of the petition.

Sec. 5.07. Referendum petitions; effect on ordinances.

When a referendum petition is filed with the clerk or other official designated by the commission, the ordinance sought to be reconsidered shall nevertheless be deemed a valid and effective ordinance unless and until it is repealed by the commission or a vote of the electors of the city.

Sec. 5.08. Action on petitions.

(a) *Action by commission.* When an initiative or referendum petition has been finally determined sufficient, the commission shall promptly consider the proposed initiative ordinance in the manner provided in Article II, or reconsider the referred ordinance by voting its repeal. If the commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the voters of the city.

(b) *Submission to voters.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the commission shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election; otherwise, the vote shall be held at the same time as such regular election, except that the commission may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available for inspection at the office of the city

clerk or other designated official not less than five (5) days prior to the election and at the polls.

(c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the date scheduled for a vote of the city by filing with the clerk or other official designated by the commission a request for withdrawal signed by at least four-fifths ($\frac{4}{5}$) of the members of the petitioners' committee. Upon the filing of such request the petition shall have not further force or effect and all proceedings thereon shall be terminated.

Sec. 5.09. Results of election.

(a) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the commission. However, no ordinance adopted by an electoral vote shall be repealed or amended except by an electoral vote. The commission may, by ordinance, submit to the electors a proposed ordinance to repeal or amend any such ordinance. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VI. TRANSITION

Sec. 6.01. Continuation of former charter provisions.

All provisions of Chapter 26317, Laws of Florida 1949, (the former charter) as amended by special law or otherwise which are not embraced herein and which are not inconsistent with this Charter shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.