



# city commission agenda

**Regular Meeting**  
May 23, 2016  
3:30 p.m.  
Commission Chambers  
AMENDED

commissioners				mayor	commissioners			
seat 1	Gregory Seidel	seat 2	Sarah Sprinkel	Steve Leary	seat 3	Carolyn Cooper	seat 4	Pete Weldon

## 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 website at [cityofwinterpark.org](http://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 Pastor Todd Haymans, Aloma Baptist Church Pledge of Allegiance

### 3 Approval of Agenda

### 4 Mayor's Report

- a. Recognition of Art in Chambers Artist Spencer Warlick

**\*Projected Time**  
**\*Subject to change**

5 minutes

### 5 City Manager's Report

**\*Projected Time**  
**\*Subject to change**

5 minutes

### 6 City Attorney's Report

- a. Authorization to initiate the Library/Events Center Bond Validation Process

**\*Projected Time**  
**\*Subject to change**

<b>7</b>	<b>Non-Action Items</b>	<b>*Projected Time</b> <b>*Subject to change</b>
<b>8</b>	<b>Citizen Comments   5 p.m. or soon thereafter</b> <b>(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting)</b> (Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)	
<b>9</b>	<b>Consent Agenda</b>	<b>*Projected Time</b> <b>*Subject to change</b>
	<ul style="list-style-type: none"> <li>a. Approve the minutes of May 9, 2016.</li> <li>b. Approve the following purchase, contracts, and formal solicitation:               <ul style="list-style-type: none"> <li>1. PR159925 to Environmental Products of Florida for the purchase of a 2016 Vactor with Kenworth Chassis (sewer cleaning truck); \$357,303.00 (from Equipment Replacement Fund).</li> <li>2. Amendment No. 4 to Bellomo-Herbert &amp; Company, Inc. - RFQ-2-2012 Continuing Contracts for Professional, Architectural &amp; Engineering Services (Parks &amp; Recreation Services); and authorize the Mayor to execute renewal.</li> <li>3. Amendment No. 4 to Le-Huu Partners - RFQ-2-2012 Continuing Contracts for Professional, Architectural &amp; Engineering Services (Parks &amp; Recreation Services); and authorize the Mayor to execute renewal.</li> <li>4. Amendment No. 4 to Environmental Research &amp; Design, Inc. - RFQ-2-2012 Continuing Contracts for Professional, Architectural &amp; Engineering Services (Lake Management); and authorize the Mayor to execute renewal.</li> <li>5. Authorize staff to enter into negotiations with the top ranked firm, HuntonBrady/Adjaye Associates, RFQ-9-2016 - Library Design Consultant Services.</li> </ul> </li> </ul>	5 minutes
<b>10</b>	<b>Action Items Requiring Discussion</b>	<b>*Projected Time</b> <b>*Subject to change</b>
<b>11</b>	<b>Public Hearings</b>	<b>*Projected Time</b> <b>*Subject to change</b>
	<ul style="list-style-type: none"> <li>a. <u>Request of the Winter Park Health Foundation:</u> <ul style="list-style-type: none"> <li>- Approval of the final conditional use for a new 'Project Wellness' Facility at 2005 Mizell Avenue, including a development agreement to provide for the entitlements, exceptions and for the consolidation of properties into 2005 Mizell Avenue and including provisions for the vacating and abandoning of City Streets and the dedication to the City of substituting right-of-ways.</li> </ul> </li> </ul>	20 minutes

b. <u>Request of Phil Kean Designs, Inc.</u>	20 minutes
- Amend the conditional use approval granted on October 12, 2015 to redevelop the property at 652 West Morse Boulevard in order to develop 10 residential units in lieu of the approved 11 residential units and to modify the approved architectural elements.	
c. Ordinance – Amending Chapter 50, “Fire Prevention and Protection” (2)	5 minutes
d. Ordinance – Vacating and abandoning utility easements for Lots 7 and 8 of Sevilla Subdivision (1)	10 minutes
e. Ordinance – Revisions to Section 58, Article VIII Historic Preservation (1)	20 minutes
f. Ordinance – Modifications to the Police Pension ordinance (1)	10 minutes
g. Ordinance – Repealing and replacing Chapter 58, Article V, Division 3 Flood Plain Regulations (1)	15 minutes
h. <u>Request of Mr. Robert Moore: THIS WAS TABLED UNTIL JUNE 13 PER THE REQUEST OF THE APPLICANT.</u>	
- Ordinance – Amending the ‘Comprehensive Plan’ Future Land Use Map to change from Central Business District Future Land Use Designation at 354 Hannibal Square, East to Medium-Density Residential and from Single Family Residential to Medium Density Residential on the properties at 463 and 455 West Lyman Avenue (1)	
- Ordinance – Amending the Official Zoning Map to change from Commercial (C-2) District zoning to Medium Density Multiple Family Residential (R-3) District zoning on the property at 354 Hannibal Square, East and from Single Family Residential (R-1A) District zoning to Medium Density Multiple Family Residential (R-3) District zoning on the properties at 463 and 455 West Lyman Avenue (1)	
- Conditional use approval to redevelop the properties at 326 and 354 Hannibal Square, East and at 465, 463 and 455 West Lyman Avenue with a 12 unit, three story residential project, providing for certain exceptions and for a development agreement, if required.	

## 12 City Commission Reports

- a. Commissioner Seidel
- b. Commissioner Sprinkel
- c. Commissioner Cooper
- d. Commissioner Weldon
- e. Mayor Leary

**\*Projected Time**  
\*Subject to change

10 minutes total

## appeals & assistance

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"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."



# city commission city manager's report

item type

City Manager's Report

meeting date May 23, 2016

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
Railroad crossing update	Four of Winter Park's street crossings are included in FDOT's CIP for installing concrete panels.	FDOT is expected to begin the work in July 2016. All crossing improvements are to be completed by August 2017.
Visioning Steering Committee	Inviting community to participate at <a href="http://www.visionwinterpark.org">www.visionwinterpark.org</a> .	The Steering Committee has reworked the themes and vision statements and met again on May 17 and 18.
New Hope Baptist Church Project	The Pastor had agreed to obtain assistance of a designer to improve the architectural appearance of the buildings to include the area at the base of the structures.	We are now waiting to hear from a new church representative on what course of action they want to pursue because of the passing of the Pastor.
Ward Park restrooms	Design is complete on two new restrooms by the new soccer fields and adjacent to the existing restrooms at the Little League fields.	Construction should start by the end of May 2016.
Denning Drive	Denning Drive public meetings	Follow-up meeting scheduled for June 7 at the Rachel D. Murrah Civic Center 5:30-7:30 p.m.
Comprehensive Plan Update	Staff is updating the data, inventory and analysis for each element. The city has issued an RFQ for transportation consulting services for the transportation element.	The update is due to the Department of Economic Opportunity by February 1, 2017.
Seminole County Drainage Ditch	Perform flood study for the contributing Seminole County and Winter Park drainage basins.	Execute joint participation agreement by July 2016.

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**  
**May 9, 2016**

The meeting of the Winter Park City Commission was called to order by Mayor Steve Leary, at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Reverend Doctor Rob Lord, All Saints Episcopal Church, followed by the Pledge of Allegiance.

Members present:

Mayor Steve Leary  
Commissioner Greg Seidel  
Commissioner Sarah Sprinkel  
Commissioner Carolyn Cooper  
Commissioner Pete Weldon

Also present:

City Manager Randy Knight  
City Attorney Kurt Ardaman  
City Clerk Cynthia Bonham

Approval of the agenda

**Motion made by Commissioner Sprinkel to approve the agenda; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.**

**Mayor's Report**

a. Legislative Update – Senator Geraldine F. Thompson

Senator Thompson provided a summary of the 2016 Legislative Session and the bills that passed or vetoed by the Governor and the budget appropriations.

b. Proclamation - Emergency Medical Services Week

Mayor Leary presented Fire Chief Jim White with a proclamation recognizing May 15-21, 2016 as Emergency Medical Services Week. Fire Chief White spoke about their efforts of educating the public with CPR and thanked the Commission for the recognition for their paramedics.

c. Proclamation - Building Safety Month

Mayor Leary presented Building Director George Wiggins with a proclamation recognizing May 2016 as Building Safety Month. Mr. Wiggins spoke about the services they provide, the safety measures and codes they enforce, the department's permitting enhancements, and the number of permits they provide. Russell Slocum of Slocum Platts Architects spoke about the work of the Building Department.

d. 2016 Board appointments

Mayor Leary presented his 2016 board appointments for approval that takes into account the changes coming forward under public hearings with the revised ordinance.

**Motion made by Mayor Leary to approve the appointments as presented in the packet as well as appointing Tom Hiles for the CRA Board alternate position and Jeff Shafer for the Parks and Recreation Board alternate position; seconded by Commissioner Sprinkel.**

Upon questioning by Commissioner Seidel, discussion ensued regarding the process for appointing board members. Upon questioning by Commissioner Cooper, Mayor Leary clarified his reasoning for appointees to certain boards, appointments made to the Historic Preservation Board, and the rules for attendance of alternate members.

The following appointments were made:

Board of Adjustments: Jeffrey Jontz and Robert Trompke were reappointed (2016-2019). Laura Turned moved to the Code Compliance Board.

Code Compliance Board: Laura Turner was appointed (2016-2019) to replace Burley Adkins who did not wish to be reappointed. Todd Boyer was appointed as the alternate.

Community Redevelopment Advisory Board: Alex Trauger was reappointed (2016-2019), David Moorhead (2016-2019) replaced John Dowd whose term expired, Javier Omana (2016-2019) replaced Joe Terranova whose term expired, and Tom Hiles was appointed as alternate.

Construction Board of Adjustments and Appeals: Raymond Holloway resigned. Mark Sylvian was reappointed (2016-2019). William Maroon moved from alternate to replace Mark Kirby (2016-2019).

Economic Development Advisory Board: Maura Weiner (2016-2019) moved from alternate to replace Marc Reicher whose term expired. John Caron was reappointed (2016-2019). Matt Umbers was appointed as alternate.

Ethics Board: This board sunsetted so no appointments were made.

Fire Pension Board: Tony Gray, Garry Mitchell and Mike Clifford were reappointed (2016-2018).

Historic Preservation Board: Phil Wood was reappointed (2016-2019), Phil Kean moved from alternate to replace Louise Sprimont who resigned, Chuck Bell was appointed to replace Rebecca Talbert whose term expired, and Robert Schwetje was appointed to replace Candace Chemtob whose term expired. All terms are (2016-2019). Ed Sabori was appointed as the alternate member.

Housing Authority Board: Hal George, Kevin O'Rawe and Joseph Regner were all reappointed (2016-2019).

Keep Winter Park Beautiful and Sustainable Board: Since the number of board members was changed from 15 to 7 plus an alternate, the following members were taken off the board (some had already resigned prior): Fred Koslewski, Michael Poole, Raymond Randall, Mark Roush, Julia Tensfeldt, Michelle Hipp, Baxter Murrell, and Cathy Blanton. The remaining member terms expire in 2017 and 2018.

Lakes and Waterways Board: Steve DiClemente was reappointed (2016-2019). Doug Marks moved from alternate to replace David Moorhead (who moved to the CRA Advisory Board) (2016-2019), John Minton replaced Todd Weaver whose term expired, and Jack Goggin was appointed as the alternate member.

Parks and Recreation Advisory Board: Taylor Sacha was reappointed (2016-2019), Trish Teague was appointed to replace Joel Roberts whose term expired, and Jeff Shafer was appointed to replace Mark Calvert as alternate.

Planning and Zoning Board: Sheila DeCiccio and Bob Hahn were reappointed (2016-2019), Ross Johnston moved from alternate to replace Peter Weldon (who was elected Commissioner). Ray Waugh was appointed as alternate.

Police Pension Board: Timothy Williams was appointed by PD. Mike Broschart was reappointed (2016-2018).

Public Art Advisory Board: Francine Newberg and Jan Clanton were reappointed (2016-2019). Lauren Branzei was reappointed as alternate.

Transportation Board (renamed from Pedestrian and Bicycle Advisory Board): Marc Reicher was appointed to replace Tom Hiles who moved to the CRA Board, and Harry Barley was appointed to replace Scott Redmon whose term expired. Both terms are 2016-2019.

Utilities Advisory Board: Cheryl Forney and Hugh James were reappointed (2016-2019), Tara Tedrow moved from alternate to replace Katherine Johnson whose terms expired. Dan Swanson termed out. Barbara DeVane resigned. David Gevorgyan was appointed as alternate.

**The motion carried with a 4-1 vote with Mayor Leary and Commissioners Seidel, Sprinkel and Weldon voting yes. Commissioner Cooper voted no.**

e. Representative to serve on the Orange County Community Action Board

Commissioner Cooper motioned that Commissioner Weldon accept the position. Commissioner Weldon declined because of his availability. **Vice Mayor Sprinkel volunteered, seconded by Commissioner Cooper and carried with a 5-0 vote.**

f. Award Presentation: American Water Works Association Florida Section Outstanding Class C Water Treatment Plant

Water/Wastewater Director David Zusi presented the award they received from the American Water Works Association Florida Section for Outstanding Class C Water Treatment Plant.

**City Manager's Report**

City Manager Knight stated we signed the documents today for the electric refunding bonds and were fortunate to get better rates which saved the City about \$150,000 a year.

City Manager Knight provided an update on the golf course and the sprigging that took place last week and coming up next week.

Commissioner Cooper inquired about the agreement with Seminole County regarding the flooding on Temple and asked that this be included in the City Manager's Report. She also stated she heard from College Point with concerns about drainage.

**City Attorney's Report**

Commissioner Cooper asked Attorney Ardaman about the recent legislation relative to responsibility for movement of the power lines and how that relates to our agreement with Duke Energy. Attorney Ardaman responded that the legislation provides that the utility owner is responsible for the cost of relocating the utilities when there is a modification or impact to the utilities in the public right-of-way but that there are exceptions to the general rule. He further addressed this in relation to the Duke agreement on the consent agenda. City Manager Knight spoke about the utility relocate bill and that we have letters from BrightHouse and Embarq/Sprint saying they will continue honoring our agreement in place and will continue to underground.

**Non-Action Item**

a. Financial Report – March 2016

Finance Director Wes Hamil presented the March 2016 financial report and answered questions of the Commission. Sally Flynn, 1400 Highland Road, asked about the status of the electric connection to her house after paying \$1,000 to the City. City Manager Knight stated he would check on this.

**Motion made by Commissioner Weldon to accept the March 2016 financial report, seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.**

### **Consent Agenda**

- a. Approve the minutes of April 25, 2016.
- b. Approve the following purchase, contracts and formal solicitation:
  - 1. Purchase of golf course maintenance equipment with Wesco Turf, approve the budget adjustment and authorize the Mayor to execute the piggyback contract; \$85,287.
  - 2. Amendment No. 1 to High Performance Sports Management, Inc. (RFP-7-2013) and authorize the Mayor to execute the renewal.
  - 3. School Board of Orange County School Resource Officer Program and authorize the Mayor to execute the agreement.
  - 4. Award to Waste Pro of Florida (RFP-7-2016), Solid Waste & Recyclables Collection Services and authorize staff to enter into negotiations.
- c. Approve the relocation reimbursement agreement with Duke Energy regarding the Fairbanks Avenue undergrounding project.

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

### **Action Items Requiring Discussion**

- a. Relocation of the Winter Park Golf Course Croquet Court to Martin Luther King, Jr. Park Lake Island Hall and the introduction of an area containing a 9 hole putting course

Parks Director John Holland addressed their request to relocate the croquet court off Park Avenue to the Lake Island Hall courtyard lawn in MLK Park that will provide the opportunity for continuing the presence of croquet in the City and will allow for the creation of a 9 hole putting course for golfers and residents to enjoy on the current croquet site.

Discussion ensued regarding the low number of people using the croquet court, the low maintenance of the court, there will not be a fee for the putting course, and that they have met with Casa Feliz to discuss their scheduled events and any impact to them because of the use of the putting course. Commissioner Cooper expressed her preference to leave the croquet court at its present location because it is a Winter Park icon and emphasizes Winter Park's brand. Commissioner Sprinkel stated the move will enhance the other area and that the putting course is a nice attraction for a golf course.

Betsy Owens, representing Casa Feliz, expressed concerns with locating the putting green where the croquet court is currently located because of the weddings held at Casa Feliz. She hoped there would be no disruptions at their events held there because of the putting course.

Bill Rosenfelt, 1400 N. New York Avenue, asked that the City work with Casa Feliz personnel regarding the putting green.

Commissioner Sprinkel disagreed with putting rules into place for something that has not yet happened. Commissioner Weldon addressed dealing with this issue if it becomes a problem.

**Motion made by Commissioner Sprinkel to approve the relocation of the Winter Park Croquet Court to Martin Luther King, Jr. Park Lake island Hall and construct a putting course as part of the current course renovation, seconded by Commissioner Weldon. Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel and Weldon voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

b. Consider the offer to purchase 2600 Lee Road

City Manager Knight presented the offer received to purchase the City owned property at 2600 Lee Road of \$830,000. Upon discussion, **a motion was made by Commissioner Sprinkel to move forward with the offer, seconded by Commissioner Weldon.** No public comments were made. **Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.**

c. Rollins College Showalter Field agreement

City Manager Knight explained that this agreement contains a 20 year commitment with an additional \$500,000 coming from Rollins College at year 10 to replace the turf. He stated it is a better deal and recommended approval. He also addressed two minor changes to the agreement that needed to be changed on page 1 and 2 before giving to Rollins for their execution.

**Motion made by Commissioner Sprinkel to approve the agreement, seconded by Commissioner Seidel.** No public comments were made. City Manager Knight clarified questions posed by the Commission with the old agreement as compared with the proposed agreement.

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

**Public comments (items not on the agenda)**

Forest Michael, 358 West Comstock Avenue, spoke about the Central Park Master Plan where the post office site was evaluated as a possible site for a civic building (library). Mayor Leary clarified that this site was considered by the task force and was determined not to be a potential site. It was clarified that there currently is no offer on the table to purchase the post office property.

Recess

A recess was taken from 5:21 to 5:38 p.m.

**Public Hearings:**

- a. Appeal filed by Dr. and Mrs. Gordon, for property located at 550 Holt Avenue regarding a denial of a variance request by the Historic Preservation Board for railings and a gate (COR-16-001)

Planning Director Dori Stone presented the appeal by Dr. and Mrs. Gordon whereby the Historic Preservation Board (HPB) denied their variance request for black aluminum railings and a gate on their property. The appeal filed by Mrs. Gordon was regarding the proposed wrought aluminum railings along the decks and the gate between the columns in front of the house. Metal gates and fencing are not permitted under the College Quarter Design Guidelines.

Ms. Stone provided the history of the property. She spoke about the College Quarter Design Guidelines and that members of the HPB discussed the fact that these requests were outside the College Quarter Design Guidelines and were not comfortable supporting this request. Ms. Stone stated since they are a non-contributing home they were granted the other changes they wanted to make because of the status by the HPB. This included a variance for the front deck and allowing a 4' wrought aluminum fence rather than the 3' required by the design guidelines and the City's Land Development Code.

Mayor Leary asked if there is anything in the College Quarter Design Guidelines that differentiate between allowing for contributing and non-contributing structures. Ms. Stone stated the guidelines are applicable to everything in the district. Ms. Stone clarified other questions of the Commission. She commented that neighbors supported all the Gordon's requests and there were no objections.

Commissioner Sprinkel spoke in support of what the neighbors have asked to support and that the HPB was only able to approve what they had the authority to do. She spoke about the need to look at the process so these types of issues do not have to come back to the Commission.

Mayor Leary stated this is a great addition but he is challenged with the rules set into place by the College Quarter District. Ms. Stone stated she believed the HPB denied the request because of the design guidelines did not specifically speak to allowing metal railings to a Craftsman style house. Mayor Leary stated he has to vote against this because of the design guidelines in place and that there are issues with the process and the way the rules for the district are set up.

Mrs. Gordon, 550 Holt Avenue, presented details on the landscaping around the deck and wanting a more inviting front exterior to her home with the deck, railings and gate. She showed a large list of residents who supported her request and asked for approval.

No public comments were made.

**Motion made by Commissioner Sprinkel to approve the request for the black aluminum railing and gate, seconded by Commissioner Cooper.**

Commissioner Weldon stated he respected Mayor Leary's position but that it is important that we learn from the realities of the rules that are put upon themselves and that we demonstrate flexibility. He disagreed with putting our citizens through this kind of process. He commented that we can improve the quality of laws and rules regarding historic preservation so that they contain more a tone of reasonableness and less arbitrariness.

**Upon a roll call vote, Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. Mayor Leary voted no. The motion carried with a 4-1 vote.**

Mayor Leary agreed and stated he hoped the HPB will consider revisions to the historic preservation ordinance and to the College Quarter Design Guidelines to accommodate reasonable requests.

- b. ORDINANCE NO. 3034-16: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING UTILITY EASEMENTS FOR LOTS 5, 6, 7, 10 11, 14, 15 and 16 OF BLOCK 41, TOWN OF WINTER PARK SUBDIVISION, BOUNDED BY NEW ENGLAND AVENUE, VIRGINIA AVENUE, WELBOURNE AVE AND HANNIBAL SQUARE EAST Second Reading

Attorney Ardaman read the ordinance by title.

**Motion made by Commissioner Cooper to adopt the ordinance; seconded by Commissioner Weldon.**

Robynn Demar, Welbourne Avenue Nursery and Kindergarten, stated they are not against the utilities being vacated but wanted to make sure their interests are protected since it is adjacent to their property. She asked who does the documentation, will the lot lines be changed and how wide the alley is.

Public Works Director Attaway explained the City vacated the alley years ago but retained an easement over this area. He stated they contacted all the public utilities who agreed they did not see a future use for this easement which is why they are going through the process. He explained the documentation is the ordinance. It was clarified that this does not change her lot lines or her rights. Ms. Demar commented she understood and was comfortable with it. No other public comments were made.

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

- c. ORDINANCE NO. 3035-16: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ARTICLE III OF CHAPTER 2 OF THE CITY OF WINTER PARK CODE OF ORDINANCES REGARDING SUBSIDIARY CITY BOARDS AND COMMISSIONS AS ADOPTED BY ORDINANCE NO. 2843-11 AND AS FURTHER AMENDED BY ORDINANCE NO. 2880-12;

AMENDING CHAPTER 22, ARTICLE II, SECTION 22-28 "AMENDMENTS TO THE FLORIDA BUILDING CODE," SUBSECTION 113 CONCERNING THE CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS; PROVIDING FOR BOARD MEMBERSHIP, RENAMING OF CERTAIN BOARDS AND THE CONSOLIDATION DUTIES OF CERTAIN BOARDS; PROVIDING FOR CITY COMMISSION APPROVAL OF THE CONTINUED EXISTENCE OF CERTAIN BOARDS TO AVOID SUNSETTING; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE Second Reading

Attorney Ardaman read the ordinance by title.

**Motion made by Commissioner Weldon to adopt the ordinance; seconded by Commissioner Sprinkel.**

Commissioner Cooper expressed her objection to sunseting the Tree Preservation Board since we are a city of trees and part of the responsibility of the tree board was to provide educational programs to the residents, publish educational material on the importance of trees, and continue to encourage people to preserve and care for our trees. Mayor Leary commented that the Sustainability Board takes on a lot of that education and this is moving some of the responsibilities over to code compliance. Commissioner Weldon commented that we also have the ability to budget money for the educational materials which has not been budgeted in the past.

No public comments were made.

**Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel, and Weldon voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

- d. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 50, ENTITLED "FIRE PREVENTION AND PROTECTION," OF THE CITY OF WINTER PARK CODE OF ORDINANCES; PROVIDING FOR THE GENERAL REGULATION OF FIRE PREVENTION AND SAFETY; UPDATING REFERENCES TO, ADOPTING AND IMPLEMENTING THE FLORIDA FIRE PREVENTION CODE; UPDATING AND ADOPTING LOCAL AMENDMENTS TO THE FLORIDA FIRE PREVENTION CODE; PROVIDING FOR THE RENUMBERING AND RELETTERING OF CODE PROVISIONS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE. First Reading

Attorney Ardaman read the ordinance by title. Fire Chief Jim White stated this ordinance cleans up the language in Chapter 50 (removes language no longer required by Florida Statute and including language that will bring the city's current ordinance into compliance with existing law).

**Motion made by Commissioner Cooper to accept the ordinance on first reading, seconded by Commissioner Weldon.** No public comments were made.

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

- e. RESOLUTION NO. 2174-16: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DISCLAIMING ANY AND ALL INTEREST THAT THE CITY OF WINTER PARK MAY HAVE PURSUANT THAT CERTAIN AGREEMENT RECORDED IN MAP BOOK 26, PAGE 546 OF THE OFFICIAL RECORDS OF ORANGE COUNTY, FLORIDA, INCLUDING IN REGARDS TO THE PRIVATE ALLEYWAY REFERRED TO THEREIN; PROVIDING FOR AN EFFECTIVE DATE.

Attorney Ardaman read the resolution by title. Attorney Ardaman explained the litigation between the abutting property owners to this alleyway. He commented the City should adopt the resolution if they want to disclaim any potential future interests in this alleyway that will likely avoid being drawn into the litigation between the private parties. He stated if the Commission wants to retain the potential future interest in the alleyway the Commission should not adopt the resolution.

Mayor Leary clarified the rationale for this originally was in case the City decided to put the alleyway through to Lyman Avenue and that there are buildings in the way of that now that have abandoned the alleyway long ago. City Manager Knight explained to his knowledge there are no plans to extend the alleyway or acquiring the additional property. Attorney Ardaman clarified questions regarding the alleyway.

Commissioner Cooper asked for assurance that we are not removing a future entitlement that may cause something to happen currently that would make it more difficult for one of the property owners or another or to give advantage to one property owner over another in a dispute. Attorney Ardaman commented that the chances of the City being pulled into the litigation is much less because the City has stipulated they do not care anything about the alleyway but if the City in the future decides they do have an interest to put the alleyway through there it would cost the City money to pursue.

Commissioner Cooper expressed her concerns with the City abandoning alleys in places where we need them. Mayor Leary explained we are not abandoning this alley because the City does not own it.

Bill Rosenfelt, 1400 N. New York Avenue, asked how this will affect his property. He stated he wants a setback on the south end of their parking lot and not right up against Moody Way. He stated they put bollards there that make it difficult to back out of the parking spots he has and that they have also now put bollards up in the alleyway and have blocked off transportation in the alleyway. He stated the City should adopt the resolution and not get involved. He reiterated his concerns with what will happen in the future and if traffic will be dumped onto Moody Way which he believed his family donated to the City in the 1950's.

No other public comments were made.

**Motion made by Commissioner Sprinkel to adopt the resolution, seconded by Commissioner Seidel. Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel, and Weldon voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

**City Commission Reports:**

a. Commissioner Seidel

Commissioner Seidel spoke about attending the cultural event in Hannibal Square. He commented receiving information about a lot and what took place with the trees. He suggested taking case studies where trees were cut down that should not have been and lots completely cleared so they can see the process, the survey, what the developer wanted to do and what actually happened. He clarified that he would like to see what the effectiveness of the current rules we have regarding the tree canopy.

Mayor Leary stated the Commission already had a consensus to review the tree ordinance to see the effectiveness of the changes made. Commissioner Cooper agreed to a case study. Commissioner Weldon stated he would rather address this objectively and is interested in the City breaking down the permits by tree and to track the condition of the tree and how many were removed because of its condition. He wanted to see numbers before getting into a case study that serves one interest over another. Commissioner Sprinkel disagreed with a case study coming in representing one side over the other. Upon discussion, there was no consensus to move forward with a case study at this time.

Commissioner Seidel spoke about drones in the City flying over Lake Virginia. Attorney Ardaman will review the laws on drones and if the City can prohibit them.

b. Commissioner Sprinkel

Commissioner Sprinkel spoke about Ellie May Talbert who passed away at age 100, she attended Family Fest on behalf of the Mayor, and asked for clarification of the four hours of Ethics training scheduled for May 19 that she cannot attend. Commissioner Sprinkel spoke about receiving emails intended for others and being uncomfortable with receiving these emails that are forwarded to her from others. She asked that emails not intended for her not be sent to her.

c. Commissioner Cooper

Commissioner Cooper recognized the Police Department for their arrests made on the homicides and the Margaret Square issues. She spoke about the Tri County League of Cities also awarding Congressman Mica as their Representative of the Year. She asked that criteria be established as to who we do proclamations for.

Staff is evaluating what will and will not be allowed that will come back to the Commission. Commissioner Cooper asked about the plan for the water reuse facility and storage tanks that has been on the legislative list for a while. It was clarified that the legislative initiatives will be discussed in the fall.

d. Commissioner Weldon

Commissioner Weldon said he has lots to say but nothing to offer and thanked the Commission for a productive meeting.

e. Mayor Leary

Mayor Leary addressed Thad Seymour Day last Sunday being a nice event at the Polasek where he presented him with a proclamation and a key to the City.

The meeting adjourned at 7:00 p.m.

ATTEST:

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Mayor Steve Leary

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City Clerk Cynthia S. Bonham, MMC



# city commission agenda item

item type	Consent Agenda	meeting date	May 23, 2016
prepared by department division	Purchasing Division	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

## Purchases over \$75,000

	vendor	item   background	fiscal impact	motion   recommendation
1.	Environmental Products of Florida	BPR159925 – Purchase of 2016 Vactor w/Kenworth Chassis (Sewer Cleaning Truck)	Total expenditure funded from Equipment Replacement Fund Amount: \$357,303.00	Commission approve PR159925 to Environmental Products of Florida for the purchase of a 2016 Vactor.
This purchase will be made utilizing Florida Sheriff's Association Contract No. 15-13-0904. Originally planned to be replaced in FY17, the Equipment Replacement fund has sufficient reserves to purchase the replacement now. Fund reserves will be replenished as part of the FY17 proposed budget.				

Approval of contract shall constitute approval for all subsequent purchase orders made against contract

## Contracts

	vendor	item   background	fiscal impact	motion   recommendation
2.	Bellomo-Herbert & Company, Inc.	Amendment 4 - RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Parks & Recreation Services)	Total expenditure included in FY16 budget. Amount: As Needed Basis.	Commission approve Amendment No. 4 to Bellomo-Herbert & Company, Inc. and authorize the Mayor to execute renewal.
The City utilized a formal solicitation process to award this contract. The contract term was for a period of one (1) year with a total of four (4) one year renewal options, not to exceed five (5) years in total.				
3.	Le-Huu Partners	Amendment 4 - RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Parks & Recreation Services)	Total expenditure included in FY16 budget. Amount: As Needed Basis.	Commission approve Amendment No. 4 to Le-Huu Partners and authorize the Mayor to execute renewal.
The City utilized a formal solicitation process to award this contract. The contract term was for a period of one (1) year with a total of four (4) one year renewal options, not to exceed five (5) years in total.				

	<b>vendor</b>	<b>item   background</b>	<b>fiscal impact</b>	<b>motion   recommendation</b>
4.	Environmental Research & Design, Inc.	Amendment 4 - RFQ-2-2012 Continuing Contracts for Professional, Architectural & Engineering Services (Lake Management)	Total expenditure included in FY16 budget. Amount: As Needed Basis.	Commission approve Amendment No. 4 to Environmental Research & Design, Inc. and authorize the Mayor to execute renewal.
The City utilized a formal solicitation process to award this contract. The contract term was for a period of one (1) year with a total of four (4) one year renewal options, not to exceed five (5) years in total.				

Approval of contract shall constitute approval for all subsequent purchase orders made against contract

## Formal Solicitations

	<b>vendor</b>	<b>item   background</b>	<b>fiscal impact</b>	<b>motion   recommendation</b>
5.	HuntonBrady / Adjaye Associates	RFQ-9-2016 – Library Design Consultant Services	This entire project is being funded by a voter approved debt referendum.	Commission authorize staff to enter into negotiations with the top ranked firm, HuntonBrady/Adjaye Associates.
The City issued a Request for Qualifications for library design professional services. The evaluation committee short listed a total of six (6) firms for oral presentations. One firm declined the invitation. The post presentation ranking identified the top ranked firm as HuntonBrady/Adjaye Associates. Under CCNA requirements (F.S. 287.055), staff seeks authorization to enter into negotiations with the top ranked firm. Upon successful negotiations, staff will bring the contract back to commission for final approval.				



# city commission public hearing

item type	Public Hearing	meeting date	May 23, 2016
prepared by department division	Jeff Briggs Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning & Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A	7-0 final vote

**Subject: Request for Final Conditional Use Approval for Project Wellness at 2005 Mizell Avenue.**

Pursuant to the approvals granted in November, 2015, the Winter Park Health Foundation is requesting Final Conditional Use Approval with the further refined architectural, engineering, landscape, lighting, signage and other plan documents. The request includes approval of the Development Agreement amendment (attached).

**P&Z Board Recommendation:**

**Motion made by Tom Sacha, seconded by Peter Gottfried to approve the Final Conditional Use request for a new "Project Wellness" facility at 2005 Mizell Avenue subject to the following conditions (in addition to those approved for the Preliminary CU) as submitted by the applicant at the May 3, 2016, Planning and Zoning Board meeting:**

- 1. Parking Garage landscape in accordance with sheet titled "West Garage Landscape" dated May 3, 2016.**
- 2. On-site sewer lift station to have landscape screening with plan details to be approved by the City staff.**
- 3. Pedestrian circulation and crosswalks to be approved as shown on the FCUP Plans.**
- 4. City to accept \$25,000 funding for any future Cady Way Park Improvements.**
- 5. Trash pickup limited 5am-7am.**
- 6. New street to be named "Crosby Way."**

**Motion carried unanimously with a 7-0 vote.**

**Summary:**

The Winter Park Health Foundation received approval in November, 2015 for:

1. A Comprehensive Plan text amendment to the Study Area "C" wherein their project is located to enable their property at 2005 Mizell Avenue to be redeveloped with a floor area ratio or total building size of 98%.
2. A companion Zoning Code text amendment to enact the same floor area ratio of 98% for their property at 2005 Mizell Avenue.
3. Preliminary Conditional Use for the "Project Wellness" facility encompassing the 82,263 of wellness center, medical space and common public use area along with a companion 265 space parking garage, and

4. Development Agreement providing assurances as to the consolidation of the various properties and the re-platting of the site to provide the road vacating and new dedications necessary for the project.

Those approvals were made with the following Preliminary CU conditions:

1. That the storm water discharge from the project shall not into the streets but via a storm-water pipe conveyance system.
2. That the final CU use submission shall provide screening detail for the trash collection if it is not located within the parking garage.
3. That enhanced pedestrian circulation is considered for the final CU with respect to wider sidewalks and pedestrian street crossings.
4. That landscape screening or other screening is considered, as appropriate, for the rears of the Benmore Drive properties that will now "front" on the new roadway.
5. The electric transformer/switch gear and all backflow preventers shall be located where not visible from a public street to the degree possible and shall also be landscaped so as to be effectively screened from view.
6. That the Health Foundation, YMCA and the City work in partnership to develop plans for alternative recreation facilities for the 18 month construction period in order to serve the 3,000 members of the Wellness Center.

**Project Wellness:** The project has not changed since the Preliminary CU. It still encompasses the current Wellness Center property at 2005 Mizell Avenue, a portion of the property at 2010 Mizell Avenue and the properties at 1992 Mizell Avenue, 101 S. Edinburgh Drive and 140 S. Edinburgh Drive. All of these properties will be consolidated as 2005 Mizell Avenue encompassing a new 4.213 acre site for redevelopment. All of the property has been zoned to Office (O-1).

The project still includes changes to the road network in this area. Some city streets areas are to be vacated and the Winter Park Health Foundation will dedicate/deed compensating land to the City and the WP Health Foundation will construct the new public streets so that these properties may be combined for this redevelopment. The Development Agreement approved at the Preliminary CU stage commits the City to these actions.

The Project total square footage of 83,363 square feet includes a 41,508 sq. ft. Wellness (YMCA) Center; 16,884 sq. ft. of new medical related offices; 24,970 sq. ft. of common public use areas, as well as a four-story, five level 271 space parking garage of 86,628 square feet. All of these improvements total 169,991 square feet of building area, which on this 4.213 acre site is a floor area ratio of 93%, so slightly smaller than the 98% FAR originally proposed.

**Final Conditional Use Request and the Approval Process:** Per city code, the public hearings advertised via city-wide notice for the conditional use review and approval in November, 2015 were for the "Preliminary" CU approval. The "Final" CU approval is the action to review compliance with the conditions of approval and to review the final civil engineering plans, final landscape plan, drainage plan, architectural details, lighting plans as well as the proposed final architectural elevations and project signage.

**Landscape Plan:** A detailed landscape plan for the project is included in the submittal package. Per the plan comments, the landscape architect has toured the site with the City's Urban Forestry Chief to assess the condition and health of the trees. There are 14 street trees in the existing right-of-ways that require compensation that are to be removed and 14 new shade trees that will be restored in the city right-of-ways consistent with Forestry's recommendation. Otherwise, 18 other protected trees are to be removed totaling 297 inches. The new landscape program adds back 10 new shade trees (live oak/magnolia); 12 new cypress trees around the retention areas and 48 understory trees such as Japanese blueberry or Eagleston holly.

**Site Lighting:** The plans contains the site lighting plan and photometrics which meet code and comply with the City's maximum 16 foot lighting pole height. The specific design of the lightning pole and fixtures for the parking garage has also been provided which is consistent with the parking garage design standards for interior LED lighting and rooftop pole fixture height not to exceed 12 feet mounted on the interior retaining wall or 16 feet if mounted on the rooftop level.

**Site Signage:** The Development Agreement specifies the approval of variances for the size of the project's ID signs and tenant signage. The Agreement requests six signs and variances for 48 square feet in size for some versus the code maximum of 36 square feet. The staff understands that the O-1 zoning code is very restrictive on signage and that this is a 4.213 acre site. The P&Z Board agreed with these requests.

**Other Implementation Procedures:** The City Commission will need in the future either approve Ordinances to vacate the streets and accept dedications for the replacement streets or the applicant will do a re-plat of the area involved which then accomplishes the same result of vacating and dedications. This approval shall constitute any subdivision plat approval required by the P&Z Board and City Commission as necessary for that implementation method via re-plat.

### **Planning Staff Recommendation:**

The public benefit to this request is that the citizens will have a new, improved and enlarged Wellness Center and ancillary health and wellness facilities. The "final" Conditional Use submittal for the project includes all the required submissions for "final" conditional use approval subject to the conditions outline below.

This is a very complex \$40 million dollar project that encompasses a new roadway system and the relocation of many existing utilities including, water, sewer, electric, etc. There were many design details worked out between the time of the initial P&Z staff report and the P&Z meeting such that the planning staff could amend their proposed conditions of approval in concurrence with those proposed by the applicant. The Development Agreement amendment implements this Final CU approval.

## Planning & Zoning Board Minutes: May 3, 2016

### **REQUEST OF THE WINTER PARK HEALTH FOUNDATION, INC. FOR: APPROVAL OF THE FINAL CONDITIONAL USE FOR A NEW "PROJECT WELLNESS" FACILITY AT 2005 MIZELL AVENUE.**

Planning Manager Jeff Briggs presented the staff report and explained that preliminary CU approval was granted to the project in November 2015. He reviewed the approvals that were granted as a part of that public hearing including:

1. A Comprehensive Plan text amendment to the Study Area "C" to enable their property at 2005 Mizell Avenue to be redeveloped with a floor area ratio or total building size of 98%.
2. A companion Zoning Code text amendment to enact the same floor area ratio of 98% for their property at 2005 Mizell Avenue.
3. Preliminary Conditional Use for the "Project Wellness" facility encompassing the 82,263 of wellness center, medical space and common public use area along with a companion 265 space parking garage, and
4. Development Agreement providing assurances as to the consolidation of the various properties and the re-platting of the site to provide the road vacating and new dedications necessary for the project.

In addition, the following conditions were added for the preliminary conditional use:

1. That the storm water discharge from the project shall not into the streets but via a storm-water pipe conveyance system.
2. That the final CU use submission shall provide screening detail for the trash collection if it is not located within the parking garage.
3. That enhanced pedestrian circulation is considered for the final CU with respect to wider sidewalks and pedestrian street crossings.
4. That landscape screening or other screening is considered, as appropriate, for the rears of the Benmore Drive properties that will now "front" on the new roadway.
5. The electric transformer/switch gear and all backflow preventers shall be located where not visible from a public street to the degree possible and shall also be landscaped so as to be effectively screened from view.
6. That the Health Foundation, YMCA and the City work in partnership to develop plans for alternative recreation facilities for the 18 month construction period in order to serve the 3,000 members of the Wellness Center.

Mr. Briggs provided an overview of the request to grant final CU approval to the project. He noted that the project has not changed since the Preliminary Conditional Use was reviewed. The project still includes changes to the road network in this area. He discussed staff concerns with regard to parking garage aesthetics and landscape buffering. He summarized by stating that the public benefit to this request is that the citizens will have a new, improved and enlarged Wellness Center with ancillary health and wellness facilities. The "final" Conditional Use submittal for the project includes all the required submissions for "final" conditional use approval subject to the conditions outlined below. Staff recommended approval of the request subject to these amended conditions:

1. Garage landscape in accordance with sheet titled "West Garage Landscape" dated May 3, 2016.
2. On-site sewer lift station to have landscape screening with plan details to be approved by the City staff.
3. Pedestrian circulation and crosswalks to be approved as shown on the FCUP Plans.
4. Recommend City accept \$25,000 funding for Park Improvements.

5. Trash pickup limited 5am-7am.
6. New street to be named "Crosby Way."

Rebecca Wilson, 215 North Eola Drive, represented the applicant. She explained that the project is under the approved FAR, and complies with the conditions of the preliminary conditional use. She reviewed architectural renderings, parking garage aesthetics, and landscaping. She stated that trash pick-up will be between 5am-7am when there are fewer people on the street and crosswalks. They have been working with city staff the best location for a lift station. She said that a temporary plan that has been developed by the YMCA to accommodate the membership of the Crosby Wellness Center. With regard to park improvements, they have met with the staff of the Parks Department and there are no improvements are planned for Ward Park so it was decided to donate the \$25,000 for park improvements. She presented new conditions of approval at tonight's meeting and discussed the previous conditions that have been satisfied. Mrs. Wilson responded to Board member questions and concerns.

Mr. Briggs acknowledged the new conditions presented by the applicant. He stated that all of the conditions listed in the staff report have been satisfied and staff accepts the new conditions offered by the applicant.

Jody Alexander, District Vice-President, Central Florida YMCA responded to questions concerning the temporary plan that developed to accommodate the membership of the Crosby Wellness Center.

The following citizens spoke concerning the request: Pat McDonald, 2348 Summerfield Road and Linda Walker-Chappelle, 794 Comstock Avenue.

Rebecca Wilson noted that all of the oak trees are new, and that there are no residential neighbors in proximity to where the dumpsters are located.

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

The Board members were in support of the request.

**Motion made by Tom Sacha, seconded by Peter Gottfried to approve the final conditional use request for a new "Project Wellness" facility at 2005 Mizell Avenue subject to the following conditions submitted by the applicant at the April 5, 2016, Planning and Zoning Board meeting:**

1. Garage landscape in accordance with sheet titled "West Garage Landscape" dated May 3, 2016.
2. On-site sewer lift station to have landscape screening with plan details to be approved by the City staff.
3. Pedestrian circulation and crosswalks to be approved as shown on the FCUP Plans.
4. Recommend City accept \$25,000 funding for Park Improvements.
5. Trash pickup limited 5am-7am.
6. New street to be named "Crosby Way."

**Motion carried unanimously with a 7-0 vote.**

**PREPARED BY AND RETURN TO:**

City of Winter Park  
Attn: City Clerk  
401 Park Avenue  
Winter Park, FL 32789  
(407) 599-3440

Orange County Tax Parcels # A portion of 09-22-30-0120-05-010 AND ALL OF 09-22-30-0120-04-220; 09-22-30-0120-98-021; 09-22-30-0120-04-200 AND 09-22-30-0120-04-180

**FIRST AMENDMENT TO DEVELOPER'S AGREEMENT**  
**(Winter Park Health Foundation)**

**THIS FIRST AMENDMENT TO DEVELOPER'S AGREEMENT** ("First Amendment") entered into and made as of the 23<sup>rd</sup> day of May, 2016, by and between the **CITY OF WINTER PARK, a Florida municipal corporation**, 401 S. Park Avenue, Winter Park, Florida 32789 (hereinafter referred to as the "City"), and Winter Park Health Foundation, a non-profit corporation who address is 220 S. Edinburgh Drive, Winter Park, FL 32792 (hereinafter referred to as "WPHF").

**W I T N E S S E T H**

**WHEREAS**, on January 25, 2016 the City and WPHF entered into that certain Developer's Agreement recorded as document number 20160056826 in the Public Records of Orange County, Florida ("Developer's Agreement"); and

**WHEREAS**, the Developer's Agreement was executed concurrently with the Preliminary Conditional Use Permit; and

**WHEREAS**, on April 6, 2016, WPHF submitted an application for a Final Conditional Use Permit ("Final CUP"); and

**WHEREAS**, on May 23, 2016 the City Commission approved a Final Conditional Use Permit for the Project and desires to set forth the mutual obligations and agreements of the respective parties.

**NOW THEREFORE**, in consideration of the mutual promises and covenants herein contained, the City and WPHF agrees as follows:

**A. AMENDMENT.** The Developer's Agreement shall be amended to add the following new Sections:

**SECTION 16. PROJECT**

The Project shall be designed, permitted and constructed in accordance with the engineering, architectural and landscape plans identified as approved by the City Commission on May 23, 2016.

**SECTION 17. ROADWAY IMPROVEMENTS**

The City agrees to extend the existing left-turn lane on Mizell Avenue at the intersection of Lakemont Avenue to provide a minimum of one hundred (100) feet of turn lane storage ("Intersection

Improvement”). WPHF agrees to pay the City seven thousand five hundred dollars (\$7,500) to fund the Intersection Improvement. Such payment shall be made no later than the issuance of the building permit for the Project. The City agrees to complete the Intersection Improvement no later than December 31, 2016. The funding of the Intersection Improvement along with the Road Realignment by WPHF shall fulfill any obligation for roadway network.

## **SECTION 18. ROAD NAMES**

The City expresses an intent to process the re-naming of the roads surrounding the Property as set forth on Exhibit “A” attached hereto subject to the contingencies of SECTION 2 and SECTION 3 of this Agreement being met.

## **SECTION 19. WARD PARK IMPROVEMENTS**

The City and WPHF agree that it is important to create a visual and physical connection between the City’s Ward Park and the Project. Accordingly, WPHF agrees to fund improvements, in an amount up to twenty-five thousand dollars (\$25,000), on the western portion of Ward Park (“Ward Park Improvements”). The exact location and design of the Ward Park Improvements will be agreed upon by the City and WPHF by December 31, 2016. Such funds must be paid and used by December 31, 2021. Such funds may only be used for Ward Park Improvements and cannot be used for maintenance. The Ward Park Improvements shall be owned and maintained by the City.

## **SECTION 20. TRIANGLE PARK IMPROVEMENTS**

The City owns a park which is currently bounded by N. Perth Lane on the north and Perth Lane on the east (“Triangle Park”). WPHF shall design, permit and construct certain landscape and hardscape improvements at its expense as shown on sheet L-301 of the Final CUP in Triangle Park (“Triangle Park Improvements”). The Triangle Park Improvements will be dedicated to the City. WPHF shall maintain the Triangle Park Improvements for the lifetime of the Project consistent with the care and quality of maintenance of the Project’s landscape and hardscape. The City shall have the right to require WPHF to enter into a separate maintenance agreement concerning the maintenance of Triangle Park prior to issuing certificates of occupancy for the Project.

In addition, City authorizes construction of a Project identification sign within Triangle Park at the intersection of Perth Lane and N. Perth Lane as shown on W6.02 and L-002. WPHF shall own and maintain such sign.

## **SECTION 21. SIGNAGE**

The City grants a waiver to Section 58-124, 58-125 and 58-131 of the Winter Park City Code to allow enhanced signage for the Project due to the configuration of the site, the number of right-of-way frontages and consistent with the Design Guidelines submitted with the Final CUP. The signage has been thoughtfully designed to be compatible with the architecture and landscaping. The signage also assists motorist and pedestrians navigate around the Project. The City approves six (6) total signs, including the sign in Triangle Park mentioned above, with a maximum sign copy area of 48 square feet per sign face for Project identification signs and a maximum of 36 square feet per sign face for wayfinding signs.

## **SECTION 22. UNDERGROUND UTILITY**

City agrees to, simultaneously with WPHF's construction of the Road Realignment, complete the previously commenced undergrounding of the electric power lines along the right-of-ways abutting the Project, including the new Crosby Way (the "Underground Utility Improvements"). The City shall coordinate with any other utility provider (e.g. telecommunications, cable television, etc.) that utilizes aboveground lines on the City's power poles to ensure that these lines are also relocated to underground. Note that this modifies the Original Developer's Agreement section 3(a).

In addition, simultaneously with construction of the Road Realignment, the City shall relocate to Ward Park the existing electric switchgear currently located in Triangle Park. WPHF agrees to reimburse the City for the actual cost of the switchgear estimated to be approximately Thirty Thousand Dollars (\$30,000.00). The CIAC for the Project will be determined when the City receives the final design, this cost is not included in the above Thirty Thousand Dollars (\$30,000) payment.

## **SECTION 23. STORMWATER IMPROVEMENTS**

The stormwater management system shall be constructed in general conformance with sheet C400 of the Final Conditional Use Plan (FCUP) subject to final approval by the St. John's River Water Management District. The exfiltration system depicted on sheet C400 of the FCUP is located on lands owned by WPHF and is for the primary purpose of providing water quality and rate attenuation for the relocated section of Mizell Avenue (to be known as Aberdeen Way). WPHF agrees to pay for and cause the design, permitting and installation of the exfiltration system and shall dedicate appropriate easements, in a form acceptable to the City, over under and through the Property for the exfiltration system to the City at no cost to the City. The exfiltration system shall be owned and maintained by the City after WPHF causes its proper design, permitting and installation.

## **SECTION 24. WASTEWATER IMPROVEMENTS**

WPHF agrees to replace the existing 10-inch cast-iron sanitary force main with a new 10-inch C900 PVC sanitary force main within the limits of the Road Realignment Right-of-Way Property at WPHF's cost. The City agrees to replace the existing 10-inch cast-iron sanitary force main with a new 10-inch HDPE sanitary force main within Mizell Avenue extending from its intersection with Mizell Avenue (to be known as Crosby Way) to Lakemont Drive at the City's cost. Additionally, on-site sewer lift station to have landscape screening.

## **SECTION 25. PEDESTRIAN CONNECTIVITY**

The City and WPHF agree that pedestrian connectivity around the site, to the neighbors and to Ward Park are important in order to offer additional modes of transportation and encourage exercise. Accordingly, WPHF has agreed to build 8 ft. wide sidewalks around the Project. Additionally, WPHF will design, construct and fund two pedestrian cross-walks to Ward Park. The first cross-walk is located across Perth Lane from the Triangle Park to Ward Park ("North Crosswalk"). The North Crosswalk will consist of flashing LED pedestrian crossing signs and an elevated paver crosswalk (i.e., speed table). The second cross-walk is located on Perth Lane from the Project to Ward Park ("South Crosswalk"). The South Crosswalk will include pedestrian crossing signage and a paver crosswalk. The City agrees to allow the open cutting of Perth Lane for the construction of Project utility and drainage improvements, with such open cuts to be repaired through the installation of these crosswalk improvements within the

City's ROW. The City will own and maintain such improvements once they are completed by WPHF. All as shown on Exhibit "A".

## **SECTION 26. PARKING GARAGE**

The parking garage shall be landscaped in accordance with sheet titled "West Garage Landscape" dated May 3, 2016. A subsequent landscape plan shall detail the specific play types, sizes and spacing to implement the aforementioned plan. In addition, the trash pick-up in the parking garage shall be limited to 5am to 7am.

## **SECTION 27. CITY IMPROVEMENTS.**

Wherever in this Agreement the City is making a commitment to install or construct the Intersection Improvement, Underground Utility Improvements, or any other right-of-way improvement, utility improvements, or other public infrastructure improvements (herein collectively "Public Infrastructure Improvements") by a specific completion date, the City will be given additional time to complete such items in the event of that a Force Majeure Event occurs. The City will be given a daily extension of the applicable completion date for each day that a Force Majeure Event causes a delay in the completion of the Public Infrastructure Improvements or any portion thereof. For the purpose of this Agreement, a "Force Majeure Event" is an event outside of the control of the City which causes unforeseeable and unmanageable delay, including Acts of God (including fire, flood, earthquake, hurricane, tornado, or other natural disaster), war, riot or civil commotion, terrorism, declared state of emergency affecting the local area, unknown soil or underground conditions, discovery of archeological artifacts, endangered species protection, federal, state or county government action, sink holes, and other similar events or casualties. Further, the City may delay the commencement and completion of such Public Infrastructure Improvements or any portion thereof if WPHF defaults on its obligations under this Agreement. The City shall be under no obligation to condemn any rights-of-way, easements or other property rights to cause the installation of the Public Infrastructure Improvements or to otherwise support the development of the Project or Property.

**B. EFFECTIVENESS.** Except as amended herein, the Developer's Agreement shall remain in full force and effect. This First Amendment shall not be effective and binding until the latest date that this First Amendment is approved and signed by all parties hereto. The term of this First Amendment shall run concurrently with the term of the Developer's Agreement.

**IN WITNESS WHEREOF,** WPHF and the City have executed this First Amendment as of the day and year first above written.

*(SIGNATURES TO FOLLOW)*

Witnesses

**WPHF**

Winter Park Health Foundation, a non-profit corporation

\_\_\_\_\_  
Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as \_\_\_\_\_ of Winter Park Health Foundation, a non-profit corporation. He (She) ☐ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
(Name typed, printed or stamped)

**CITY OF WINTER PARK, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Mayor Steve Leary

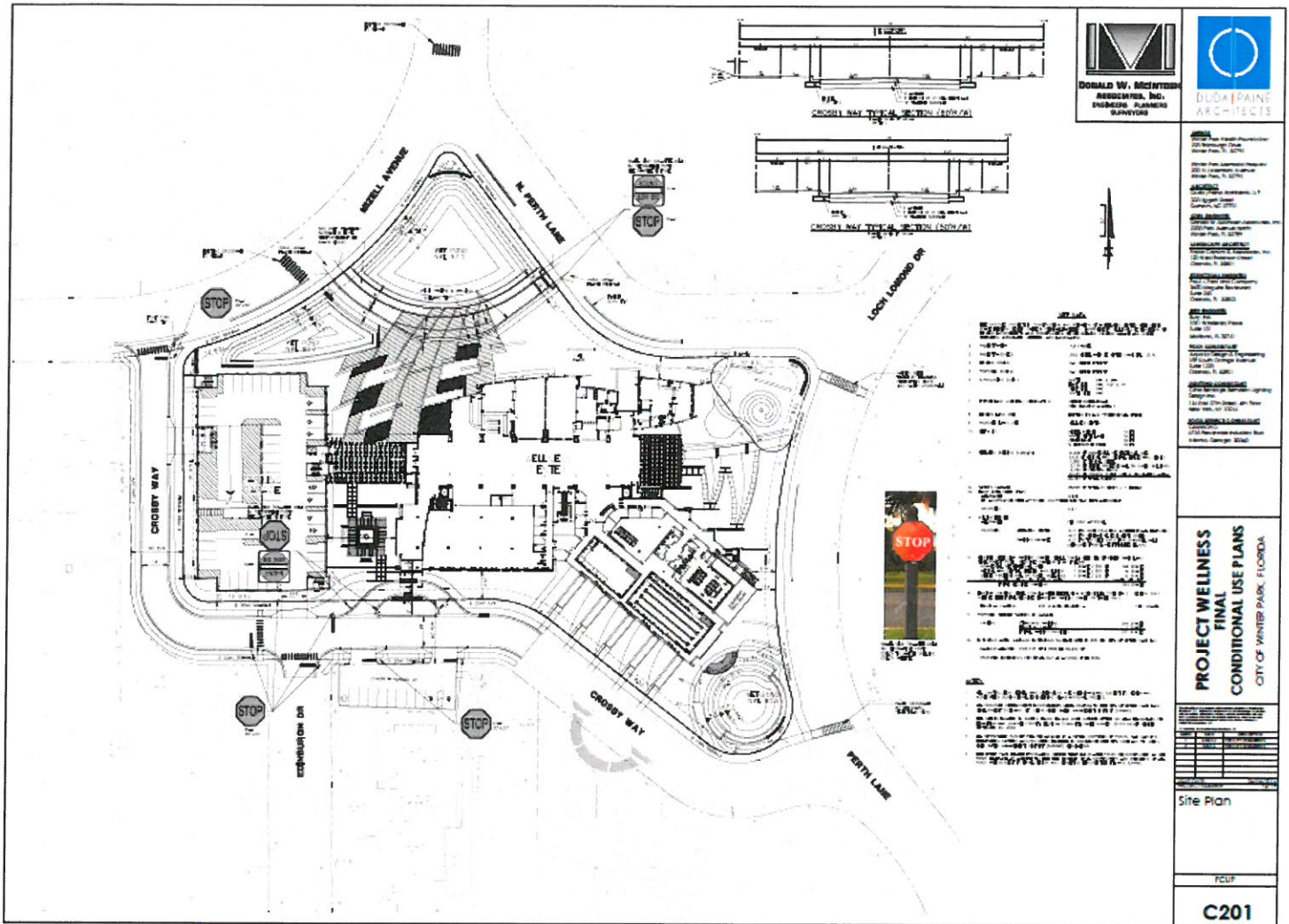
By: \_\_\_\_\_  
City Clerk Cynthia S. Bonham

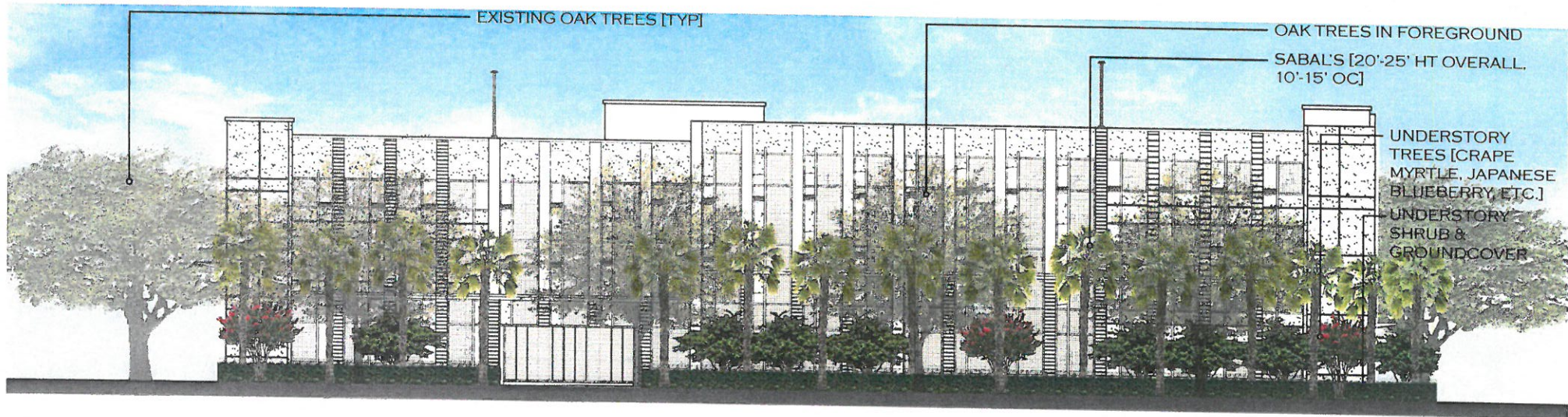
STATE OF FLORIDA                    )  
COUNTY OF ORANGE                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Steve Leary, as Mayor of the City of Winter Park, Florida, who is personally known to me.

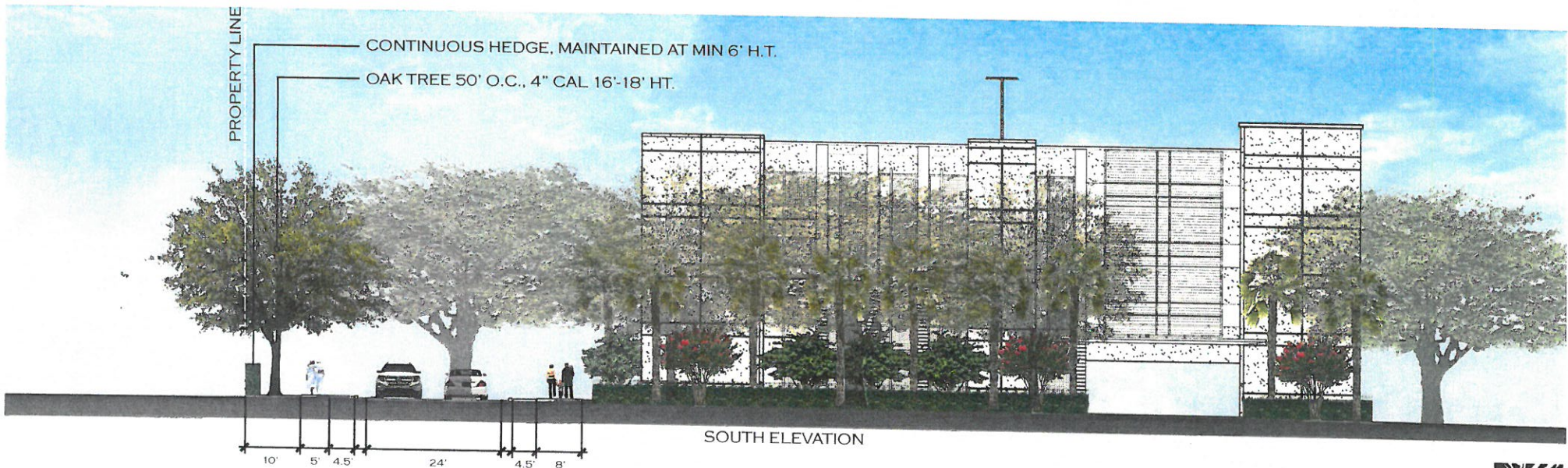
\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

# EXHIBIT "A"





WEST ELEVATION



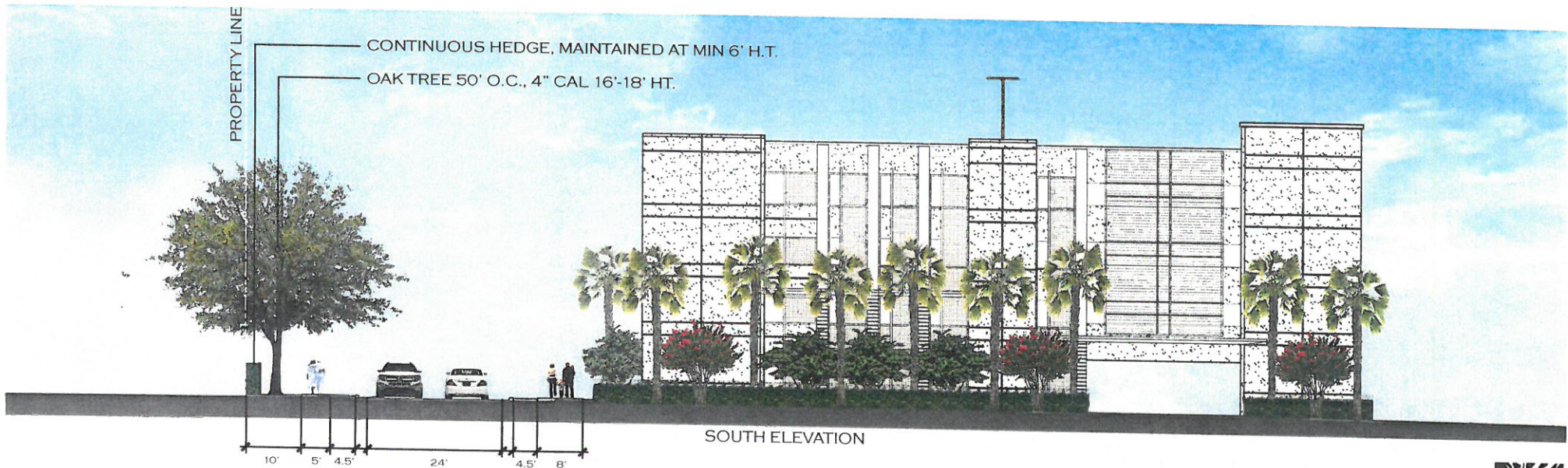
SOUTH ELEVATION

# WINTER PARK PROJECT WELLNESS LANDSCAPE TREATMENT AT PARKING GARAGE - MAY 3RD, 2016





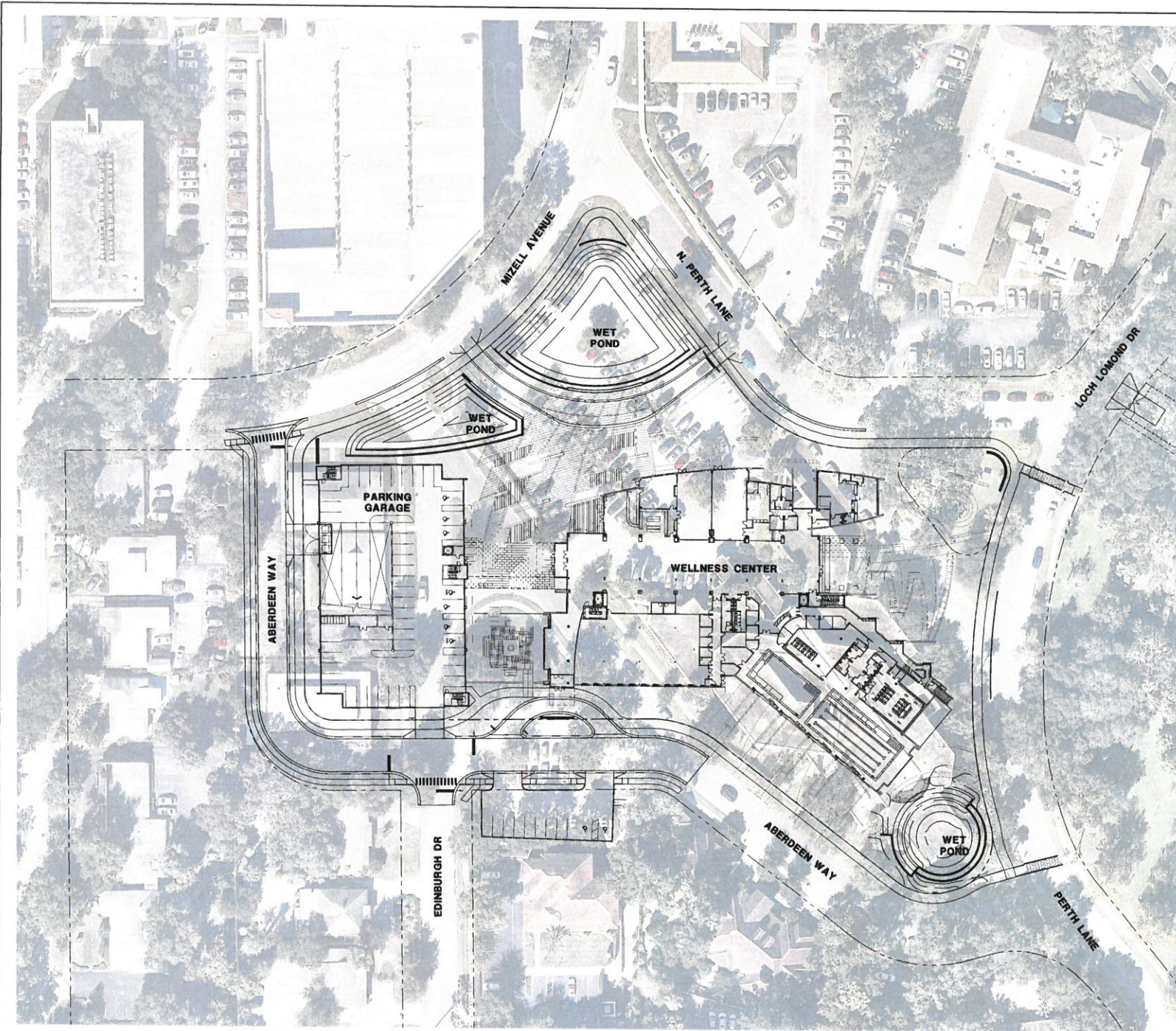
WEST ELEVATION



SOUTH ELEVATION

# WINTER PARK PROJECT WELLNESS LANDSCAPE TREATMENT AT PARKING GARAGE - MAY 3RD, 2016





**OWNER**  
Winter Park Health Foundation  
220 Edinburg Drive  
Winter Park, FL 32792

**Winter Park Memorial Hospital**  
200 N. Lusk Avenue  
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**ARCHITECT**  
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Atlanta, Georgia 30340

**PROJECT WELLNESS  
FINAL  
CONDITIONAL USE PLANS  
CITY OF WINTER PARK, FLORIDA**

The design of the project and the use of the project are subject to the approval of the City of Winter Park. The design and use of the project are subject to the approval of the City of Winter Park. The design and use of the project are subject to the approval of the City of Winter Park.

NO.	DATE	DESCRIPTION

ISSUE DATE: 04/09/2018  
PROJECT NUMBER: 161179

Aerial

FCUP

**C002**







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Atlanta, Georgia 30040

**PROJECT WELLNESS**  
**FINAL**  
**CONDITIONAL USE PLANS**  
CITY OF WINTER PARK, FLORIDA

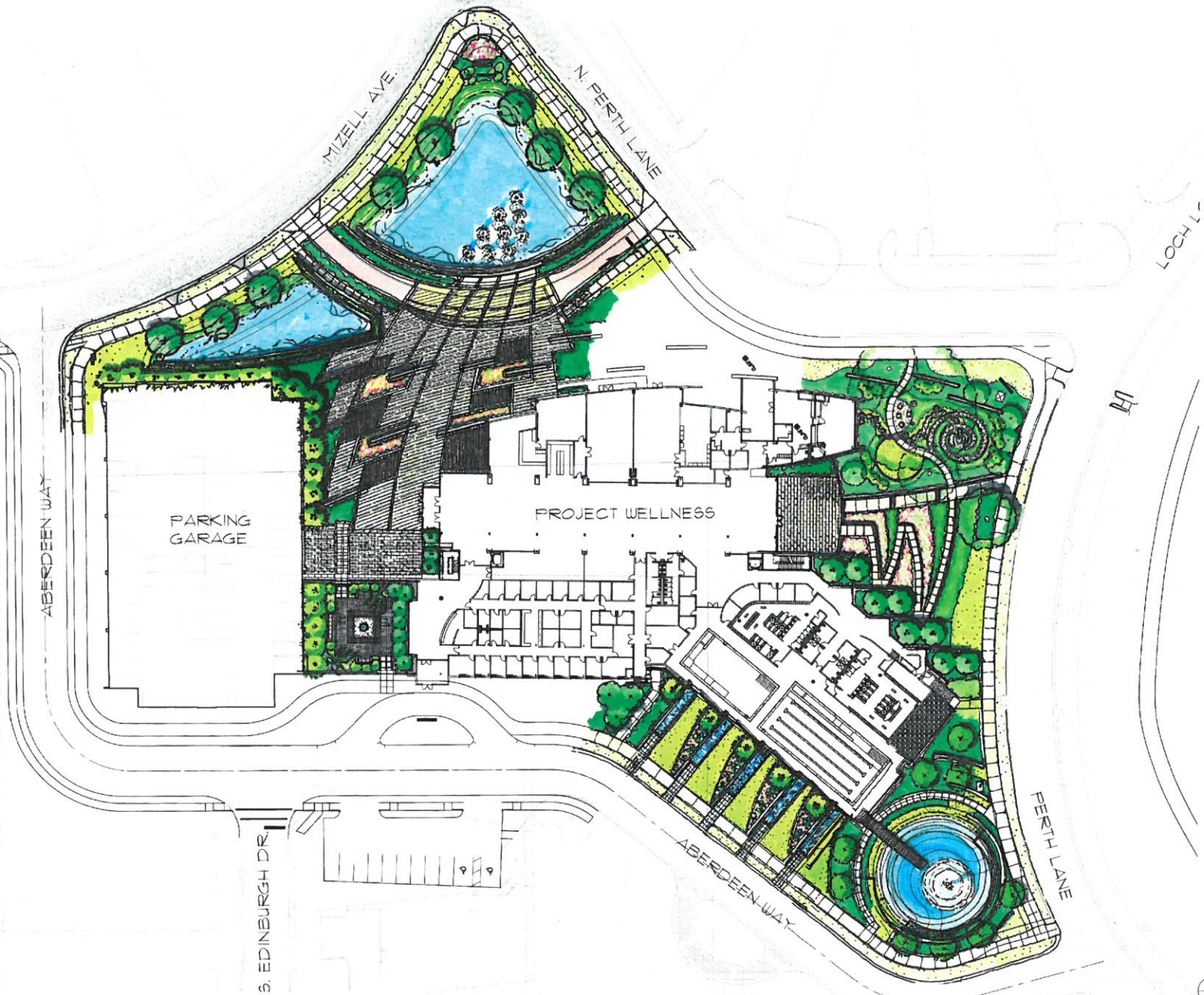
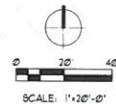
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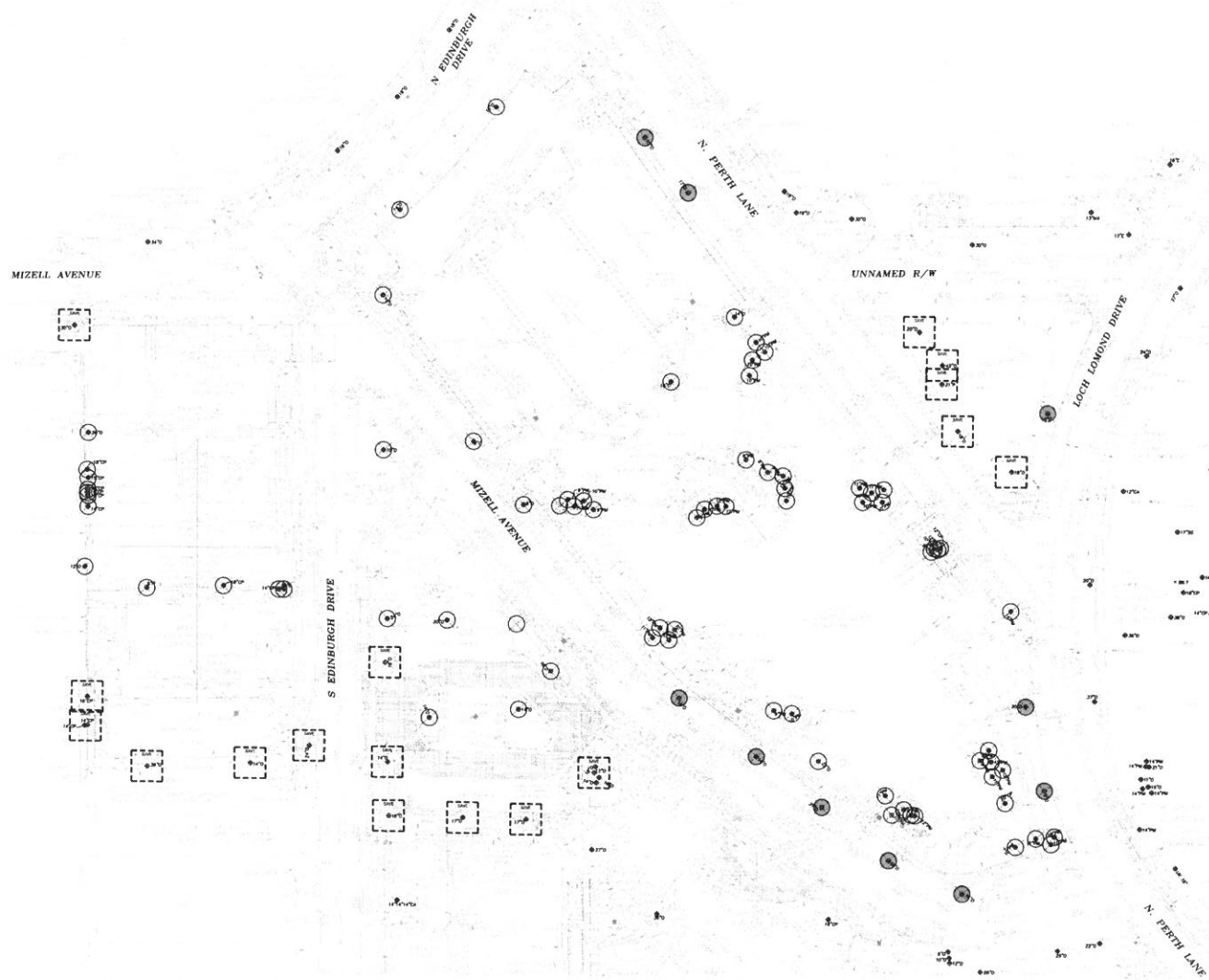
ISSUE DATE: 04/04/2015  
PROJECT NUMBER: 21410

Illustrative  
Landscape  
Site Plan

F.C.U.P.

**L-000**





### LEGEND

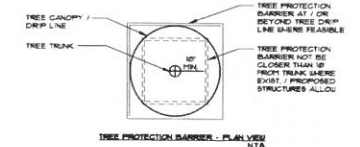
- O - EXISTING OAK TREE
- CP - EXISTING CABBAGE PALM
- PH - EXISTING PALM TREE

NOTE: NUMBER AT TREE SYMBOL INDICATES TREE/PALM SIZE IN CALIPER INCHES

- EXISTING TREE OR PALM TO BE REMOVED
- DECLINING EXISTING TREE IN ROAD TO BE REMOVED. NO MITIGATION REQUIRED PER SITE MEETING WITH CITY ARBORIST (SEE CHART BELOW)
- EXISTING TREE OR PALM TO BE SAVED AND PROTECTED (SEE DETAIL SHEET LOGO)

### TREE PROTECTION NOTES:

- PROTECT DESIGNATED EXISTING TREES SCHEDULED TO REMAIN AGAINST:
  - UNNECESSARY CUTTING, BREAKING, OR SKINNING OF ROOTS
  - SKINNING AND BRULING OF BARK
  - SHOOTING OF TREES BY STOCKING CONSTRUCTION OR EXCAVATION
  - MATERIALS WITHIN DRIP
  - EXCESS FOOT OR VEHICULAR TRAFFIC
  - PARKING VEHICLES WITHIN DRIP
- ERECT TEMPORARY BARRICADES AS SHOWN ON THIS SHEET (PLAN & DETAIL) BEFORE COMMENCEMENT OF ANY SITE CLEARING OR GRADING. FENCE TO BE 5' HIGH, PROPERLY STAKED, AND RAILS SHALL BE DEEP ENOUGH IN THE GROUND TO BE STABLE WITHOUT ADDITIONAL SUPPORT. MATERIALS SHALL BE WITHIN DRIP. ALL TREES SCHEDULED TO REMAIN BUT NOT LIMITED TO CONSTRUCTION MATERIAL, EQUIPMENT, OR VEHICLES SHALL BE PROTECTED BY BARRICADES. BARRICADES SHALL BE DONE WITHIN BARRICADES. BARRICADES SHALL BE MOVED BACK TO A SECONDARY LOCATION AT LEAST 10' FROM EXTRA CARE MUST BE TAKEN AT THIS TIME BY THE CONTRACTOR TO INSURE THAT NO DAMAGE TO THE TREE OCCURS.
- CONTRACTOR SHALL PROVIDE TEMPORARY IRRIGATION TO SAVED AND RELOCATED TREES / PALMS AS REQUIRED TO MAINTAIN THEIR HEALTH DURING CONSTRUCTION WORK.
- WHEN NECESSARY TO CUT ROOTS OVER 1/2" IN DIAMETER OF TREES TO REMAIN, CUT MUST BE A CLEAN CUT. CUT FACES OF ROOTS WITH ARBORIST APPROVED COATING MATERIAL FORMULATED FOR USE ON DAMAGED PLANT TISSUE. TEMPORARILY COVER EXPOSED ROOTS WITH MULCH TO PREVENT DRYING AND COVER WITH EARTH AS SOON AS POSSIBLE.
- NO GRADE CHANGES ARE TO BE MADE WITHIN THE BARRICADES WITHOUT PRIOR APPROVAL OF THE OWNER OR HIS DESIGNATED REPRESENTATIVE.
- INTERFERING BRANCHES MAY BE REMOVED AT THE DISCRETION OF THE OWNER OR HIS DESIGNATED REPRESENTATIVE BY A QUALIFIED TREE SURGEON.
- REPAIR OR REPLACE TREES INDICATED TO REMAIN WHICH ARE DAMAGED IN THE CONSTRUCTION OPERATIONS IN A MANNER ACCEPTABLE TO THE OWNER. EMPLOY A QUALIFIED TREE SURGEON TO REPAIR AND/OR DAMAGE TO TREES, AND BARBERS PROMPTLY TO PREVENT PROGRESSIVE DETERIORATION CAUSED BY THE DAMAGE.
- GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPLACEMENT OF EXISTING TREES DAMAGED BEYOND REPAIR WITH A TREE(S) OF SAME SPECIES, SIZE TO MATCH THE REPLACEMENT AS REQUIRED BY DIVISION 5 OF THE CITY OF WINTER PARK, CODE OF ORDINANCES. REPLACEMENT TREES SHALL BE PLANTED WITHIN THE BARRICADES. ESTABLISHED BY THE FLORIDA GRADING AND STANDARDS FOR NURSERY GROWN TREES AND PALMS. ALL TREES TO BE REPLANTED SHALL BE PLANTED WITHIN THE BARRICADES THROUGHOUT THE CONSTRUCTION PERIOD. THE CONTRACTOR SHALL BEAR THE BURDEN OF THE COST OF REPAIR OR REPLACEMENT.
- REMOVE ALL VINES, DEAD, BROKEN AND DANGEROUS BRANCHES FROM TREES TO REMAIN. ALL VINES SHALL BE REMOVED UNDER SUPERVISION OF A QUALIFIED TREE SURGEON AND STAFF.



### TREE REMOVAL / REPLACEMENT CHART

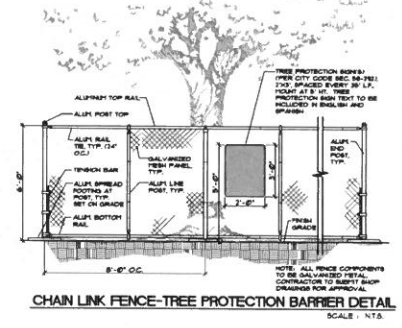
SPECIES REMOVED	NO. OF PROTECTED TREES (+) REMOVED	TOTAL CAL. INCHES REMOVED	REPLACEMENT RATIO	REPLACEMENT SIZE	TOTAL REPLACEMENT CAL. INCHES REQ'D
OAK (O)	18	251"	1" TO 1"	MIN. 3" CAL.	251"

SPECIES REMOVED	NO. OF DECLINING TREES IN ROAD TO BE REMOVED	TOTAL CAL. INCHES REMOVED	REPLACEMENT RATIO	TOTAL REPLACEMENT CAL. INCHES REQ'D
OAK (O)	10	161"	N/A	NO MITIGATION REQ'D. (SEE NOTE 1)

(1) PROTECTED TREE: TREE WITH A MATURE HEIGHT OF 75 FEET OR GREATER AND HAS A TREE TRUNK DBH OF NINE (9) CAL. INCHES OR GREATER, AND IS NOT AN EXCEPT TREE (PER DEC. 36-122).

NOTE 1: BASED ON A SITE MEETING WITH THE CITY ARBORIST ON FEBRUARY 2, 2016, IT WAS DETERMINED THAT A NUMBER OF EXISTING TREES WITHIN THE CITY ROAD WERE IN A STATE OF DECLINE. THE TREES OBSERVED WERE IN POOR HEALTH, WERE SEVERELY TOPPED DUE TO INTERFERENCE WITH OVERHEAD POWER LINES, WERE WEAK ROOTED LAUREL OAKS, OR A COMBINATION OF THE ABOVE. DUE TO THESE FACTORS, AND THE FACT THAT THESE TREES WERE WITHIN THE CITY ROAD, THE ARBORIST AGREED THAT NO MITIGATION WOULD BE REQUIRED FOR THE REMOVAL OF THESE TREES. TWO (2) DECLINING TREES WITHIN THE ROAD WHICH WERE PREVIOUSLY SHOWN ON THE INITIAL TREE SURVEY WERE ALREADY TAKEN DOWN BY THE CITY.



**DUDA PAINE ARCHITECTS**

---

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**PROJECT WELLNESS**  
**FINAL**  
**CONDITIONAL USE PLANS**  
CITY OF WINTER PARK, FLORIDA

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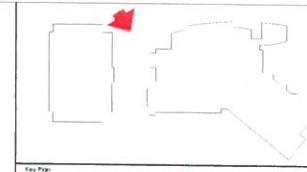
**TREE PROTECTION / REMOVAL PLAN**

DATE: 04/04/2015  
PROJECT NUMBER: 21419

SCALE: N.T.S.

**L-001**





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Atlanta, Georgia 30360



WELCOME GARDEN VIEW FROM MIZELL

N.T.S.

**PROJECT WELLNESS  
FINAL  
CONDITIONAL USE PLANS  
CITY OF WINTER PARK, FLORIDA**

DATE	DESCRIPTION

ISSUE DATE: 04/04/2014  
PROJECT NUMBER: 2411

**PERSPECTIVE  
VIEW**

F.C.U.P.  
**A- 001**



PERSPECTIVE VIEW FROM NORTHEAST A

N.T.S.



PERSPECTIVE VIEW FROM SOUTHWEST B

N.T.S.



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**PROJECT WELLNESS  
FINAL  
CONDITIONAL USE PLANS  
CITY OF WINTER PARK, FLORIDA**

DATE	DESCRIPTION
04/06/2016	ISSUE DATE
21617	PROJECT NUMBER

PERSPECTIVE  
VIEWS

F.C.U.P.

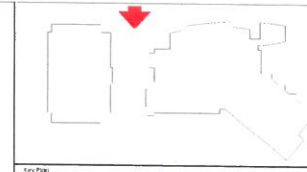
**A- 002**



**FOOD SERVICE CONSULTANT**  
CAMACHO  
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A- 003



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WELLNESS CENTER

PARKING GARAGE

NORTH ELEVATION

1/16"=1'-0"



STREET

PARK

WELLNESS CENTER

PARKING GARAGE

STREET

OFFICE

NORTH ELEVATION - EXTENDED

1/32"=1'-0"

**PROJECT WELLNESS**  
**FINAL**  
**CONDITIONAL USE PLANS**  
CITY OF WINTER PARK, FLORIDA

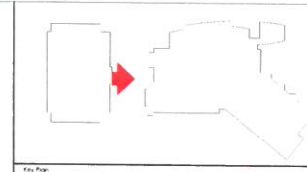
DATE	DESCRIPTION

ISSUE DATE: 04/06/2016  
PROJECT NUMBER: 11417

**NORTH  
ELEVATION  
VIEW**

F.C.U.P.

**A- 201**



**OWNER**  
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ONSITE IMPROVEMENTS - WET POND

WELLNESS CENTER

STREET

WINTER PARK HEALTH  
FOUNDATION OFFICE

WEST ELEVATION

1/16"=1'-0"



WINTER PARK WOMEN'S  
HEALTH PAVILION

ONSITE IMPROVEMENTS  
WET POND

WELLNESS CENTER

STREET

WINTER PARK HEALTH  
FOUNDATION OFFICE

WEST ELEVATION - EXTENDED

1/32"=1'-0"

**PROJECT WELLNESS**  
**FINAL**  
**CONDITIONAL USE PLANS**  
CITY OF WINTER PARK, FLORIDA

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DATE	DESCRIPTION

DATE: 04/06/2021  
PROJECT NUMBER: 21-011

WEST  
ELEVATION  
VIEW

F.C.U.P.  
**A- 202**



**OWNER**  
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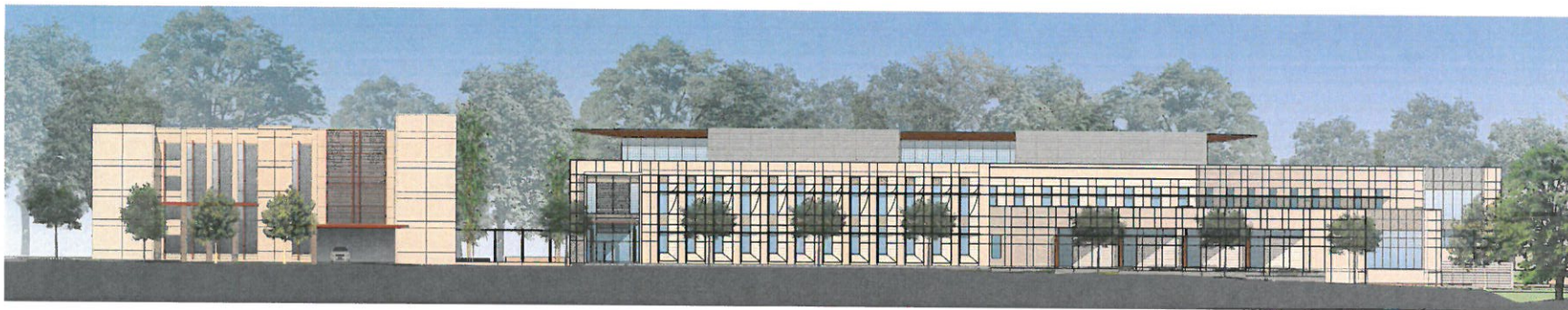
**STRUCTURAL ENGINEER**  
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PARKING GARAGE

WELLNESS CENTER

SOUTH ELEVATION

1/16"=1'-0"



OFFICE

STREET

PARKING GARAGE

WELLNESS CENTER

MANOR CARE NURSING &  
REHABILITATION CENTER

SOUTH ELEVATION - EXTENDED

1/32"=1'-0"

**PROJECT WELLNESS  
FINAL  
CONDITIONAL USE PLANS  
CITY OF WINTER PARK, FLORIDA**

WE HEREBY CERTIFY THAT THE PROJECT IS A DEVELOPMENT AS REQUIRED BY THE DEVELOPMENTAL REVIEW ACT, CHAPTER 163, PART I, FLORIDA STATUTES. THE PROJECT HAS BEEN REVIEWED AND APPROVED FOR THE CITY OF WINTER PARK, FLORIDA. THE PROJECT IS SUBJECT TO THE CITY OF WINTER PARK, FLORIDA, DEVELOPMENTAL REVIEW ACT, CHAPTER 163, PART I, FLORIDA STATUTES. THE PROJECT IS SUBJECT TO THE CITY OF WINTER PARK, FLORIDA, DEVELOPMENTAL REVIEW ACT, CHAPTER 163, PART I, FLORIDA STATUTES.

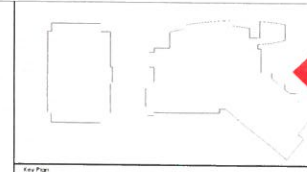
DATE	DESCRIPTION

ISSUE DATE: 04/04/2016  
PROJECT NUMBER: 1419

**SOUTH  
ELEVATION  
VIEW**

F.C.U.P.

**A- 203**



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STREET

WELLNESS CENTER

MIZELL AVENUE  
BEYOND

PARKING GARAGE  
BEYOND

EAST ELEVATION

1/16"=1'-0"



RESIDENCE  
BEYOND

STREET

WELLNESS CENTER

MIZELL  
AVENUE  
BEYOND

PARKING  
GARAGE  
BEYOND

MANORS CARE NURSING &  
REHABILITATION CENTER

EAST ELEVATION - EXTENDED

1/32"=1'-0"

**PROJECT WELLNESS**  
**FINAL**  
**CONDITIONAL USE PLANS**  
CITY OF WINTER PARK, FLORIDA

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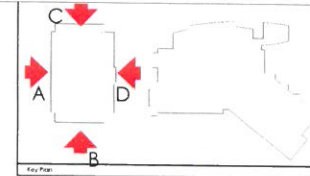
MARK	DATE	DESCRIPTION

DATE: 04/04/2016  
PROJECT NUMBER: 2412

EAST  
ELEVATION  
VIEW

F.C.U.P.

**A- 204**



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120 West Robinson Street  
Orlando, FL 32801

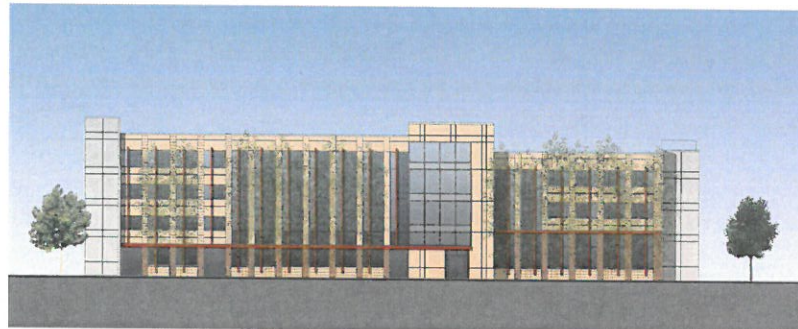
**STRUCTURAL ENGINEER**  
Paul J. Ford and Company  
3470 Mosgrove Boulevard  
Suite 250  
Orlando, FL 32803

**M/E/P ENGINEER**  
Bury, Inc.  
1051 Windclay Place  
Suite 101  
McDonald, FL 32751

**POOL CONSULTANT**  
Aquatic Design & Engineering  
181 South Orange Avenue  
Suite 1220  
Orlando, FL 32801

**LIGHTING CONSULTANT**  
Cora Bertrigge Bernstein Lighting  
Design Inc.  
114 East 27th Street, 4th Floor  
New York, NY 10016

**FOOD SERVICE CONSULTANT**  
CAMACIFIC  
6755 Peachtree Industrial Blvd  
Atlanta, Georgia 30360



PARKING DECK EAST ELEVATION D

1/16"=1'-0"



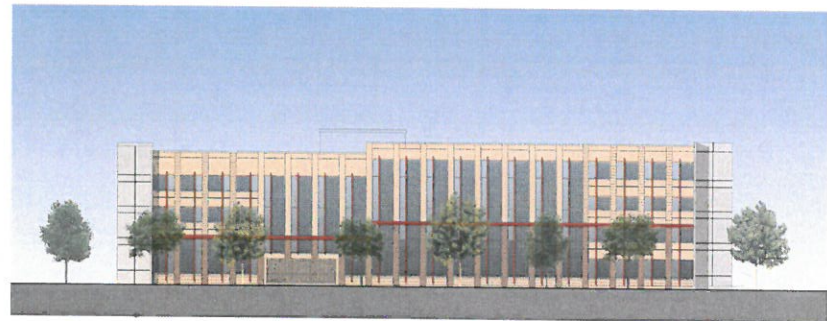
PARKING DECK SOUTH ELEVATION B

1/16"=1'-0"



PARKING DECK NORTH ELEVATION C

1/16"=1'-0"



PARKING DECK WEST ELEVATION A

1/16"=1'-0"

**PROJECT WELLNESS  
FINAL  
CONDITIONAL USE PLANS  
CITY OF WINTER PARK, FLORIDA**

DATE	04/04/2016
PROJECT NUMBER	2016-001

**PARKING  
GARAGE  
ELEVATIONS**

F.C.U.P.

**A- 205**



# city commission public hearing

item type	Public Hearing	meeting date	May 23, 2016
prepared by department division	Allison McGillis Planning Department	approved by	<input checked="" type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	Planning & Zoning Board	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N/A   7-0   final vote	

**Subject: Request to Amend the Conditional Use Approval Granted on October 21, 2015 to Redevelop the Property Located at 652 West Morse Boulevard.**

This public hearing involves the request by Morse and Pennsylvania, LLC to amend the previously approved Conditional Use for redevelopment of the property located at 652 West Morse Boulevard, just to the west of the Coop Restaurant. This amendment involves changing the proposed number of residential units to 10 in lieu of the approved 11 units, and to modify the approved architectural elements of the buildings.

## Planning and Zoning Board Recommendation:

**Motion made by Tom Sacha, seconded by James Johnston to amend the Conditional Use approval granted on October 12, 2015 to redevelop the property located at 652 West Morse Boulevard in order to develop 10 residential units in lieu of the approved 11 residential units, and to modify the approved architectural elements, together with the original conditions of approval. Motion carried unanimously with a 7-0 vote.**

## Project History:

In October of 2015, the City Commission approved the following requests:

1. Change to the Comprehensive Plan Future Land Use map from Commercial to Central Business District; and
2. Change to the Zoning Map from Office (O-1) to Commercial (C-2); and
3. Conditional Use for the construction of eleven residential townhouses, 2 & 3 stories in height with a total project size of 40,566 square feet.

## Amendment of the Conditional Use:

The property is now zoned C-2, which allows a maximum of 17 units per acre. Based on this lot size of 29,036 square feet, the originally proposed eleven (11) units were the maximum number permitted. The applicant is requesting to amend this approval to build ten (10) units in lieu of the approved eleven (11) units. They have also decreased the total building coverage by 233 square feet, and reconfigured the layout of the buildings to allow for additional greenspace in-between the five buildings. This has reduced the floor area ratio (FAR) from the originally approved 139.7% to 133.4%.

The applicant has also made changes based on the Planning and Zoning Board recommendations from the September 1, 2015 meeting. The buildings, as you can see from the attached elevations, are terraced and stepped back from the exterior face of the lower floors. Also, an additional three parallel parking spaces were created with the rearrangement of Welbourne Avenue.

The architectural elements of the buildings have also changed (see attached renderings). The applicant is also working with the City's Parks and Recreation department to receive approvals of their landscape plan. All other details of the original Conditions Use are to remain the same.

### **Planning Staff Recommendation:**

The planning staff recommendation was for approval of this amendment to the approved Conditional Use, which still maintains the three original conditions of approval from October 21, 2015. The Code requires, even with amendments, two public hearings for approval by the City Commission for three story buildings within the C-2 zoning.

### **Planning and Zoning Board Minutes: May 3, 2016**

**REQUEST OF PHIL KEAN DESIGNS INC. TO:** AMEND THE CONDITIONAL USE APPROVAL GRANTED ON OCTOBER 12, 2015, TO REDEVELOP THE PROPERTY LOCATED AT 652 WEST MORSE BOULEVARD IN ORDER TO DEVELOP 10 RESIDENTIAL UNITS IN LIEU OF THE APPROVED 11 RESIDENTIAL UNITS, AND TO MODIFY THE APPROVED ARCHITECTURAL ELEMENTS.

Mrs. DeCiccio announced that she is the prior owner of the subject property, and no longer has an economic interest in the property.

Planning Manager Jeffrey Briggs presented the staff report and explained that this public hearing involves the request by Morse and Pennsylvania, LLC to amend the previously approved Conditional Use for redevelopment of the property located at 652 West Morse Boulevard, just to the west of the Coop Restaurant. He said that this amendment involves changing the proposed number of residential units to 10 in lieu of the approved 11 units, and to modify the approved architectural elements of the buildings. The applicant has also decreased the total building coverage by 233 square feet, and reconfigured the layout of the buildings to allow for additional green space in-between the five buildings. This has reduced the floor area ratio (FAR) from the originally approved 139.7% to 133.4%. He noted that the applicant has also made changes based on the Planning and Zoning Board recommendations from the September 1, 2015 meeting by terracing and stepping back from the exterior face of the lower floors. An additional three parallel parking spaces were created with the rearrangement of Welbourne Avenue. He said that the architectural elements of the buildings have also changed and the applicant is also working with the City's Parks and Recreation department to receive approval of their landscape plan. All other details of the original Conditions Use remain the same.

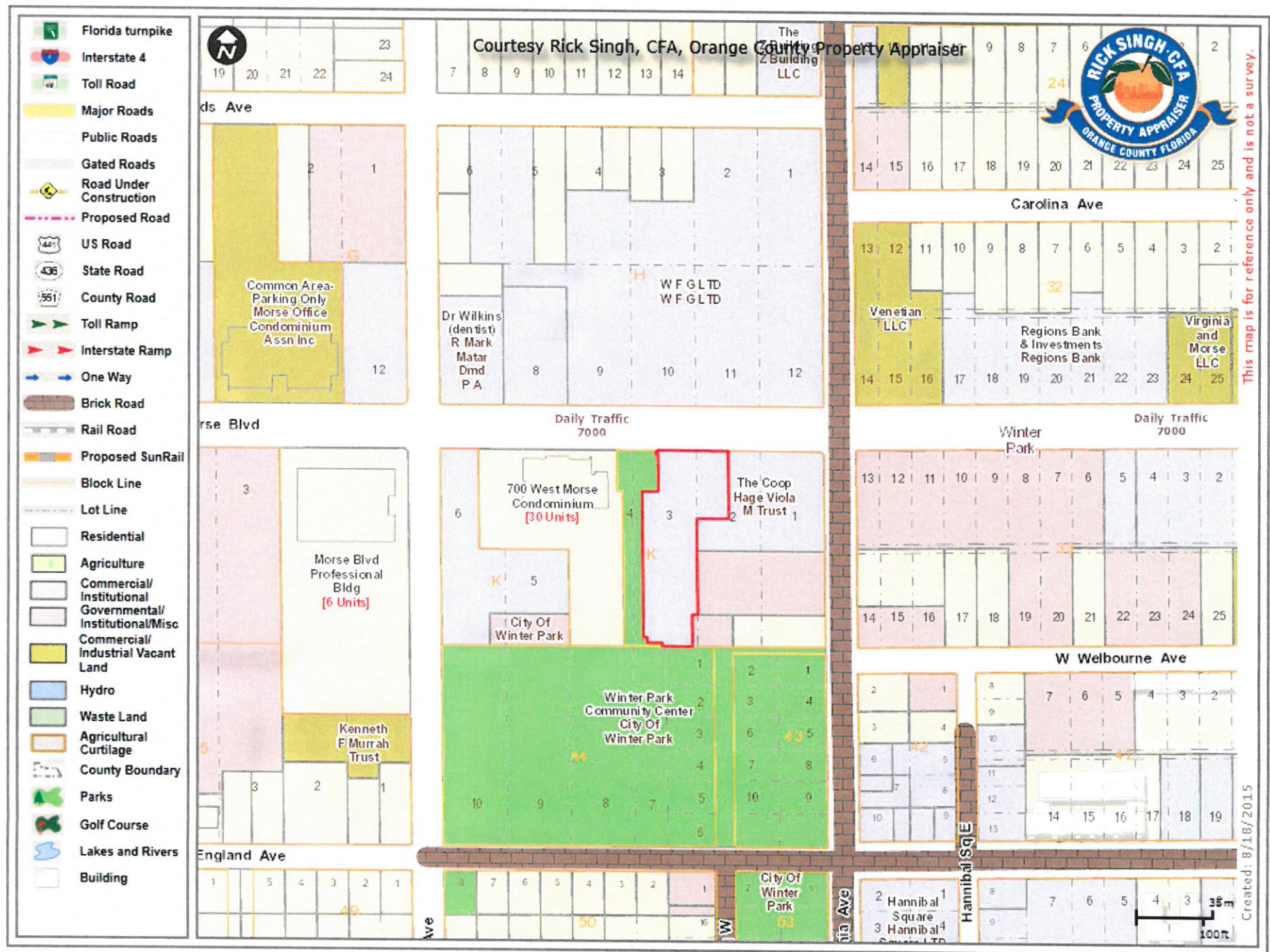
Mr. Briggs summarized by stating that the scale of this project and the materials presented allows the City to combine the amendments to the Preliminary and Final Conditional Use approvals; and the final civil engineering and landscape plans can be administratively approved. However, the Code requires, even with amendments, two public hearings for approval by the City Commission for three-story buildings within the Central Business District. Staff recommended approval of the amendment to the Conditional Use approvals subject to the following conditions:

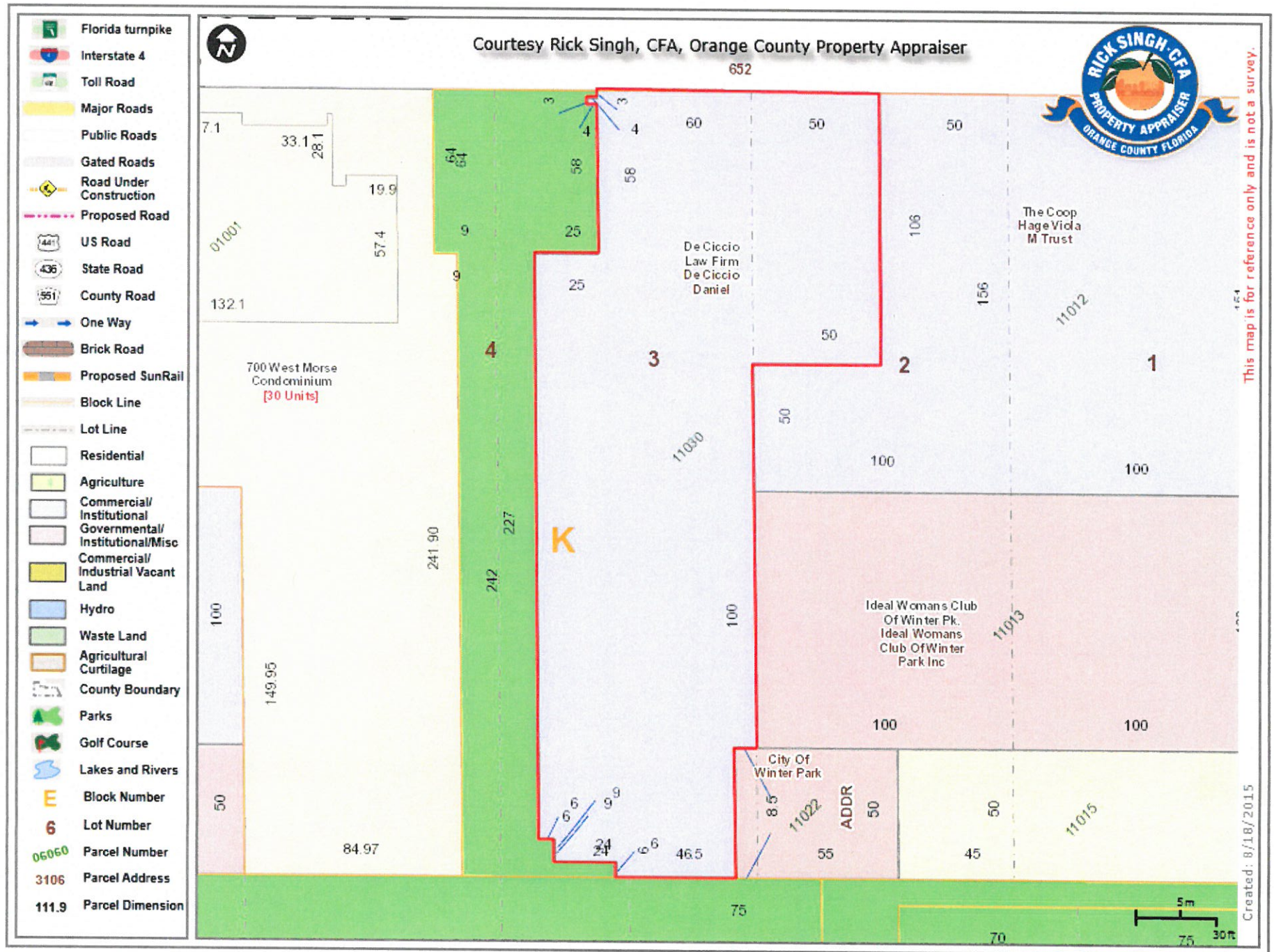
1. The electric transformer/switch gear and all backflow preventers shall be located where not visible from a public street and shall also be landscaped so as to be effectively screened from view.
2. That a common area be provided in the rear (not in the right-of-way) for the placement of the 10 trash carts.
3. That a Development Agreement incorporate a mutual use and maintenance provision for the adjacent city park land property as well as the construction of the three offsite parking spaces.

Mr. Briggs responded to Board member questions and concerns.

Jacob Farmer, 135 North Knowles Avenue, was present to address concerns of the Board. No one else wished to speak in favor of or in opposition to the request. Public Hearing closed.

**Motion made by Tom Sacha, seconded by James Johnston to amend the Conditional Use approval granted on October 12, 2015 to redevelop the property located at 652 West Morse Boulevard in order to develop 10 residential units in lieu of the approved 11 residential units, and to modify the approved architectural elements. Motion carried unanimously with a 7-0 vote.**





# MORSE AND PENNSYLVANIA TOWNHOMES

WARD CHAPEL

SFR

WOMEN'S  
CENTER

WINTER PARK  
PARKS AND REC CENTER

BUILDING 5

BUILDING 4

BUILDING 3

BUILDING 2

BUILDING 1

SEASIDE NATIONAL  
BANK AND TRUST

MARC MICHAELS

NURSING HOME

THE COOP

MORSE AVENUE

OFFICES

OFFICES



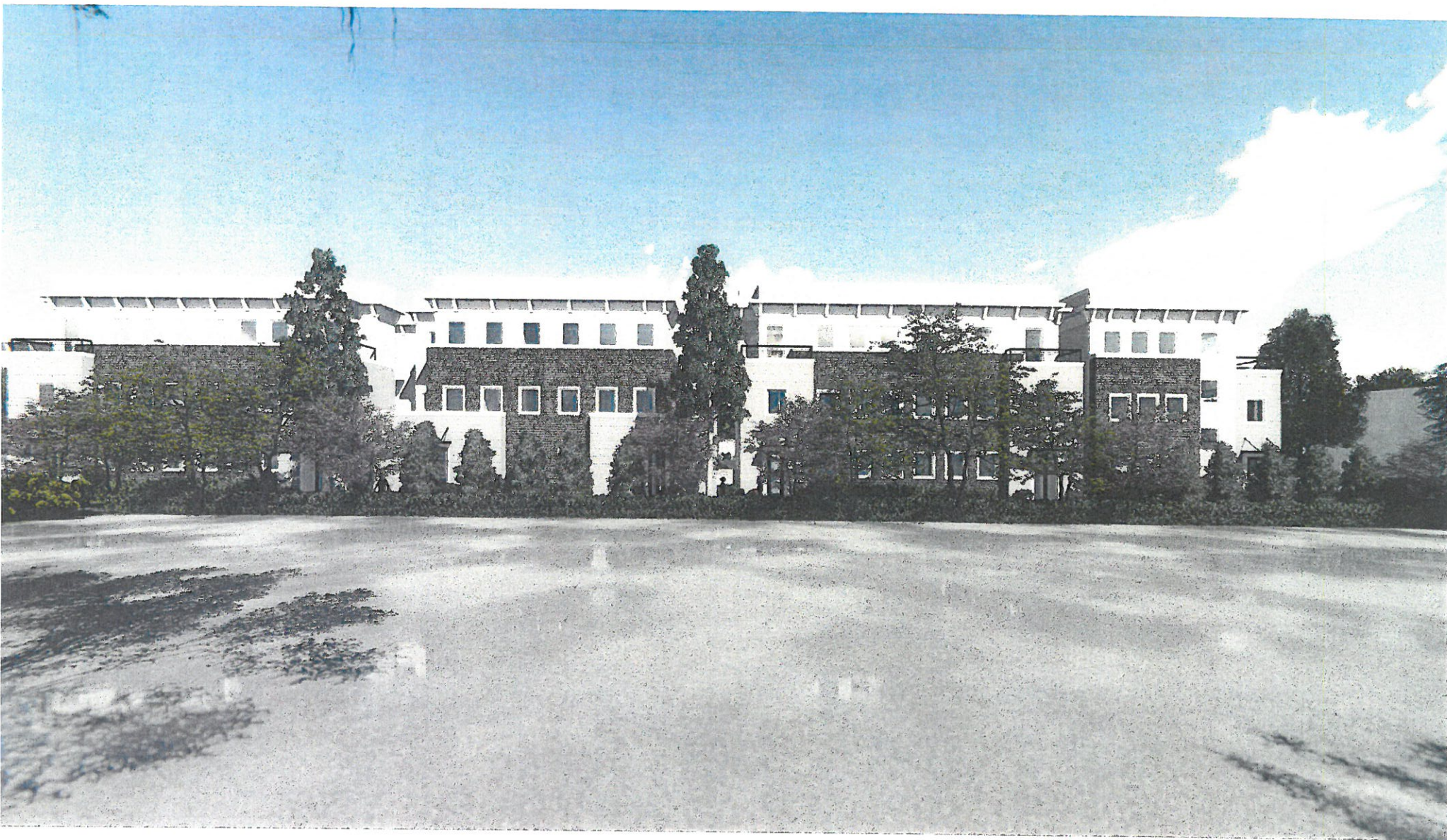












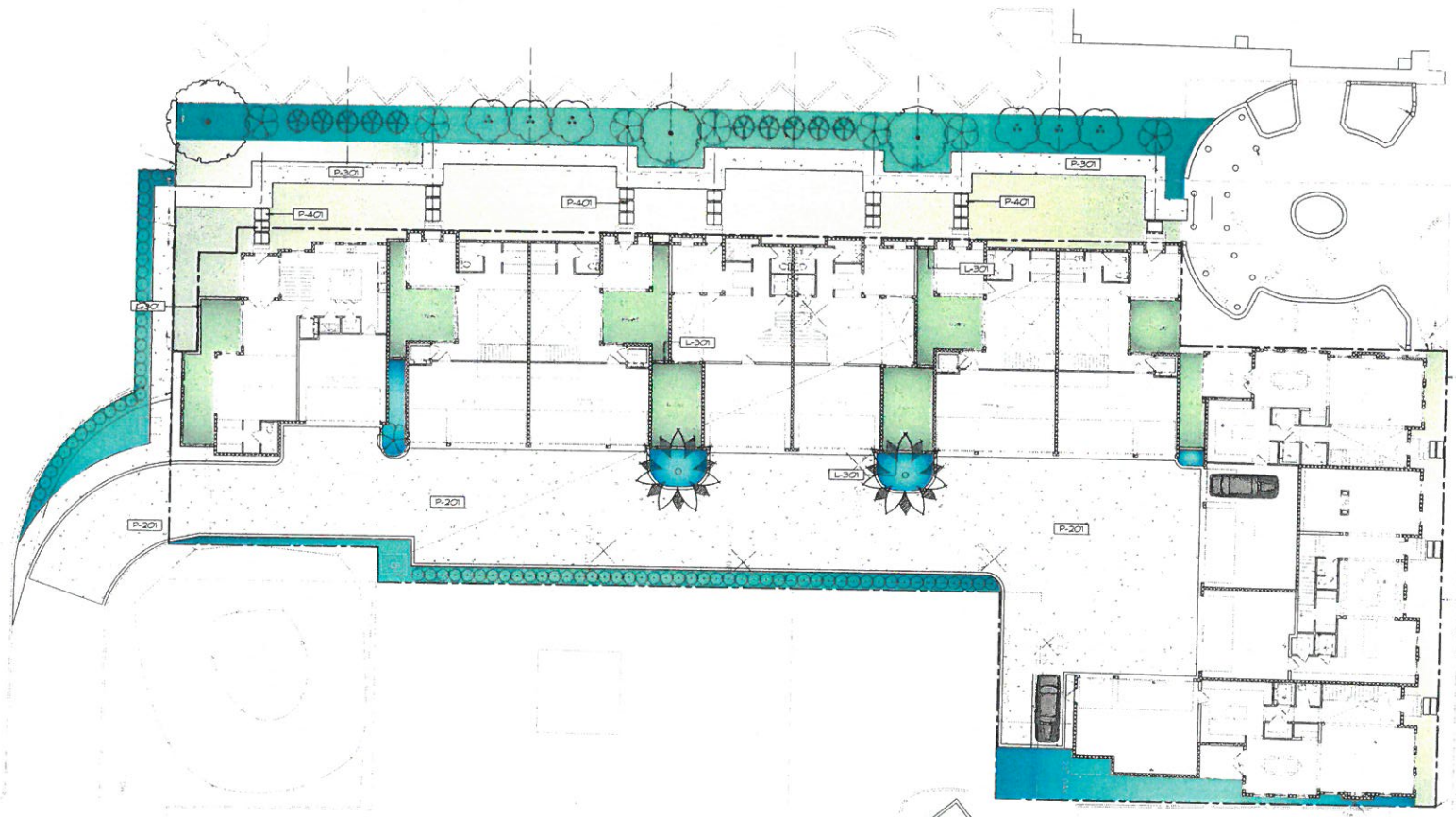






**Coledav**  
Morse & Pennsylvania Brownstones  
Winter Park, Florida

**Hardscape Plan**  
L1.11  
DATE: 01-18-18  
BY: J. J. JONES



### CONCEPT LEGEND

	EVERGREEN TREE	2
	ACCENT TREE	6
	MULTI-TRUNK TREE	6
	HOLLY TREES	10
	CANDY TREE	1
	BONSAI TREES	2
	HEDGES	80

### SITE AMENITIES

SYMBOL	NAME	DESCRIPTION	QTY	DETAIL
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### SITE DEVELOPMENT

SYMBOL	NOTES	QTY	COST	TOTAL
	LANDSCAPE BUFFER	5753 sf		
	LAWN AND SHRUB AREA	4,454 sf		
	PRIVATE GARDENS	1,652 sf		
	SHRUB AREA	937 sf		

### PAVING

SYMBOL	NOTES	DESCRIPTION	QTY	DETAIL
		CONCRETE DRIVE		
		CONCRETE SIDEWALKS		
		CONCRETE SIDEWALKS - 5' WIDE		
		STREETING STONES		
		CONCRETE STRIPPING STONES - 30' x 42'	19	
		CONCRETE STRIPPING STONES - 10' x 48'	6	



# city commission public hearing

Item type	Public Hearing	meeting date	May 23, 2016
prepared by	Fire Chief James White	approved by	<input checked="" type="checkbox"/> City Manager
department	Fire Rescue		<input checked="" type="checkbox"/> City Attorney
division	Administration		<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 checked="" type="checkbox"/> Public Health & Safety	
	<input type="checkbox"/> Investment in Public Assets & Infrastructure		

## Subject SECOND READING OF ORDINANCE

This item addresses amendments to Chapter 50 Fire Prevention and Protection removing language no longer required by Florida Statute and including language that will bring the city's current Ordinance into compliance with existing law.

## motion | recommendation

Staff is recommending adoption of this Ordinance that removes language no longer required as local options to the previous fire code, and adds language that will allow the city's fire codes to remain current and compliant with state law.

## background

Prior to 1998, the state of Florida had not adopted one document as the state's fire prevention code. To address that gap, local jurisdictions adopted their own fire codes resulting in conflicts and jurisdictional confusion for both fire protection specialists and property owners. At that time Winter Park, as many other Florida municipalities, passed local Ordinances identifying their own related fire code with any other local options to that code.

With the state's adoption of the new Florida Fire Prevention Code each community's previously adopted local fire protection Ordinances were in effect brought up to meet the required minimum code adopted by the state. In the case of Winter Park's Ordinance found in Chapter 50, while our existing language was and is in compliance with the aspects of the new Florida Fire Prevention Code, much of the language was found to no longer be necessary.

Since adoption by the state of the Florida Fire Prevention Code, Winter Park has applied the new code in accordance with Florida Statutes, along with any remaining local option items found in the current Chapter 50 language.

This Ordinance update amends the language in Chapter 50, removing any language now found within the Florida Fire Prevention Code, and adopting language that will serve the city in perpetuity keeping the city's Ordinances in compliance. No additional fire code requirements will be placed on properties through the adoption of this Ordinance. These amendments serve only to remove language no longer required by local Ordinance, and will serve to maintain Winter Park's Ordinance current with state statute.

### **alternatives | other considerations**

No specific alternatives to this language exist. The city is required to adopt the Florida Fire Prevention Code with amendments as the base level of fire protection for all properties in the city. The city could adopt more stringent amendments to this Ordinance and could adopt a formal review process for this action upon every update adopted by the State. Staff is required through the agency's accreditation process to review this Ordinance annually. Should any updates or amendments be recommended they would be brought to the Commission for consideration.

### **fiscal impact**

Staff sees no immediate fiscal impact by updating this language as the city is currently required to apply the Florida Fire Prevention Code as adopted by the state of Florida on all properties. This language merely updates the city's existing Ordinance to comply with current Florida Statute.

**ORDINANCE NO. 3036-16**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 50, ENTITLED “FIRE PREVENTION AND PROTECTION,” OF THE CITY OF WINTER PARK CODE OF ORDINANCES; PROVIDING FOR THE GENERAL REGULATION OF FIRE PREVENTION AND SAFETY; UPDATING REFERENCES TO, ADOPTING AND IMPLEMENTING THE FLORIDA FIRE PREVENTION CODE; UPDATING AND ADOPTING LOCAL AMENDMENTS TO THE FLORIDA FIRE PREVENTION CODE; PROVIDING FOR THE RENUMBERING AND RELETTERING OF CODE PROVISIONS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, in 1998 the Florida Legislature passed enabling legislation creating the Florida Fire Prevention Code; and

**WHEREAS**, the enabling legislation and Florida Statutes require the State Fire Marshal to adopt a new edition of the Florida Fire Prevention Code every third year; and

**WHEREAS**, the enforcement of the Florida Fire Prevention Code is the responsibility of local governments; and

**WHEREAS**, the City of Winter Park, pursuant to Chapter 633, Florida Statutes, desires to adopt local amendments to the Florida Fire Prevention Code to strengthen the provisions of the state’s minimum fire safety code; and

**WHEREAS**, the City of Winter Park desires to amend Chapter 50 of the City of Winter Park Code of Ordinances to update references to the Florida Fire Prevention Code to adopt the most current version as may be amended from time to time and to update local amendments to the Florida Fire Prevention Code.

**WHEREAS**, the City Commission finds that this Ordinance is in the best interest of the public health, safety and welfare.

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

**SECTION 1. Recitals.** The City Commission hereby ratifies, approves, and adopts all of the preceding “Whereas” clauses, which constitute the legislative findings of the City Commission.

**SECTION 2. Adoption.** Chapter 50, entitled “Fire Prevention and Protection,” of the City of Winter Park Code of Ordinances is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

## CHAPTER 50 – FIRE PREVENTION AND PROTECTION

### ARTICLE I. - IN GENERAL

Secs. 50-1—50-2535. - Reserved.

### ARTICLE II. - FIRE PREVENTION AND SAFETY STANDARDS

#### ~~DIVISION 1. - GENERALLY~~

~~Secs. 50-26—50-35. - Reserved.~~

#### ~~DIVISION 2. - STANDARD FIRE PREVENTION CODE~~

Sec. 50-36. - Adopted.

The current adopted edition of the Florida Fire Prevention Code, as may be amended from time to time, including those adopted references and declaratory statements, are hereby recognized and incorporated by reference for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion.

~~There is adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain code known as the Standard Fire Prevention Code, 1991 edition, as adopted by the Southern Building Code Congress International, Inc., and the whole thereof, save and except such portions as are in this article deleted, modified or amended. Such code is adopted and incorporated as fully as if set out at length in this section, and the provisions thereof shall be controlling within the limits of the city. Not less than three copies of such code are filed in the office of the fire marshal.~~

Sec. 50-37. - Definitions.

(a) Whenever the term "fire official" is used in the Florida Fire Prevention Code ~~fire prevention code~~, it shall be held to mean the fire chief and his designated officers and employees.

(b) Whenever the word "municipality" is used in the Florida Fire Prevention Code ~~fire prevention code~~, it shall be held to mean the city.

~~(c) Whenever the term "fire prevention department" is used in the fire prevention code, it shall be held to mean the fire loss management division office of the fire marshal section of the fire department.~~

(Code 1960, § 12-2)

## Sec. 50-38. - Fire limits.

The limits referred to in the Florida Fire Prevention Code ~~fire prevention code~~ are hereby established ~~as all of~~ for the entire city limits.

(Code 1960, § 12-3)

## Sec. 50-39. - Amendments.

The Florida Fire Prevention Code ~~fire prevention code~~ adopted in this article ~~division~~ is modified and amended in the following particulars:

### CHAPTER 1—ADMINISTRATION

#### 102—Powers and Duties of the Fire Official

##### 102.4—Inspections

102.4.3 Inspection of Buildings and Premises. It shall be the duty of the fire official to inspect, or cause to be inspected by the office of the fire marshal section ~~fire loss management division~~ of the fire department or by the fire department officers or members all buildings and premises except the interiors of dwellings as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, endanger life from fire, or any violations of the provisions or intent of the currently adopted edition of the Florida Fire Prevention Code, as may be amended from time to time ~~this code, the Life Safety Code~~, and of any other ordinance affecting the fire hazard.

102.4.4 New Construction, Remodeling or Renovation. With the exception of one- and two-family residences, all plans for new construction, remodeling or renovation shall be approved by the fire official, the fire marshal or his designated representative prior to the issuance of city permits.

102.4.5 Occupational License. Prior to the issuance or transfer of an occupational license or the moving of an occupational license holder's business to a new or additional location, the premises or site to be occupied shall be inspected and approved by the fire official for compliance with the applicable codes and standards.

#### 105—Board of Adjustments and Appeals

##### 105.1—Appointment

There is hereby established a board to be called the board of adjustments and appeals, which shall consist of five members. The said board shall be appointed by the applicable governing body (city commission of the city) and shall be the same board and body as the board of adjustments and appeals established under chapter 22, article II, of the Code of Ordinances of the City of Winter Park, Florida, for appealing decisions of the building official.

## 105.2—Appeals

105.2.1 General. Whenever it is claimed that the provisions of this code do not apply, or when it is claimed that the true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted, the owner of such building or structure or his duly authorized agent may appeal the decision of the fire official to the board of adjustments and appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the fire official. Appeals shall be on forms provided by the fire official. A fee as established by the city shall accompany such notice of appeal.

105.2.2 Unsafe or dangerous building. In case of a building or structure or operation which, in the opinion of the fire official, is unsafe or dangerous, the fire official may, in his order, limit the time for such appeal to a shorter period.

## CHAPTER 3. RECOGNIZED STANDARDS AND PUBLICATIONS

### 301—General

Where provisions of this code do not apply to specific situations involving the protection of life and property from the hazards of fire, smoke and explosion, compliance with nationally recognized standards or publications listed in this chapter, when not in conflict with provisions of the building code or the current edition of the Florida Fire Prevention Code Life Safety Code, whichever is the more restrictive, shall be evidence of compliance with this code. In using the standards or publications listed in this chapter, the most current publication or standard shall be used, unless the city shall have specifically adopted a particular standard or publication, in which case the particular standard or publication shall be used.

## CHAPTER 5. GENERAL PRECAUTIONS AGAINST FIRE

### 501—Open Burning and Incinerators

#### 501.1—~~Bonfires and Outdoor Rubbish~~ Fires

501.1.1 No person shall kindle or maintain any ~~bonfire~~ outdoor fire or authorize any such ~~bonfire~~ to be kindled or maintained without a permit or other proper authorization. No person shall kindle or maintain any other open burning or rubbish fire or authorize any such fire to be kindled or maintained. During construction or demolition of buildings or structures no waste materials or rubbish shall be disposed of by burning on the premises or in the immediate vicinity.

501.1.2 When permitted, No person shall kindle or maintain any bonfire or authorize any such fire to be kindled or maintained must meet all provisions of the Florida Forest Service and the Florida Fire Prevention Code open burning requirements. on any private land unless:

~~(1) The location is not less than 50 feet from any structure and adequate provision is made to prevent fire from spreading within 50 feet of any structure; or~~

~~(2) The fire is contained in an approved waste burner located safely not less than 15 feet from any structure.~~

~~501.1.3 Recreational and cooking fires are subject to the provisions of the current Florida Fire Prevention Code. Bonfires shall be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.~~

~~501.1.4 The fire official may prohibit any or all bonfires when atmospheric conditions or local circumstances make such fires hazardous.~~

## ~~502—Flammable and Combustible Materials~~

### ~~502.5—Open Flame or Light Restricted~~

~~502.5.3 No barbecue grills, including but not limited to gas and charcoal grills, and other cooking equipment utilizing an open flame or combustible material shall be used on any balcony, patio or other enclosed or partially enclosed area of any multi-family dwelling, except those balconies, patios or other enclosed areas located within single-story buildings.~~

## ~~505—Restrictions on Interior Use of Combustible Materials~~

### ~~505.4—Fire Retardant Paints~~

~~505.4.1 In existing buildings, the required flamespread or smoke developed classification of surfaces may be secured by applying approved fire retardant paints or solutions to surfaces having a higher flamespread rating than permitted. Such treatments shall conform to the requirements of NFPA 703. A certification of application, in form and substance acceptable to the fire official, shall be provided to the fire official.~~

## CHAPTER 6. FIRE PROTECTION

### ~~602—Fire Controls~~

#### ~~602.6—Access to Buildings by Fire Apparatus~~

~~602.6.2 The required width of access roadways shall not be obstructed in any manner, including the parking of vehicles. Installation of No Parking signs or other appropriate notice, or of approved obstructions inhibiting parking, may be required and if installed shall be maintained. The owner or his representative of a building which is adjacent to the fire lane shall be responsible for keeping the fire lane free of obstructions. Signage and road surface markings shall conform to standards adopted by the fire official and traffic engineer.~~

~~602.6.7 All new occupancies or significant renovations, as determined by the fire official, to buildings constructed for business occupancy shall provide a secure key box installed in a location accessible to the fire department. The key box shall be a type approved by the fire official and shall be located and installed as approved by the fire official. The key box shall contain such key or keys as may be required to gain necessary access to the business or commercial premises. All new key boxes shall be connected to any fire alarm or security system existing or installed on the business or commercial premises. The owner and occupant of the premises shall maintain the key box in accordance with rules and regulations promulgated by the fire official.~~

## 603—Installation and Maintenance of Fire Protection Systems and Appliances

### 603.1—Installation

~~603.1.3 All premises where buildings or premises of buildings are located more than 150 feet from a fire hydrant system shall be provided with approved on-site fire hydrants and water mains capable of supplying the fire flow required by the fire official. The location and number of on-site hydrants shall be as designated by the fire official, with the minimum arrangement being so as to have a hydrant available for distribution of hose to any portion of any building on the premises at distances not exceeding 500 feet but in no case shall hose lengths be greater than 500 feet.~~ On ~~For~~ all new construction ~~occurring on or after October 1, 1997~~, a fire hydrant shall be available for distribution of hose to any portion of any building on the premises at distances not exceeding 300 feet but in no case shall hose lengths be greater than 300 feet. Further, all new construction ~~occurring on or after October 1, 1997~~, shall comply with and meet the schedules and requirements as set forth in the current edition of the Insurance Service Office (ISO) Fire Suppression Rating Schedule Handbook (1993 edition), Ch. 4, "Needed Fire Flow." Public hydrants are recognized as meeting all or part of the above requirements. Plans and specifications for the installation, modification, or alterations of any on-site fire service main or fire hydrant shall be submitted to the fire official, along with hydraulic calculations, for review and approval prior to installation.

### 603.15—Automatic Sprinkler Systems

~~603.15.5 All sprinkler systems shall be supervisory facilities as prescribed in the building code. All water flow and tampering devices shall be monitored by an approved central station according to NFPA 72. One and two family dwellings shall be exempt from these monitoring requirements.~~

### 603.16—Fire Department Connection

~~603.16.1 Every fire department connection shall be so located, with respect to hydrants, driveways, buildings and landscaping, that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. Where more than one fire department connection serves the same property, all fire department connections shall be grouped at the same location and clearly marked, unless otherwise approved by the fire official.~~

~~At least a three-foot clearance with respect to fire department connections and hydrants shall be maintained at all times.~~

#### 603.17—Addresses

Approved numbers or addresses shall be provided for all new and existing buildings so that the number or address is plainly visible and legible from the street or roadway.

~~Building numbers shall have a minimum height of three inches and suite numbers shall have a minimum height of two inches. All buildings, including individual building suites, shall have the proper address displayed as referenced in Property Maintenance Code Section, 22.304.3.~~

### CHAPTER 8. MAINTENANCE OF EXIT WAYS

#### 801—General Provisions

##### 801.1—Scope

~~801.1.1 In every building, means of egress shall be maintained in accordance with this chapter and the Life Safety Code of the city contained in [chapter 50](#) of the Code of Ordinances of the City of Winter Park, Florida.~~

~~801.1.4 No building shall hereafter be altered so as to reduce the capacity of the means of egress to less than required by the building code and Life Safety Code nor shall any change of occupancy be made in any building unless such building conforms with the requirements of such building code and Life Safety Code.~~

#### 802—Exit Obstruction

##### 802.2—Overcrowding

~~The number of occupants of any building or portion thereof shall not be permitted to exceed the allowed or posted capacity, determined in accordance with the building code and Life Safety Code. Signs stating the allowed maximum occupant capacity, as furnished by the fire official, shall be conspicuously posted by the owner of the building in each assembly room, auditorium or room used for a similar purpose.~~

### CHAPTER 9. FLAMMABLE AND COMBUSTIBLE LIQUIDS

#### 902.3—Underground Tanks

~~902.3.4 Underground tanks shall be set on firm foundations and surrounded with soft earth or sand well tamped in place. Tanks shall be covered with a minimum of 30 inches of earth, well tamped, plus six inches of reinforced concrete, and the concrete slab shall extend at least one foot~~

~~horizontally beyond the outline of the tank or tanks in all directions. Concrete shall be of class B (2,500 pounds) or better, and the reinforcement shall be of five-eighths inch steel rods on 12-inch centers, and all centers shall be tied.~~

## CHAPTER 26. FUMIGATION AND THERMAL INSECTICIDAL FOGGING

### 2602—Special Provisions

#### 2602.2 Notification of Fumigation

The holder of a fumigation or thermal insecticidal fogging permit shall notify the fire ~~prevention~~ department at least 24 hours prior to the beginning of a usual fumigation or fogging operation, except at least two hours shall be required for fumigation in public health emergencies or on shipboard. The notice shall give the location of the building, ship or enclosed space to be fumigated or fogged as well as its character and use, the fumigants or insecticides to be used, the person or persons in charge of the operation, permit holder's name and address and emergency telephone and the date and time when it will be started and completed, and the fire official shall be notified by telephone immediately prior to the start of a thermal fogging operation.

## ~~CHAPTER 31. ASSEMBLY OCCUPANCIES~~

### ~~3101—General~~

#### ~~3101.13—Overcrowding~~

~~3101.13.2 Signs stating the maximum occupant content shall be conspicuously posted by the owner of the building in each assembly room, auditorium or room used for a similar purpose. It shall be unlawful to remove or deface such notice. This number shall be determined by the capacity of the exits provided. The owner of the building shall post signs stating the maximum occupant content as furnished by the fire official.~~

~~(Code 1960, § 12-4; Ord. No. 2045, § 2, 6-14-94; Ord. No. 2208, §§ 1—3, 9-9-97; Ord. No. 2261, § 1, 5-26-98)~~

**Cross reference**—User and service fees and charges, [§ 2-189](#).

Sec. 50-40. - Modifications.

~~(a) The fire official shall have power to modify any of the provisions of the fire prevention code adopted in this division upon application in writing by the owner or lessee or his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the fire official thereon shall be entered upon the records of the department, and a signed copy shall be furnished the applicant.~~

~~(b)~~ Whenever the fire official shall disapprove an application or refuse to grant a permit applied for or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire official to the board of adjustments and appeals within 30 days from the decision appealed.

(Code 1960, § 12-5)

Sec. 50-41. - Penalty for violations.

Any person who shall violate any of the provisions of the fire prevention code adopted in this ~~division~~ article or who shall fail to comply therewith or who shall build in violation of any detailed statement of specifications or plans submitted or approved thereunder or any certificate or permit issued thereunder shall severally for each and every such violation and noncompliance, respectively, be punished as provided in section 1-7.

(Code 1960, § 12-6)

~~Secs. 50-42—50-50.—Reserved.~~

### ~~DIVISION 3.—LIFE SAFETY CODE~~

~~Sec. 50-51.—Adopted.~~

~~The Life Safety Code, 1994 edition, as published by the National Fire Protection Association, is hereby adopted by reference except for chapter 22 and the riser height and tread depth requirements for new stairs in section 5-2.2.2.1. Such edition, together with any modifications and amendments contained herein, shall be known and identified as the life safety code of the city.~~

~~(Ord. No. 1975, § 1(12-11), 5-26-92; Ord. No. 2116, § 1, 10-10-95)~~

~~Sec. 50-52.—Copies.~~

~~(a) At all times there shall be kept on file in the office of the chief of the fire prevention bureau for public use, inspection, and examination three copies of the life safety code adopted by reference in this division.~~

~~(b) There shall be noted on all copies of the life safety code kept on file in the office of the fire marshal the following legend:~~

~~"Adopted by reference as the Life Safety Code of the City of Winter Park, subject to modification and amendment as provided in the Code of Ordinances of the City of Winter Park."~~

(Code 1960, § 12-12)

Sec. 50-~~53~~42. - Relationship to other laws.

(a) Whenever in this Code reference is made to the ~~life safety code~~ Florida Fire Prevention Code, such reference shall refer to the edition currently adopted by reference in this division the Florida State Fire Marshal, as may be amended from time to time.

(b) The regulations and restrictions of the life safety code shall be supplemental and cumulative. However, in the case of a direct conflict with any other provision or provisions of this Code, that provision which imposes higher standards or requirements shall govern.

(Code 1960, § 12-13)

Sec. 50-~~54~~43. - Appeals.

Whenever the fire marshal shall reject or refuse to approve the mode or manner of construction proposed to be followed or materials to be used in the erection or alteration of a building or structure or when it is claimed that the provisions of the ~~life safety code~~ Florida Fire Prevention Code do not apply or that an equally good or more desirable form of construction can be employed in any specific case or when it is claimed that the true intent and meaning of the ~~life safety code~~ Florida Fire Prevention Code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure or his duly authorized agent may appeal from the decision of the fire marshal to the board of adjustments and appeals in the same manner as is provided in chapter 22, article II, of this Code for appealing decisions of the building official. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the fire marshal. A fee in the amount established by the city shall accompany such notice of appeal.

(Code 1960, § 12-14)

**Cross reference**— User and service fees and charges, § 2-189.

**SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

**SECTION 4. Codification.** It is the intention of the City Commission and it is hereby ordained that Section 2 of this Ordinance shall become and be made a part of the City Code of Ordinances. The provisions of this Ordinance may be renumbered or relettered to accomplish such intention, and the word “Ordinance” may be changed to “Section,” “Article,” or other appropriate word. The City Clerk is given liberal authority to correct scriveners’ errors, such as incorrect code cross references, grammatical, typographical and similar or like errors when codifying this Ordinance.

**SECTION 5. Conflicts.** All ordinances or parts thereof that are in conflict with any provisions of this Ordinance are hereby repealed.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

First reading held on the 9<sup>th</sup> day of May, 2016.

Second reading, public hearing, and adoption held on the 23rd day of May, 2016.

---

Steven M. Leary, Mayor

Attest: \_\_\_\_\_  
Cynthia S. Bonham, City Clerk



# city commission **public hearing**

item type	Public Hearing	meeting date	May 23, 2016
prepared by	Troy Attaway	approved by	<input checked="" type="checkbox"/> City Manager
department	Public Works		<input type="checkbox"/> City Attorney
division	Administration		<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 checked="" type="checkbox"/> Intelligent Growth & Development <input type="checkbox"/> Public Health & Safety <input type="checkbox"/> Investment in Public Assets & Infrastructure		

## subject

Vacate the originally platted utility easement between lots 7 and 8 within the Sevilla Subdivision.

## motion | recommendation

Staff recommendation is to approve vacating of the platted utility easement.

## background

The contractor is requesting the easement be vacated to allow for the reconfiguration of the lot lines and to allow for a more practicable development of the lots. The contractor has provided a new easement for our purposes, which is shown on the attached documents. The City has received "no objection" statements from the appropriate utilities to vacate the easement.

## alternatives | other considerations

Do not vacate easement

## fiscal impact

None

After Recording Return To:  
City of Winter Park, City Clerk's Office  
401 Park Avenue South  
Winter Park, Florida 32789

ORDINANCE NO. \_\_\_\_\_-16

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING UTILITY EASEMENTS FOR LOTS 7 AND 8 OF SEVILLA SUBDIVISION**

**WHEREAS, the City of Winter Park by custom will abandon utility easements no longer needed for municipal purposes; and**

**WHEREAS, the City has determined that the utility easements are no longer needed by the City of Winter Park.**

**NOW, THEREFORE, BE IT ENACTED by the People of the City of Winter Park, Florida as follows:**

**Section 1.** The City Commission of the City of Winter Park, Florida, hereby vacates and abandons those certain utility easements which fall within a parcel of land described as follows:

**THAT PART OF LOT 7, SEVILLA, AS PER PLAT HERE OF RECORDED IN PLAT BOOK 3, PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY FLORIDA DESCRIBED AS FOLLOWS:**

**BEGIN AT THE NORTHERNMOST CORNER OF SAID LOT 7, RUN THENCE S56°44'20"W. A DISTANCE OF 139.94 FEET TO THE NORTHWEST CORNER THEREOF, THENCE FROM A TANGENT BEARING OF S26°36'44"E RUN SOUTHERLY 18.82 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE WEST WITH A RADIUS OF 50 FEET, SAID ARC BEING THE WESTERLY LINE OF LOT 7. THENCE RUN N34°00'00"W A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING**

**AND LOT 8, SEVILLA, AS PER PLAT THERE OF RECORDED IN PLAT BOOK 3 PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA LESS THE FOLLOWING PORTION:**

**BEGIN AT THE SOUTHWEST CORNER OF LOT 8, SEVILLA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY FLORIDA, RUN THENCE N06°11'57"W ALONG THE WEST LINE OF SAID LOT 8, A DISTANCE OF 49.39 FEET, THENCE RUN S17°23'3"E A DISTANCE OF 22.97 FEET: THENCE RUN S02°01'44"E A DISTANCE OF 27.00 FEET TO A POINT ON A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGEL OF 02°51'53". SAID POINT ALSO BEING ON THE RIGHT OF WAY LINE OF VALERA COURT, THENCE FROM A TANGENT BEARING OF S86°39'54"W RUN SOUTHWESTERLY ALONG THE**

**ARC OF SAID CURVE AND SAID RIGHT OF WAY LINE A DISTANCE OF 2.5 FEET TO THE POINT OF BEGINNING.**

**Section 2.** All ordinances or portions of ordinances in conflict herewith are hereby repealed.

**Section 3.** The parties intend that any error in legal description or in depiction of the portion of the easement vacated and abandoned may be corrected by subsequent curative document if the parties agree that there was an error in the survey or description.

**Section 4.** This ordinance shall take effect immediately upon its passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor Steven Leary

ATTEST:

\_\_\_\_\_  
City Clerk Cynthia S. Bonham

**BOOKER & ASSOCIATES, P.A.**  
ATTORNEYS AT LAW

KIM C. BOOKER

1019 TOWN CENTER DRIVE  
ORANGE CITY, FLORIDA 32763  
PHONE (386) 774-6552  
FAX (386) 774-5997

May 5, 2016

City of Winter Park  
Attention: Jeffrey Briggs  
401 Park Avenue South  
Winter Park, Florida 32789-4386

Re: Request to abandon utility easement at Lot 7/8 of Valera Court, Winter Park, Florida

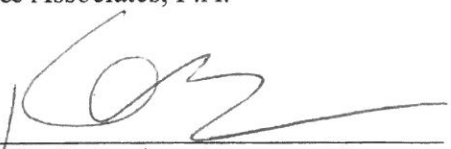
Dear Mr. Briggs:

I have the pleasure of representing Billy Bishop and Brannon Construction, Inc. who are hereby requesting the City to take such action as necessary to vacate the above referenced utility easement as reflected on the attached Exhibit A. The purpose of this petition is to relocate the utility easement to allow for the reconfiguration of the lot lines and to allow for a more practicable development of the lots. The relocation of the easement does not prejudice the City in any way and the new location will provide the same access for utilities. I have previously provided you with the utility letters with no objection from the various utility providers and a survey and proposed form of the new easement. Please schedule this matter on the City's public agenda to vacate the utility easement. I appreciate all your time and efforts regarding this matter.

Sincerely,

Booker & Associates, P.A.

By

  
Kim C. Booker, Attorney at Law

Attachment

cc: Brannon Construction, Inc.

# BOUNDARY SURVEY FOR BRANNON CONSTRUCTION

## DESCRIPTION:

THAT PART OF LOT 7, SEVILLA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHERNMOST CORNER OF SAID LOT 7, RUN THENCE S56°44'20"W A DISTANCE OF 139.94 FEET TO THE NORTHWEST CORNER THEREOF; THENCE FROM A TANGENT BEARING OF S26°36'44"E RUN SOUTHERLY 18.82 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE WEST WITH A RADIUS OF 50 FEET, SAID ARC BEING THE WESTERLY LINE OF LOT 7, THENCE RUN S85°18'48"E A DISTANCE OF 68.53 FEET, THENCE RUN N56°44'20"E A DISTANCE OF 92.28 FEET TO THE EASTERLY LINE OF LOT 7, THENCE RUN N34°00'00"W A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

AND LOT 8, SEVILLA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LESS THE FOLLOWING PORTION:

BEGIN AT THE SOUTHWEST CORNER OF LOT 8, SEVILLA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, RUN THENCE N06°11'57"W ALONG THE WEST LINE OF SAID LOT 8, A DISTANCE OF 49.39 FEET; THENCE RUN S17°23'3"E A DISTANCE OF 22.97 FEET; THENCE RUN S02°01'44"E A DISTANCE OF 27.00 FEET TO A POINT ON A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 02°51'53", SAID POINT ALSO BEING ON THE RIGHT OF WAY LINE OF VALERA COURT, THENCE FROM A TANGENT BEARING OF S86°39'54"W RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AND SAID RIGHT OF WAY LINE A DISTANCE OF 2.5 FEET TO THE POINT OF BEGINNING.

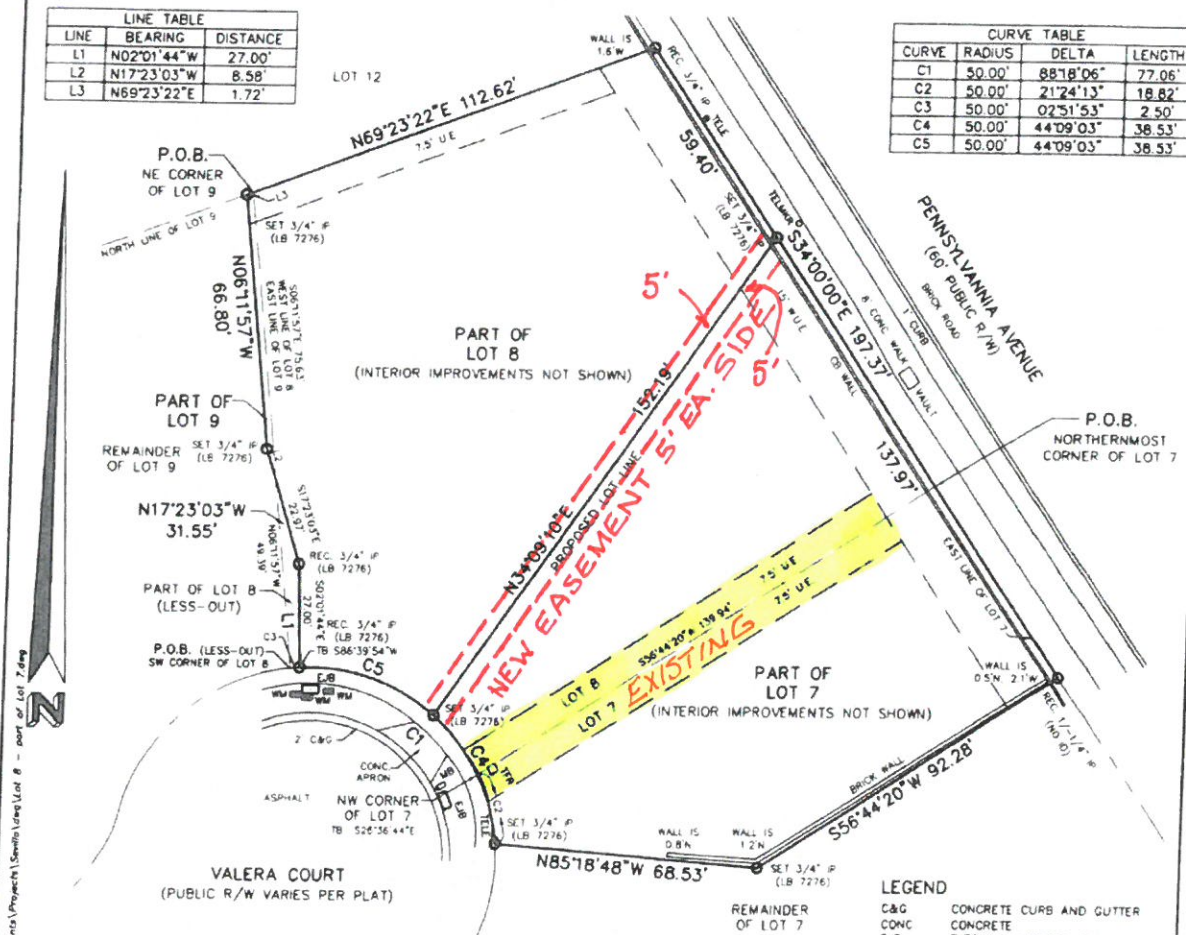
AND

THAT PORTION OF LOT 9, SEVILLA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGES 24-25, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 9, RUN THENCE S06°11'57" E ALONG THE EAST LINE OF SAID LOT 9, A DISTANCE OF 75.63 FEET; RUN THENCE N17°23'03"W A DISTANCE OF 8.58 FEET, RUN THENCE N06°11'57"W A DISTANCE OF 66.80 FEET TO THE NORTH LINE OF LOT 9, RUN THENCE N69°23'22"E ALONG SAID NORTH LINE 1.72 FEET TO THE POINT OF BEGINNING.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N02°01'44"W	27.00'
L2	N17°23'03"W	8.58'
L3	N69°23'22"E	1.72'

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	50.00'	88°18'06"	77.06'
C2	50.00'	21°24'13"	18.82'
C3	50.00'	02°51'53"	2.50'
C4	50.00'	44°09'03"	38.53'
C5	50.00'	44°09'03"	38.53'



## SURVEYOR'S NOTES:

- The lands as shown hereon lie within Section 07, Township 22 S., Range 30 E., Orange County, Florida.
- This survey represents a survey made on the ground under the supervision of the signing surveyor, unless otherwise noted.
- Underground improvements or underground foundations have not been located except as noted.
- This survey does not reflect or determine ownership.
- All easements of which the surveyor has knowledge of, or has been furnished, have been noted on this map.
- No title data has been provided to this surveyor unless otherwise noted.
- Bearings shown hereon are assumed relative to the West right-of-way line of South Pennsylvania Avenue; said bearing being S34°00'00"E per plat.
- According to the Federal Insurance Rate Map, this property lies in Zone "X", Community Panel number 1209SC0255 F, Dated 9/25/2009.

## REVISIONS

Rev. \_\_\_\_\_ Date \_\_\_\_\_  
Rev. \_\_\_\_\_ Date \_\_\_\_\_  
Rev. \_\_\_\_\_ Date \_\_\_\_\_  
Rev. \_\_\_\_\_ Date \_\_\_\_\_

**HLSM, LLC**  
Henrich-Luke-Swaggerty-Menard  
Professional Surveyors & Mappers  
Licensed Business No. 7278  
794 Big Tree Drive, Suite 108  
Longwood, Florida 32750  
P. (407) 647-7346  
F. (407) 982-7166  
Surveyor@HLSM.US

Job No. F-394  
Date 7/16/15  
Drawn By ADA  
Scale 1"=30'

THIS SURVEY MAP AND REPORT OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

William F. Menard  
Professional Surveyor & Mapper  
Florida Registration #5625

3-25

Cmpd	12	13	14	15	16	17	18	19	20	21
B	39.56	54.42	65.39	71.35	77.15	82.15	86.00	89.00	91.44	93.00
B	11.11	14.28	18.18	21.43	25.00	28.57	32.00	35.00	37.78	40.00
T	37.64	41.10	49.55	57.14	64.29	70.00	75.00	79.00	82.22	85.00
ARC	72.78	81.46	94.38	107.66	121.43	135.71	150.00	164.00	177.78	191.43

Curve	31	32	33	34	35	36	37	38
$\Delta$	104°45'28"	111°34'28"	9°03'34"	12°55'55"	12°55'55"	49°24'44"	49°24'44"	99°10'48"
T	40'	46.43'	42.42'	350'	390'	40'	80'	40'
E	31.83'	46.60'	38.61'	70.99'	72.11'	18.47'	36.95'	46.98'
AQC	72.10'	92.70'	67.08'	140.88'	156.09'	34.61'	69.83'	69.84'

DATE	39	40	41	42
$\Delta$	48° 23' 32"	105° 57' 52"	74° 32' 37"	74° 38' 37"
B	90°	60°	80°	70°
T	11.94'	—	22.83'	55.27'
A.M.C.	22.72'	162.28'	39.02'	91.07'



# SKETCH OF DESCRIPTION

(THIS IS NOT A SURVEY)

## LEGAL DESCRIPTION OF NEW EASEMENT

### DESCRIPTION

A PORTION OF LOT 8, SEVILLA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGES 24 AND 25 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHERNMOST CORNER OF SAID LOT 8, SAID POINT BEING A POINT ON THE WEST RIGHT-OF-WAY LINE OF PENNSYLVANIA AVENUE, A 60 FOOT PUBLIC RIGHT-OF-WAY; THENCE S 34°00'00" E, ALONG THE SAID EAST LINE AND WEST RIGHT-OF-WAY LINE, A DISTANCE OF 54.01 FEET TO THE POINT OF BEGINNING; THENCE S 34°00'00" E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 10.77 FEET; THENCE DEPART FROM SAID LINE S 34°09'10" W A DISTANCE OF 151.03 FEET; TO A POINT ON A NON TANGENT CURVE, CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 11°33'26"; AND A CHORD BEARING OF N 49°09'24" W; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE AND THE NORTHEASTERLY RIGHT-OF-WAY OF VALERA COURT, A VARIABLE PUBLIC RIGHT-OF-WAY, AN ARC DISTANCE OF 10.09 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE N 34°09'10" E A DISTANCE OF 153.86 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 0.03 ACRES (1,523 SQUARE FEET) MORE OR LESS.

Z:\Projects\Sevilla\dwg\Lot 8-500.dwg

### SURVEYOR'S NOTES:

1. The lands as shown hereon lie within Section 07, Township 22 S., Range 30 E., Orange County, Florida.
2. All easements of which the surveyor has knowledge of, or has been furnished, have been noted on this map.
3. Bearings shown hereon are assumed relative to the West right-of-way line of South Pennsylvania Avenue; said bearing being S34°00'00"E per plat.
4. This is not a survey

SHEET 1 OF 2

**HLSM, LLC**

Henrich-Luke-Swaggerty-Menard  
Professional Surveyors & Mappers

Licensed Business No. 7276

794 Big Tree Drive, Suite 108

Longwood, Florida 32750

P. (407) 647-7346

F. (407) 982-7166

Survey@HLSM.US

Job No: G-163  
Date: 4/4/16  
Drawn By: JJR  
Scale: 1"=30'

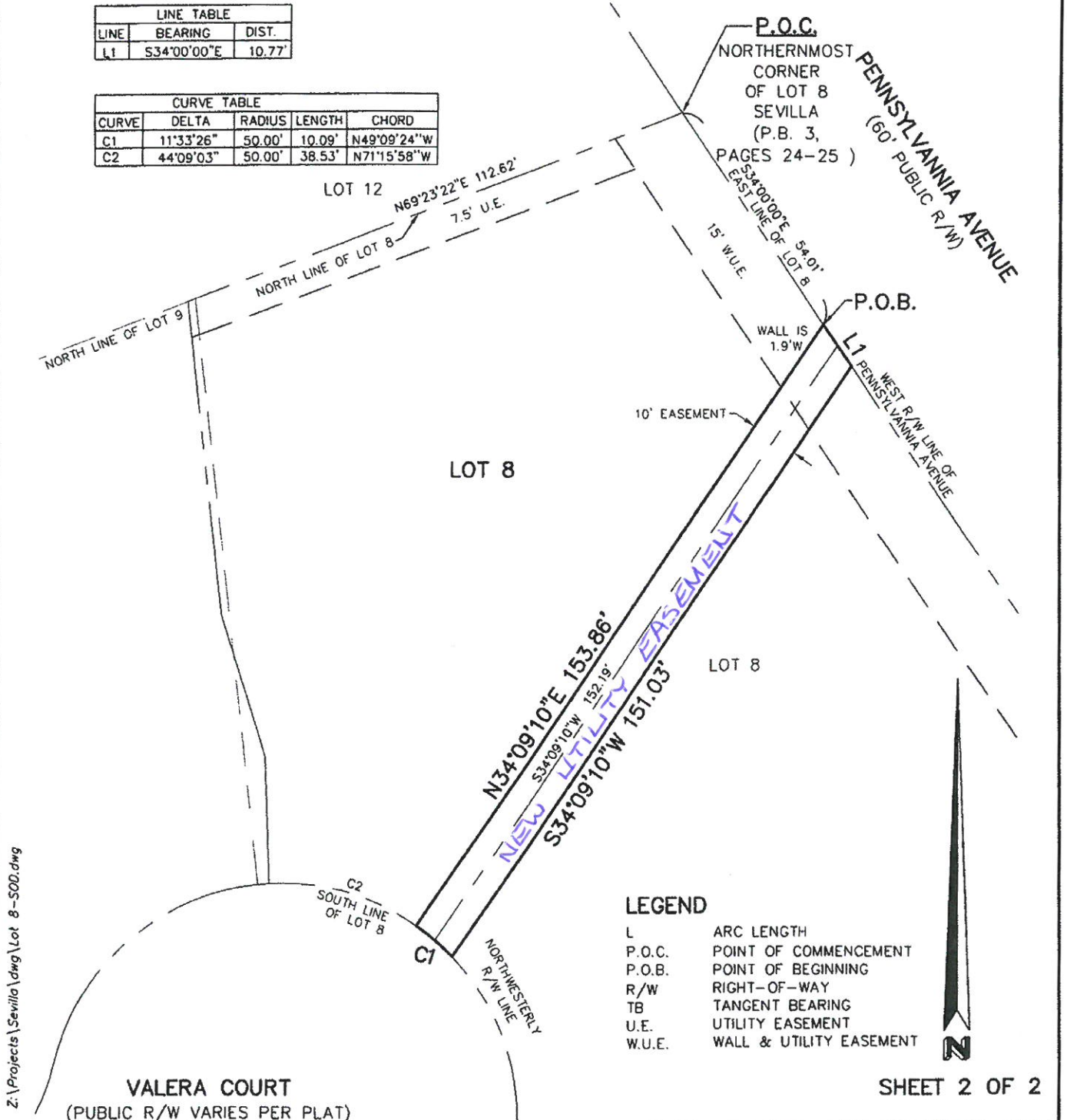
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

William F. Menard  
Professional Surveyor & Mapper  
Florida Registration #5625

# SKETCH OF DESCRIPTION (THIS IS NOT A SURVEY)

LINE TABLE		
LINE	BEARING	DIST.
L1	S34°00'00"E	10.77'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	11°33'26"	50.00'	10.09'	N49°09'24"W
C2	44°09'03"	50.00'	38.53'	N71°15'58"W



## LEGEND

L	ARC LENGTH
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
R/W	RIGHT-OF-WAY
TB	TANGENT BEARING
U.E.	UTILITY EASEMENT
W.U.E.	WALL & UTILITY EASEMENT



SHEET 2 OF 2

**HLSM, LLC**

Henrich-Luke-Swaggerty-Menard  
Professional Surveyors & Mappers

Licensed Business No. 7276

794 Big Tree Drive, Suite 108  
Longwood, Florida 32750  
P. (407) 647-7346  
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Job No: G-163  
Date: 04/04/16  
Drawn By: JJR  
Scale: 1"=30'

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SEE SHEET 1 OF 2  
FOR SIGNATURE & SEAL



# city commission public hearing

Item type	Public Hearing	meeting date	May 23, 2016
prepared by	Dori Stone	approved by	<input checked="" type="checkbox"/> City Manager
department	Planning & Community Development		<input checked="" 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
strategic objective	<input checked="" 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

Revisions to Section 58, Article VIII Historic Preservation

## motion | recommendation

Recommend approval of the Ordinance revisions

## background

On April 11, 2016, the City Commission authorized three changes to the adopted Historic Preservation Ordinance. These changes included revisions to Section 58-433 (b) (2), adding language regarding voluntary participation and Section 58-457 (2) (c), changing the district ownership requirements from fifty percent (50%) plus one to two thirds. The new language under Section 58-457 (8) provides a means to identify properties that are on the historic register or in a historic district.

An amended Ordinance is attached for review and consideration.

## alternatives | other considerations

The Commission can choose to approve, approve with additional language or deny the proposed changes to the Historic Preservation Ordinance

## fiscal impact

N/A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE VIII, "HISTORIC PRESERVATION"; AMENDING SECTION 58-433 TO CLARITY THE INTENT AND PURPOSE OF THE WINTER PARK HISTORIC PRESERVATION CODE; AMENDING SECTION 58-457 CONCERNING THE REQUIREMENTS AND VOTING THRESHOLDS FOR THE DESIGNATION OF A HISTORIC DISTRICT AND CONCERNING THE IDENTIFICATION OF DESIGNATED PROPERTIES AND PROPERTIES WITHIN HISTORIC DISTRICTS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Winter Park, Florida ("City"), recognizes that the City has within its jurisdiction a significant number of historic resources, structures and properties; and

**WHEREAS**, the City Commission recognizes that the identification, protection, enhancement and use of such resources provides a public purpose; and

**WHEREAS**, the City Commission recognizes that these historic resources, structures and properties constitute valuable assets that contribute to the charm and appeal of the City and create a unique environment for both residential and commercial pursuits, thereby providing significant and substantial economic benefit to the City; and

**WHEREAS**, the City Commission desires to clarify the purpose and intent of the Winter Park Historic Preservation Code as set forth in this Ordinance; and

**WHEREAS**, the City Commission desires to amend the voting threshold for designating a historic district as set forth in this Ordinance;

**WHEREAS**, the City Commission finds that the provisions of this Ordinance are consistent with the City's Comprehensive Plan.

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

**SECTION 1 – RECITALS.** The above recitals are true and correct and are incorporated herein as legislative findings of the City Commission.

**SECTION 2 – AMENDMENT.** Chapter 58, Division 1, Section 58-433 of the Winter Park Code of Ordinances is hereby amended to read as follows (~~stricken through~~ language are deletions; underlined language are additions; provisions not referenced are not amended):

Sec. 58-433. - Short title; intent and purpose.

(a) *Short title.* This article shall be cited as the Winter Park Historic Preservation Code.

(b) *Intent and purpose*

(1) The purpose of these regulations is to establish the framework for a comprehensive historic preservation program in the city.

(2) It is the policy of the city to promote the educational, cultural, and economic welfare of the public by preserving and protecting historic structures, sites, portions of structures, groups of structures, manmade or natural landscape elements, works of art, or integrated combinations thereof, which serve as visible reminders of the history and cultural heritage of the city, state, or nation to achieve the following objectives including by encouraging voluntary participation:

- a. Safeguard the heritage of the city by encouraging the preservation of historic resources representing significant elements of its history;
- b. Enhance the visual character of the city by encouraging the preservation of these buildings which make a significant contribution to the older neighborhoods of the city particularly to the designated historic register structures reflecting unique and established architectural traditions;
- c. Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- d. Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists and visitors;
- e. Promote the private and public use of historic resources for the education, prosperity and general welfare of the people; and
- f. Stabilize and improve property values within the city.

(3) In addition, the provisions of this article will assist the city and private property owners to be eligible for federal tax incentives, federal and state grant funds, property tax abatement, and any other incentive programs for the purpose of furthering historic preservation activities.

**SECTION 3 – AMENDMENT.** Chapter 58, Division 3, Section 58-457 of the Winter Park Code of Ordinances is hereby amended to read as follows (~~stricken through~~ language are deletions; underlined language are additions; provisions not referenced are not amended):

Sec. 58-457. – Designation procedures.

\*\*\*

(2) *Local historic districts.*

- a. Nominations for designation of historic districts may be submitted to the planning and community development department by petition from 20 percent of the proposed district property owners, at least half of whom shall be owners of individually designated historic homes in the proposed district, or owners of contributing homes in the proposed district who believe that the district meets the criteria for listing as set forth in section 58-456. The nomination shall include a description of the proposed boundaries of the district, and a brief statement setting forth: (i) that at least 50% of the homes in the proposed district are individually designated historic homes or contributing homes; (ii) explaining its historic, cultural, aesthetic or architectural significance, (iii) the specific National Register of Historic Places criteria (two or more) that apply to the proposed district; and (iv) including the required petition representing the ownership of at least 20 percent of the properties within the proposed district as described above. Designation of

historic districts shall only be considered by the HPB subsequent to meetings with district property owners and actions as described in subsections b. and c. below.

- b. Prior to consideration of designation by the HPB, the city shall first determine if the proposed district meets the criteria for designation as set forth in the petition. If so, the city shall then prepare a historic designation report which shall analyze and report upon: 1) proposed boundaries, 2) contributing and non-contributing buildings and elements, 3) district goals, 4) design guidelines to include district alteration criteria, 5) effects of designation and 6) available incentives. The city shall then mail the report and other necessary information to each property owner of record to notify them of the initial interest in establishing a historic district, the effects of establishing a historic district, and a schedule of informational meetings for owners and interested parties. The schedule of informational meetings will also be published in a newspaper of general circulation and posted on the city's web site. The city shall then facilitate conferences with property owners within the nominated district to discuss the proposed district. The city shall have 90 days to complete these requirements.
- c. After informational meetings have concluded, the city will mail a summarized final historic designation report to every property owner of record in the nominated district as of that date. The report will describe the voting process including a 14 day deadline to respond. The final report, voting process and deadline will also be posted on the city's web site. Property owners of record will be polled, with each property representing one vote. If a property is jointly owned by two or more persons or entities, all such persons or entities having an ownership interest in that property must agree in order to cast a vote in favor of creating the nominated district. Upon receipt of a favorable vote representing the ownership of two-thirds ~~fifty percent (50%) plus one~~ of the properties within the nominated district, a historic designation report shall be forwarded to the HPB recommending approval or disapproval of the nominated area as a historic district based upon the vote received and citing any other specific criteria for the decision.
- d. The nominated historic district shall have a historic designation report that shall be presented to the HPB at a regularly scheduled meeting. The designation report shall include the historic context, proposed boundaries, contributing and non-contributing elements, a staff recommendation and the results of listing which may include guidelines for review, and appropriate incentives. For each proposed designation of a historic district, the city is responsible for mailing a notice of public hearing to all property owners of record whose property is located within the boundary of the designation 15 days prior to the public hearing held pursuant to this section, however failure to receive such notice shall not invalidate the same as such notice shall also be given by publishing a copy thereof in a newspaper of general circulation at least 15 days prior to the hearing.

\*\*\*

(8) The city shall prepare and maintain for public view information identifying the designated properties and properties within designated historic districts. The symbol of "(h)" for historic is to be added next to the underlying zoning classification for each of the designated properties and properties within historic districts. The symbol of "(h)" is not intended to be a rezoning of the designated properties and properties within historic districts, but merely an identifier for the public's information and awareness that such properties are affected by the regulations of this article and any applicable historic district guidelines.

**SECTION 4 - SEVERABILITY.** If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

**SECTION 5 - CODIFICATION.** It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of Sections 2 and 3 of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word. The City Clerk is given liberal authority to correct scriveners' errors, such as incorrect code cross references, grammatical, typographical and similar or like errors when codifying this Ordinance.

**SECTION 6 - CONFLICTS.** In the event of any conflicts between this Ordinance and other ordinances, this Ordinance shall control over all other ordinances to the extent of the conflict.

**SECTION 7 – EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its final passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2016

City Commission of the City of  
Winter Park

Attest:

\_\_\_\_\_  
Mayor Steve Leary

\_\_\_\_\_  
City Clerk Cynthia Bonham



# city commission public hearing

Item type	Public Hearing	meeting date	May 23, 2016
prepared by	Michelle Neuner	approved by	<input checked="" type="checkbox"/> City Manager
department	City Management		<input checked="" type="checkbox"/> City Attorney (Pension)
division			<input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> N/A
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

Modifications to Police Pension Ordinance

## motion | recommendation

Adopt recommended ordinance.

## background

The attached ordinance was presented by Scott Christianson, Pension Attorney for the Police Officers Pension Plan and revised by Jim Linn, Pension Attorney for the City. With the exception of implementing a share plan as required by state law (Ch. 185.35), the identified changes are administrative.

The Share Plan requires that... "additional premium tax revenues received that are in excess of the amount received for the 2012 calendar year, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality, and 50 percent must be placed in a defined contribution plan component to fund special benefits (Ch. 185.35(b))." This ordinance establishes a process by which to administer and distribute funding associated with development of the plan.

## alternatives | other considerations

None

## fiscal impact

Funding for the share plan is not required until after October 1, 2018. Had this ordinance been in effect in FY 2015, there would have been \$1,290 to split 50/50 or \$645 to the share plan.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 74, PERSONNEL, ARTICLE V, RETIREMENT AND PENSION PLANS, DIVISION 4, POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK; AMENDING SECTION 74-201, DEFINITIONS; AMENDING SECTION 74-204, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 74-209, VESTING; AMENDING SECTION 74-210, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 74-215, MAXIMUM PENSION; AMENDING SECTION 74-216, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 74-226, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 74-228, PRIOR POLICE SERVICE; ADDING SECTION 74-230, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS;

**SECTION 1:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-201, Definitions, to amend the definitions of “Accumulated Contributions”, “Actuarial Equivalent”, “Credited Service”, and “Spouse”, to read as follows:

\* \* \* \* \*

*Accumulated contributions* means a Member's own contributions with interest at the rate of five percent (5%) per annum through ~~the effective date of this ordinance~~ March 1, 2013. Effective on and after ~~the effective date of this ordinance~~ March 1, 2013, accumulated contributions means a Member's own contributions to the System, without interest. For those Members who purchase Credited Service with interest or at no cost to the System, any payment representing the amount attributable to Member contributions based on the applicable Member contribution rate, and any payment representing interest and any required actuarially calculated payments for the purchase of such Credited Service, shall be included in Accumulated Contributions.

*Actuarial Equivalent* means a benefit or amount of equal value, based upon the RP-2000 Combined Table based upon a fixed blend of fifty percent (50%) male mortality rates—fifty percent (50%) female mortality rates, with full generational mortality improvements projected to each future payment date for healthy participants and the RP-2000 Disabled Mortality Table based upon a fixed blend of (fifty percent (50%) male mortality rates—fifty percent (50%) female mortality rates, with full generational mortality improvements projected to each future payment date for impaired participants, and an interest rate of seven and three quarters percent (7.75%) per annum. This definition may only be amended by the City pursuant to the recommendation of the Board using assumptions adopted by the Board with the advice of the plan's actuary, such that actuarial assumptions are not subject to City discretion.

\* \* \* \* \*

Ordinance No. \_\_\_\_\_

Page 1

*Credited Service* means the total number of years and fractional parts of years of service as a Police Officer with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a Police Officer. A Member may voluntarily leave his Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the Police Department pending the possibility of being re-employed as a Police Officer without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the Police Department, his Accumulated Contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a Police Officer with the Police Department within five (5) years, his Accumulated Contributions, if one-thousand dollars (\$1,000.00) or less, shall be returned. If a Member who is not vested is not reemployed within five (5) years, his Accumulated Contributions, if more than one-thousand dollars (\$1,000.00), will be returned only upon the written request of the Member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the Board. Upon return of a Member's Accumulated Contributions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a Police Officer shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his Accumulated Contributions from the Fund, unless the Police Officer repays into the Fund the contributions he has withdrawn, with interest, as determined by the Board, within ninety (90) days after his reemployment.

The years or fractional parts of a year that a Member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a Police Officer with the City to perform training or service, shall be added to his years of Credited Service for all purposes, including vesting, provided that:

- A. The Member is entitled to reemployment under the provisions of USERRA.
- B. The Member returns to his employment as a Police Officer within one (1) year from the earlier of the date of his military discharge or his release from active service, unless otherwise required by USERRA.
- C. The maximum credit for military service pursuant to this paragraph shall be five (5) years.
- D. This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a Member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the Member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the Member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of Credited Service either during each Plan Year of a Member's employment with the City or in the Plan Year in which the Member terminates employment.

\* \* \* \* \*

*Spouse* means the ~~lawful wife or husband of a Member or Retiree~~ Member's or Retiree's spouse under applicable law at the time benefits become payable.

\* \* \* \* \*

**SECTION 2:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-204, Finances and Fund Management, subsection 6.B.(3), to read as follows:

\* \* \* \* \*

- (3) In addition, the Board may, upon recommendation by the Board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, ~~and~~ Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the Code, individual retirement accounts that are exempt under section 408(e) of the Code, eligible governmental plans that meet the requirements of section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or a separate tax favored account maintained by an insurance company that is treated as a trust under section 401(f) or under section 457(g)(3) of the Code. While any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the System or plan.

(a) Any collective or common group trust to which assets of the fund are transferred pursuant to subsection (3) shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.

(b) The separate account maintained by the group trust for the plan pursuant to subsection (3) shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.

(c) For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.

\* \* \* \* \*

**SECTION 5:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-209, Vesting, subsections 3, to read as follows:

\* \* \* \* \*

3. Notwithstanding any other provision of this section 74-209, retirement benefits of Members with at least ten (10) years of Credited Service who terminate City employment on or after ~~the effective date of this ordinance~~ March 1, 2013 for any reason, voluntary or involuntary, prior to attaining eligibility for early or normal retirement, are not payable until the Member attains age fifty-five (55).

\* \* \* \* \*

**SECTION 6:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-210, Optional Forms of Benefits, subsections 1.D., 2., and 5., to read as follows:

\* \* \* \* \*

1. D. For any Member who does not participate in the DROP pursuant to Section 74-226, a lump sum payment payable to the Retiree equal to twenty percent (20%) of the actuarial equivalent present value of the Retiree's accrued benefit at the date of retirement with the remaining eighty percent (80%) payable to the Retiree in a form selected by the Retiree and provided for in A. or B. above or in the normal form (ten (10) year certain and life). A Retiree who is a participant in the Deferred Retirement Option Plan shall not be eligible to select this partial lump sum option.
2. The Member, upon electing any option of this Section, will designate the joint pensioner (subsection 1.B., above) or Beneficiary (or Beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one (1) or more primary Beneficiaries where applicable. A Member may change his Beneficiary at any time. If a Member has elected an option with a joint pensioner and the Member's retirement income benefits have commenced, the Member may thereafter change his designated Beneficiary at any time, but may only change his joint pensioner twice. Subject to the restriction in the previous sentence, a Member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

\* \* \* \* \*

5. Retirement income payments shall be made under the option elected in accordance with the provisions of this Section and shall be subject to the following limitations:
  - A. If a Member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under Section 7 74-207.
  - B. If the designated Beneficiary (or Beneficiaries) or joint pensioner dies before the Member's Retirement under the System, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his Retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this Section or a new Beneficiary is designated by the Member prior to his Retirement.

- C. If both the Retiree and the Beneficiary (or Beneficiaries) designated by Member or Retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection 1, the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with Section ~~44~~ 74-211.
- D. If a Member continues beyond his normal retirement date pursuant to the provisions of Section ~~6~~ 74-206, subsection 1, and dies prior to his actual Retirement and while an option made pursuant to the provisions of this Section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a Beneficiary (or Beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his death occurred.
- E. The Member's benefit under this Section must begin to be distributed to the Member no later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy and one-half (70½) or the calendar year in which the Member terminates employment with the City.

\* \* \* \* \*

**SECTION 7:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-215, Maximum Pension, subsections 8. and 12.B., and by adding subsection 13., to read as follows:

\* \* \* \* \*

8. *Ten Thousand Dollar (\$10,000.00) Limit; Less Than Ten Years of Service.* Notwithstanding anything in this Section 74-215, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limit set forth in this subsection 8. of Section 74-215 if the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000.00) for the applicable limitation year ~~and~~ or for any prior limitation year, and the City has not at any time maintained a qualified defined contribution plan in which the Member participated; provided, however, that if the Member has completed less than ten (10) years of Credited Service with the City, the limit under this subsection 8. of Section 74-215 shall be a reduced limit equal to ten thousand dollars (\$10,000.00) multiplied by a fraction, the numerator of which is the number of the Member's years of Credited Service and the denominator of which is ten (10).

- 12. B. No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~67~~1223, Title 10, U.S. Code.

\* \* \* \* \*

13. *Effect of Direct Rollover on 415(b) Limit.* If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

\* \* \* \* \*

**SECTION 8:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-216, Minimum Distribution of Benefits, subsection 2.B.(4), to read as follows:

\* \* \* \* \*

2. B. (4) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this subsection 2.B., other than subsection 2.B.(1), will apply as if the surviving spouse were the Member.

For purposes of this subsection 2.B. ~~and subsection 5.~~, distributions are considered to begin on the Member's required beginning date or, if subsection 2.B.(4) applies, the date of distributions are required to begin to the surviving spouse under subsection 2.B.(1). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection 2.B.(1)), the date distributions are considered to begin is the date distributions actually commence.

\* \* \* \* \*

**SECTION 9:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-226, Deferred Retirement Option Plan, to read as follows:

**Sec. 74-226. - Deferred retirement option plan.**

1. *Definitions.* As used in this Section ~~26~~ 74-226, the following definitions apply:"
  - A. "DROP"—The City of Winter Park Police Officers' Deferred Retirement Option Plan.
  - B. "DROP Account"—The account established for each DROP participant under subsection 3.
  - C. "Total Return of the Assets" -- For purposes of calculating earnings on a Member's DROP Account pursuant to subsection 3.B.(2)(b)., for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets.
2. *Participation.*
  - A. *Eligibility to Participate.* In lieu of terminating his employment as a Police Officer, any Member who is eligible for normal retirement under the System may elect to defer receipt of such service retirement pension and to participate in the DROP.
  - B. *Election to Participate.* A Member's election to participate in the DROP must be made in writing in a time and manner determined by the Board and shall be

effective on the first day of the first calendar month which is at least fifteen (15) business days after it is received by the Board.

C. *Period of Participation.* A Member who elects to participate in the DROP under subsection 2.B., shall participate in the DROP for a period not to exceed sixty (60) months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the City not later than the date provided for in the previous sentence. A Member may participate only once.

D. *Termination of Participation.*

(1) A Member's participation in the DROP shall cease at the earlier of:

(a) The end of his permissible period of participation in the DROP as determined under subsection 2.C.; or

(b) Termination of his employment as a Police Officer.

(2) Upon the Member's termination of participation in the DROP pursuant to subsection (1)(a) above, all amounts provided for in subsection 3.B., including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the System to his DROP Account. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of subsection 4. when he terminates his employment as a Police Officer.

(3) A Member who terminates his participation in the DROP under this subsection 2.D. shall not be permitted to again become a participant in the DROP.

E. *Effect of DROP Participation on the System.*

(1) A Member's Credited Service and his accrued benefit under the System shall be determined on the date his election to participate in the DROP first becomes effective. The Member shall not accrue any additional Credited Service or any additional benefits under the System (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost-of-living adjustment for Retirees in the System) while he is a participant in the DROP. After a Member commences participation, he shall not be permitted to again contribute to the System nor shall he be eligible for disability or pre-retirement death benefits, except as provided for in Section 74-229, Reemployment After Retirement.

(2) No amounts shall be paid to a Member from the System while the Member is a participant in the DROP. Unless otherwise specified in the System, if a Member's participation in the DROP is terminated other than by terminating his employment as a Police Officer, no amounts shall be paid to him from the System until he terminates his employment as a Police Officer. Unless otherwise specified in the System, amounts transferred from the System to the Member's DROP Account shall be paid directly to the Member only upon the termination of his employment as a Police Officer.

3. *Funding.*

A. *Establishment of DROP Account.* A DROP Account shall be established for each Member participating in the DROP. A Member's DROP Account shall consist of amounts transferred to the DROP under subsection 3.B., and earnings or interest on those amounts.

B. *Transfers from Retirement System.*

(1) As of the first day of each month of a Member's period of participation in the DROP, the monthly retirement benefit he would have received under the System had he terminated his employment as a Police Officer and elected to receive monthly benefit payments thereunder shall be transferred to his DROP Account, except as otherwise provided for in subsection 2.D.(2). A Member's period of participation in the DROP shall be determined in accordance with the provisions of subsections 2.C. and 2.D., but in no event shall it continue past the date he terminates his employment as a Police Officer.

(2) Except as otherwise provided in subsection 2.D.(2), a Member's DROP Account under this subsection 3.B. shall be debited or credited ~~after each fiscal year quarter~~ with either:

- (a) Interest at an effective rate of six and one-half percent (6½%) per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the Member's DROP Account as of such date (to be applicable to all current and future DROP participants); or
- (b) Earnings, to be credited or debited to the Member's DROP Account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a Member's DROP Account shall be credited or debited at a rate equal to the net investment return realized by the System for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the Member's DROP Account is invested by the Board net of brokerage commissions, management fees and transaction costs.

For purposes of calculating earnings on a Member's DROP Account pursuant to this subsection 3.B.(2)(b), brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the Board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total Plan assets.

Upon electing participation in the DROP, the Member shall elect to receive either interest or earnings on his account to be determined as provided above. The Member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter. This amendment to

subsection 3.B.(2) shall apply to both current and future DROP participants.

- (3) A Member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the Member is a participant in the DROP. A Member's final DROP account value for distribution to the Member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to distribution. If a Member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the Member's first month of employment following the last month of the permissible period of DROP participation, the Member's DROP Account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the Member is employed by the Police Department, and no cost-of-living adjustments shall be applied to the Member's credit during such period of continued employment. A Member employed by the Police Department after the permissible period of DROP participation will still not be eligible for pre-retirement death and disability benefits, and will accrue additional Credited Service or benefits only as provided for in Section 74-229.

4. *Distribution of Drop Accounts on Termination of Employment.*

- A. *Eligibility for Benefits.* A Member shall receive the balance in his DROP Account in accordance with the provisions of this subsection 4. upon his termination of employment as a Police Officer. Except as provided in subsection 4.D., no amounts shall be paid to a Member from the DROP prior to his termination of employment as a Police Officer.
- B. *Form of Distribution.*
- (1) Distribution of the Member's DROP Account shall be made in a cash lump sum, subject to the direct rollover provisions set forth in subsection 4.F. Elections under this paragraph shall be in writing and shall be made in such time or manner as the Board shall determine.
- (2) Notwithstanding the preceding, if a Member dies before his benefits are paid, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select. If no Beneficiary designation is made, the DROP Account shall be distributed to the Member's estate.
- C. *Date of Payment of Distribution.* Except as otherwise provided in this subsection 4., distribution of a Member's DROP Account shall be made as soon as administratively practicable following the Member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless

the Member completes a written request for distribution and a written election, on forms designated by the Board, to either receive a cash lump sum or a rollover of the lump sum amount.

- D. *Proof of Death and Right of Beneficiary or Other Person.* The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Member's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.
- E. *Distribution Limitation.* Notwithstanding any other provision of this subsection 4., all distributions from the DROP shall conform to the "Minimum Distribution Of Benefits" provisions as provided for herein.
- F. *Direct Rollover of Certain Distributions.* Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the System in Section 74-224.

5. *Administration of DROP.*

- A. *Board Administers the DROP.* The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the Board. The Members of the Board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one (1) or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A trustee shall not vote on any question relating exclusively to himself.
- B. *Individual Accounts, Records and Reports.* The Board shall maintain records showing the operation and condition of the DROP, including records showing the individual balances in each Member's DROP Account, and the Board shall keep in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare and distribute to Members participating in the DROP and other individuals or file with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.
- C. *Establishment of Rules.* Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law.

D. *Limitation of Liability.*

- (1) The trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (2) Neither the Board nor any trustee of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

E. *Expenses.* To compensate the System for the expenses of administering and operating the DROP, each Member's DROP Account shall be charged an annual administrative fee which shall be reviewed and subject to increase or decrease annually. The initial expense charge of three-quarters of one percent (0.75%) of the account balance, shall be deducted from the Member's DROP Account after each fiscal year quarter at the rate of 0.1875% of the account's average daily balance during that quarter.

6. *General Provisions.*

A. *The DROP is not a separate retirement plan.* Instead, it is a program under which a Member who is eligible for normal retirement under the System may elect to accrue future retirement benefits in the manner provided in this section 74-226 for the remainder of his employment, rather than in the normal manner provided under the plan. Under termination of employment, a Member is entitled to a lump sum distribution of his or her DROP Account balance or may elect a rollover. The DROP Account distribution is in addition to the Member's monthly benefit.

B. *Notional account.* The DROP Account established for such a Member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the System. There is no change in the System's assets, and there is no distribution available to the Member until the Member's termination from the DROP. The Member has no control over the investment of the DROP Account.

C. *No employer discretion.* The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

D. *IRC limit.* The DROP Account distribution, along with other benefits payable from the System, is subject to limitation under Internal Revenue Code Section 415(b).

A E. *Amendment of DROP.* The DROP may be amended by an ordinance of the City at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any Member.

- ~~B~~ F. *Facility of Payment.* If a Member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the Board shall direct that any benefit due him shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.
- ~~C~~ G. *Information.* Each Member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the Board the information that it shall require to establish his rights and benefits under the DROP.
- ~~D~~ H. *Prevention of Escheat.* If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three (3) months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his Beneficiary later notifies the Board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.
- ~~E~~ I. *Written Elections, Notification.*
- (1) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time and manner for making notifications, elections or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
  - (2) Each Member or Retiree who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Member or Retiree notifies the Board of his address.
- ~~F~~ J. *Benefits Not Guaranteed.* All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.
- ~~G~~ K. *Construction.*

- (1) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (2) The titles and headings of the subsections in this Section 74-226 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

**H L.** *Forfeiture of Retirement Benefits.* Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

**I M.** *Effect of DROP Participation on Employment.* Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

**SECTION 10:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by amending Section 74-228, Prior Police Service, subsection 5., to read as follows:

\* \* \* \* \*

5. In no event, however, may Credited Service be purchased pursuant to this Section for prior service with any other municipal, county or state law enforcement department, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in Section 74-215, subsection ~~44.B~~ **12.B**.

\* \* \* \* \*

**SECTION 11:** That Chapter 74, Personnel, Article V, Retirement and Pension Plans, Division 4, Police Officers, of the Code of Ordinances of the City of Winter Park, is hereby amended by adding Section 74-230, Supplemental Benefit Component for Special Benefits; Chapter 185 Share Accounts, to read as follows:

**Sec. 74-230. Supplemental benefit component for special benefits; chapter 185 share accounts.**

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by Chapter 185 premium tax monies for each Plan Year which are allocated to this supplemental component as provided for in Section 185.35. Amounts allocated to this supplemental component ("Share Plan") shall be further allocated to the members as follows:

1. *Individual Member Share Accounts.* The Board shall create individual Member share accounts and maintain appropriate books and records showing the respective interest of each Member hereunder. Each Member shall have a Member share account for his share of the Chapter 185 tax revenues described above, forfeitures and income and expense adjustments relating thereto. The Board shall maintain a separate membership share account for each Member, however, the maintenance of separate accounts is for accounting purposes only and a segregation of the assets of the trust fund to each account shall not be required or permitted.

2. Share Account Funding.

- A. Individual Member share accounts shall be established as of September 30, 2015 for all Members who were actively employed as of October 1, 2014. Individual Member share accounts shall be credited with an allocation as provided for in the following subsection 3. of any premium tax monies which have been allocated to the Share Plan for that Plan Year, beginning with the Plan Year ending September 30, 2019.
- B. In addition, any forfeitures as provided in subsection 4, shall be allocated to the individual Member share accounts in accordance with the formula set forth in subsection 4.

3. Allocation of Monies to Share Accounts.

A. Allocation of Chapter 185 Contributions.

- (1) Effective as of September 30, 2019, the amount of any premium tax monies allocated to the Share Plan shall be allocated to individual Member share accounts as provided for in this subsection. Members retiring (or entering DROP) on or after October 1, 2018 and prior to September 30, 2019 shall receive an allocation. In addition, all premium tax monies allocated to the share plan in any subsequent Plan Year shall also be allocated as provided for in this subsection. Available premium tax monies shall be allocated to individual Member share accounts at the end of each plan year on September 30 (a "valuation date").
- (2) On each valuation date, each current actively employed Member of the plan not participating in the DROP, each DROP participant and each Retiree who retires or DROP participant who has terminated DROP participation in the Plan Year ending on the valuation date (including each disability Retiree), or Beneficiary of a deceased Member (not including terminated vested persons) who is otherwise eligible for an allocation as of the valuation date shall receive a share allocation as follows:
- (3) The total funds subject to allocation on each valuation date shall be allocated to each share account of those eligible for an allocation in an amount equal to a fraction of the total amount, the numerator of which shall be the individual's total years and fractional parts of years of Credited Service as of the valuation date, and the denominator of which shall be the sum of the total years and fractional parts of years of Credited Service as of the valuation date of all individuals to whom allocations are being made. Beneficiaries shall receive an allocation based on the years of Credited Service of the deceased Member.
- (4) Re-employed Retirees shall be deemed new employees and shall receive an allocation based solely on the Credited Service in the reemployment period.

- B. Allocation of Investment Gains and Losses. On each valuation date, each individual share account shall be adjusted to reflect the net earnings or losses resulting from investments during the year. The net earnings or losses allocated to the individual member share accounts shall be the same percentage which is earned or lost by the total plan investments, including realized and unrealized gains or losses, net of brokerage commissions, transaction costs and management fees.

Net earnings or losses are determined as of the last business day of the fiscal year, which is the valuation date, and are debited or credited as of such date.

For purposes of calculating net earnings or losses on a Member's share account pursuant to this subsection, brokerage commissions, transaction costs, and management fees for the immediately preceding fiscal year shall be determined for each year by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these annual contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

C. *Allocation of Costs, Fees and Expenses.* On each valuation date, each individual share account shall be adjusted to allocate its pro rata share of the costs, fees and expenses of administration of the share plan. These fees shall be allocated to each individual Member share account on a proportionate basis taking the costs, fees and expenses of administration of the Share Plan as a whole multiplied by a fraction, the numerator of which is the total assets in each individual Member share account (after adding the annual investment gain or loss) and the denominator of which is the total assets of the fund as a whole as of the same date.

D. *No Right to Allocation.* The fact of allocation or credit of an allocation to a Member's share account by the Board shall not vest in any Member, any right, title, or interest in the assets of the trust or in the Chapter 185 tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this Section.

E. *Members shall be provided annual statements setting forth their share account balance as of the end of the Plan Year.*

4. *Forfeitures.* Any Member who has less than ten (10) years of service credit and who is not otherwise eligible for payment of benefits after termination of employment with the City as provided for in subsection 5. shall forfeit his individual Member share account or the non-vested portion thereof. Forfeited amounts shall be redistributed to the other individual Member accounts on each valuation date in an amount determined in accordance with subsection 3.A..

5. *Eligibility For Benefits.* Any Member (or his beneficiary) who terminates employment as a Police Officer with the City or who dies, upon application filed with the Board, shall be entitled to be paid the value of his individual Member share account, subject to the following criteria:

A. *Retirement Benefit.*

(1) A Member shall be entitled to one hundred percent (100%) of the value of his share account upon normal or early retirement pursuant to Section 74-206, or if the member enters the DROP, upon termination of employment.

(2) Such payment shall be made as provided in subsection 6.

B. *Termination Benefit.*

(1) In the event that a member's employment as a Police Officer is terminated by reason other than retirement, death or disability, he shall be entitled to receive the value of his share account only if he is vested in accordance with Section 74-209.

(2) Such payment shall be made as provided in subsection 6.

C. Disability Benefit.

(1) In the event that a Member is determined to be eligible for either an in-line of duty disability benefit pursuant to Section 74-208, subsection (a) or a not-in-line of duty disability benefit pursuant to Section 74-208, subsection (c), he shall be entitled to one hundred percent (100%) of the value of his share account.

(2) Such payment shall be made as provided in subsection 6.

D. Death Benefit.

(1) In the event that a Member dies while actively employed as a Police Officer, one hundred percent (100%) of the value of his share account shall be paid to his designated Beneficiary as provided in Section 74-207.

(2) Such payment shall be made as provided in subsection 6.

6. Payment of Benefits. If a Member terminates employment for any reason or dies and he or his Beneficiary is otherwise entitled to receive the balance in the Member's share account, the Member's share account shall be valued by the plan's actuary on the next valuation date as provided for in subsection 3. above, following termination of employment. Payment of the calculated share account balance shall be payable as soon as administratively practicable following the valuation date, but not later than one hundred fifty (150) days following the valuation date and shall be paid in one lump sum payment. No optional forms of payments shall be permitted.

7. Benefits Not Guaranteed. All benefits payable under this Section 74-230 shall be paid only from the assets accounted for in individual Member share accounts. Neither the City nor the Board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share account benefits. Neither the Board nor any trustee shall be liable for the making, retention, or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the share account balances, except due to his or its own negligence, willful misconduct or lack of good faith. All investments shall be made by the Board subject to the restrictions otherwise applicable to fund investments.

8. Notional account. The share account established for such a Member is a notional account, used only for the purpose of calculation of the share distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the Member until the Member's termination from employment. The Member has no control over the investment of the share account.

9. No employer discretion. The share account benefit is determined pursuant to a specific formula which does not involve employer discretion.

10. Maximum Additions. Notwithstanding any other provision of this Section, annual additions under this Section shall not exceed the limitations of Section 415(c) of the code pursuant to the provisions of Section 74-215, subsection (k).

11. IRC limit. The share account distribution, along with other benefits payable from the System, is subject to limitation under Internal Revenue Code Section 415(b).

**SECTION 12:** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Winter Park.

**SECTION 13:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 14:** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

**SECTION 15:** That this Ordinance shall become effective upon its adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the \_\_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_  
Mayor Steve Leary

Attest: \_\_\_\_\_  
Cynthia S. Bonham, City Clerk



# city commission public hearing

Item type	Public Hearing	meeting date	May 23, 2016
prepared by	George Wiggins	approved by	<input type="checkbox"/> City Manager
department	Building & Permitting Services		<input type="checkbox"/> City Attorney
division			<input type="checkbox"/> N/A
board approval	Construction Board of Adjmts & Appeals	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
			<input type="checkbox"/> N/A
			final vote 6-0
strategic objective	<input type="checkbox"/> Exceptional Quality of Life	<input type="checkbox"/> Fiscal Stewardship	
	<input checked="" type="checkbox"/> Intelligent Growth & Development	<input checked="" type="checkbox"/> Public Health & Safety	
	<input type="checkbox"/> Investment in Public Assets & Infrastructure		

## subject

Ordinance Updating of Flood Regulations

## motion | recommendation

Approve

## background

The Florida Building Code has incorporated flood regulation provisions which require local communities to update our flood provisions to properly integrate with the Building Code and to reflect boilerplate language given to us by the Florida Department of Emergency Management.

The ordinance incorporates the following provisions:

- 1) Maintains the City's participation in the National Flood Insurance Program
- 2) Establishes a minimum base flood elevation for new construction in a flood hazard area which is one foot above the base flood elevation standard
- 3) Retains special provisions in current ordinance requiring a conditional use for any home proposed to be built in the city's flood plain areas adjacent two streams: from Lake Sue to Lake Virginia and the Howell Branch Creek north of Lake Maitland. [Only one request has been made to locate in this area. After granting the request with stringent no fill provisions, the owners decided to move the planned further home upland out of the flood hazard area.]
- 4) Repeals the current Ordinance and adopts similar but updated regulations required to be in force by the State of Florida Division of Emergency Management for participation in the National Flood Insurance Program and for integration with provisions in the Florida Building Code.

- 5) Carries forward the mechanism to process any variances and appeals which are to be heard by the Board of Adjustments, with the stipulation of limitations and restrictions related to variances.
- 6) Includes updated and expanded definitions as determined appropriate by the Federal Emergency Management Agency (FEMA).

#### **alternatives | other considerations**

Make minor changes to proposed ordinance which are also acceptable by the Florida Department of Emergency Management

#### **fiscal impact**

None

## ORDINANCE NO. XX-XX

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, REPEALING AND REPLACING CHAPTER 58, ARTICLE V, DIVISION 3 FLOODPLAIN REGULATIONS; ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPTING LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE BY AMENDING CHAPTER 22, ARTICLE II, SECTION 22-28; PROVIDING FOR APPLICABILITY; PROVIDING FOR CODIFICATION, FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Legislature of the State of Florida has, in [Chapter 166 – Municipalities](#), Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of **Winter Park** and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

**WHEREAS**, the **City of Winter Park** was accepted for participation in the National Flood Insurance Program on [November 15, 1979](#) and the Winter Park City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

**WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

**WHEREAS**, section 553.73(5), Florida Statutes, allows adoption of local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program; and

**WHEREAS**, the Winter Park Construction Board of Adjustments and Appeals recommends adoption of proposed floodplain management regulations;

**WHEREAS**, the Winter Park City Commission is adopting a requirement to increase the minimum elevation requirement for buildings and structures in flood hazard areas in accordance with the most current flood protection methods recommended by the Florida Division of Emergency Management and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the Florida Building Code;

**WHEREAS**, the Winter Park City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*.

**NOW, THEREFORE, BE IT ENACTED** by the City Commission of Winter Park that the following floodplain management regulations, and the following local technical amendment to the *Florida Building Code*, are hereby adopted as set forth herein.

## SECTION 1. RECITALS.

The foregoing whereas clauses are true and correct and made a part hereof as findings of the City Commission.

**SECTION 2. AMENDMENT.** Chapter 58, Article V, Division 3 Floodplain Regulations of the City of Winter Park Code of Ordinances is hereby repealed and replaced in its entirety to read as follows:

### SECTION 58-211 GENERAL

**(a) Title.** These regulations shall be known as the *Floodplain Management Ordinance* of Winter Park hereinafter referred to as “this ordinance.”

**(b) Scope.** The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; installation of swimming pools; accessory buildings and any other development regulated in flood hazard areas.

**(c) Intent.** The purposes of this ordinance and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**(d) Coordination with the *Florida Building Code*.** This ordinance is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

**(e) Warning.** The degree of flood protection required by this ordinance and the *Florida Building*

*Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

**(f) Disclaimer of Liability.** This ordinance shall not create liability on the part of the **Winter Park City Commission** or by any officer or employee of the city thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **SECTION 58-212 APPLICABILITY**

**(a) General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**(b) Areas to which this ordinance applies.** This ordinance shall apply to all flood hazard areas within **Winter Park**, as established in Section 102.3 of this ordinance.

**(c) Basis for establishing flood hazard areas.** The Flood Insurance Study for **Orange County, Florida and Incorporated Areas, dated September 25, 2009 [Revised to reflect LOMR Effective: March 7, 2014]** and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Building and Permitting Services Department.

**(d) Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 105 of this ordinance the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the *Florida Building Code*.
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**(e) Other laws.** The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

**(f) Abrogation and greater restrictions.** This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, storm water management regulations, or the *Florida Building Code*. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall

govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

**(g) Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

## **SECTION 58-213 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**(a) Designation.** The Director of Building and Permitting Services is the designated Floodplain Administrator and may delegate this responsibility to another qualified individual.

**(b) General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this ordinance without the granting of a variance pursuant to Section 107 of this ordinance.

**(c) Applications and permits.** The Floodplain Administrator, in coordination with other city departments, shall:

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this ordinance;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this ordinance is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) Coordinate with and provide comments to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this ordinance.

**(d) Substantial improvement and substantial damage determinations.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work

on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this ordinance is required.

**(e) Modifications of the strict application of the requirements of the *Florida Building Code*.**

The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 107 of this ordinance.

**(f) Notices and orders.** The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

**(g) Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 106 of this ordinance for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**(h) Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establish procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.4 of this ordinance;
- (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
- (4) Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* to determine that such certifications and documentations are complete; and

- (5) Notify the Federal Emergency Management Agency when the corporate boundaries of **Winter Park** are modified.

**(i) Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at [the Building and Permitting Services Department](#).

## **SECTION 58-214 PERMITS**

**(a) Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.

**(b) Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**(1) Buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this ordinance:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden

hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

**(c) Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Section 105 of this ordinance.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the Floodplain Administrator.

**(d) Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**(e) Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**(f) Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or any other ordinance, regulation or requirement of this community.

**(g) Other permits required.** Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The **St Johns River** Water Management District; section 373.036, F.S.

- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (5) Federal permits and approvals.

**(h) Conditional use permits in designated areas of the city.**

Conditional use permits are required for development in special flood hazard areas located adjacent to regulatory floodways ("floodway fringe") on the portion of Howell Branch Creek between Lake Sue and Lake Virginia, and the portion of Howell Branch Creek north of Lake Maitland. In those special flood hazard areas:

- (1) The addition of soil or fill materials shall not be permitted below the base flood elevation.
- (2) Requests for conditional use permits shall include, at a minimum, analyses of the effect of proposed development on flood storage capacity, assessment of environmental impacts on wetlands areas from the construction process, and environmentally sensitive areas impacted.
- (3) Structures shall be permitted only as a conditional use in accordance with the approval process outlined in Section 58-90, land development code.

Conditional use permits for development in the special flood hazard areas identified above shall be granted only upon approval by the city commission at two public hearings. The criteria utilized to evaluate requests for conditional use permits shall include, but not be limited to, evaluation of the documentation submitted with requests, including the precedence for similar construction in these areas and conformance to the comprehensive plan.

**SECTION 58-215 SITE PLANS AND CONSTRUCTION DOCUMENTS**

**(a) Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2(2) or (3) of this ordinance.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(1) of this ordinance.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material;

compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

- (7) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

**(b) Information in flood hazard areas without base flood elevations (approximate Zone A).**

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- (2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- (3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
  - (a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - (b) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- (4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**(c) Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of this ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that

demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 105.4 of this ordinance.

**(d) Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## **SECTION 58-216 INSPECTIONS**

**(a) General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.

**(1) Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**(2) Buildings, structures and facilities exempt from the *Florida Building Code*.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**a. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 105.2(3)(b) of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**b. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 106.1.2.1 of this ordinance.

**(3) Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

## **SECTION 58-217 VARIANCES AND APPEALS**

**(a) General.** The Board of Adjustments shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the Board of Adjustments shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*.

**(b) Appeals.** The Board of Adjustments shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision of the Board of Adjustments may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**(c) Limitations on authority to grant variances.** The Board of Adjustments shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 107.6 of this ordinance, the conditions of issuance set forth in Section 107.7 of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Adjustments has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

**(1) Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 105.3 of this ordinance.

**(d) Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

**(e) Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, provided the variance meets the requirements of Section 107.3.1, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**(f) Considerations for issuance of variances.** In reviewing requests for variances, the Board of Adjustments shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**(g) Conditions for issuance of variances.** Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;
- (2) Determination by the Board of Adjustments that:
  - (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

## **SECTION 58-218 VIOLATIONS**

**(a) Violations.** Any development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

**(b) Authority.** For development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

**(c) Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to being given notice to appear before the Code Enforcement Board in order to impose fines or orders as determined by the Board in addition to other penalties as prescribed by law.

## **SECTION 58-219 GENERAL**

**(a) Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

**(b) Terms defined in the *Florida Building Code*.** Where terms are not defined in this ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

**(c) Terms not defined.** Where terms are not defined in this ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

## **SECTION 58-220 DEFINITIONS**

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

**ASCE 24.** A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

**Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

**Building Official. The Director of Building and Permitting Services or designee.**

**Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Design flood elevation.** The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in Florida Building Code, Building, Section 1612.2.]

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

**Encroachment.** The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before **November 15, 1979** [Also defined in Florida Building Code, Building, Section 1612.2.]

**Existing manufactured home.** A manufactured home for which the construction of facilities for servicing the lot on which the manufactured home is affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before **November 15, 1979**.

**Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

- (1) The overflow of inland waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

**Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager)

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

**Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

**Floodway encroachment analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**Florida Building Code.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard

area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

**Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

**Lowest floor.** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

**Manufactured home.** A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value.** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value

may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**New construction.** For the purposes of administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “start of construction” commenced on or after **November 15, 1979** and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after **November 15, 1979**.

**Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

**Recreational vehicle.** A vehicle which is: [see in section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

**Start of construction.** The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure. [See *Instructions and Notes*]

**Variance.** A grant of relief from the requirements of this ordinance, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this ordinance or the *Florida Building Code*.

**Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

## **FLOOD RESISTANT DEVELOPMENT (SECTIONS 221-227)**

### **SECTION 58-221 BUILDINGS AND STRUCTURES**

**(a) Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to Section 104.2.1 of this ordinance, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 307 of this division.

### **SECTION 58-222 SUBDIVISIONS**

**(a) Minimum requirements.** Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**(b) Subdivision plats.** Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 105.2(1) of this ordinance; and

- (3) Compliance with the site improvement and utilities requirements of Section 303 of this ordinance.

## **SECTION 58-223 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS**

**(a) Minimum requirements.** All proposed new development shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**(b) Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**(c) Water supply facilities.** All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**(d) Limitations on sites in regulatory floodways.** No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 105.3(1) of this ordinance demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**(e) Limitations on placement of fill.** Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

## **SECTION 58-224 MANUFACTURED HOMES**

**(a) General.** Where permitted, all manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance.

**(b) Foundations.** All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this ordinance.

**(c) Anchoring.** All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties

to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

**(d) Elevation.** Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 304.4.1 or 304.4.2 of this ordinance, as applicable.

**(1) General elevation requirement.** Unless subject to the requirements of Section 304.4.2 of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A).

**(2) Elevation requirement for certain existing manufactured homes.** Manufactured homes that are not subject to Section 304.4.1 of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- (1) Bottom of the frame of the manufactured home is at or above the elevation required in the *Florida Building Code, Residential* Section R322.2 (Zone A); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 48 inches in height above grade.

**(e) Enclosures.** Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas.

**(f) Utility equipment.** Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code, Residential* Section R322.

## **SECTION 58-225 RECREATIONAL VEHICLES AND PARK TRAILERS**

**(a) Temporary placement.** Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**(b) Permanent placement.** Recreational vehicles ~~and park trailers~~ that do not meet the limitations in Section 305.1 of this ordinance for temporary placement shall meet the requirements of Section 304 of this ordinance for manufactured homes.

## **SECTION 58-226 TANKS**

**(a) Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**(b) Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 306.3 of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

**(c) Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be attached to and elevated above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

**(d) Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

## **SECTION 58-227 OTHER DEVELOPMENT**

**(a) General requirements for other development.** All development, including man-made changes to improved or unimproved real estate for which specific provisions are not included specified in this ordinance or the *Florida Building Code*, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 303.4 of this ordinance if located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (4) Be constructed of flood damage-resistant materials; and
- (5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**(b) Fences in regulated floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 303.4 of this ordinance.

**(c) Retaining walls, sidewalks and driveways in regulated floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 303.4 of this ordinance.

**(d) Roads and watercourse crossings in regulated floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 303.4 of this ordinance. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 105.3(3) of this ordinance.

**SECTION 3. AMENDMENT.** Chapter 22, Article II, Section 22-28 of the City of Winter Park Code of Ordinances - Amendments to the Florida Building Code, is hereby amended by the following technical amendments to the *Florida Building Code, Residential* to read as follows (underlined language are additions; ~~stricken through~~ language are deletions; provisions not included are not being amended):

**R322.2.1 Elevation requirements.**

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.
2. Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or to the design flood elevation, whichever is higher.
3. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus 1 foot, or at least 3 feet ~~2 feet (610 mm)~~ if a depth number is not specified.
4. Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.

**Exception:** Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.

**SECTION 4. FISCAL IMPACT STATEMENT.**

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

**SECTION 5. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Winter Park. This Ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

**SECTION 6. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the City Commission that the provisions of Sections 2 and 3 of this Ordinance shall become and be made a part of the City of Winter Park's Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions. The City Clerk is given liberal authority to correct scriveners' errors, such as incorrect code cross references, grammatical, typographical and similar or like errors when codifying this Ordinance.

**SECTION 7 - CONFLICTS.** In the event of any conflicts between this Ordinance and other ordinances, this Ordinance shall control over all other ordinances to the extent of the conflict.

**SECTION 8. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 9. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption.

**ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the \_\_\_\_ day of \_\_, 2016.**

\_\_\_\_\_  
Mayor Steve Leary

Attest \_\_\_\_\_  
City Clerk Cynthia S. Bonham

**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS  
CITY OF WINTER PARK  
MINUTES**

**Called Meeting  
City Hall, Commission Chamber**

**January 7, 2016  
8:30AM**

**Present: Rodney, Kincaid, (Chairman), Eddie Cox, Joe Fisher, Robert Harris, Mark Sylvain, Bill Maroon (Alternate Member), Ashley Ong, Code Analyst. Kris Stenger, Assistant Director, George Wiggins, Building Director and Carla Bahlmann, Recording Secretary. Mark Kirby and Ray Holloway were absent. Mr. Holloway has moved out of State.**

**Minutes: The August 5, 2015 minutes were approved by unanimous vote.**

Mr. Kincaid opened the meeting and welcomed Board members.

**New Business**

Ordinance updating Flood Plain regulations for new construction in flood hazard areas and local flood technical amendments to the Florida Building Code.

Mr. Kincaid asked George Wiggins, Director of Building, to explain this agenda item.

Mr. Wiggins explained the need for adopting updated City Flood Plain regulations as follows:

The Florida Building Code has incorporated flood regulation provisions which require local communities to update our flood provisions to properly integrate with the Building Code and to reflect boilerplate language given to us by the Florida Department of Emergency Management. The most recent version of the Florida Building Code(5<sup>th</sup> Edition) now contains flood plain regulations that must be incorporated into local administrative and technical amendments in jurisdictions to be fully implemented and effective.

The ordinance incorporates the following provisions:

- >Maintains the City's participation in the National Flood Insurance Program. The City has been participating since November 15, 1979.
- >Establishes a minimum base flood elevation for new construction in a flood hazard area which is one foot above the base flood elevation standard.
- >Retains special provisions in current ordinance requiring a conditional use for any home proposed to be built in the city's flood plain areas adjacent two streams: from Lake Sue to Lake Virginia and the Howell Branch Creek north of Lake Maitland. Only one request has been made to locate in this area.
- >Repeals the current Ordinance and adopts similar but updated regulations required to be in force by the State of Florida Division of Emergency Management for participation in the National Flood Insurance Program and for integration with provisions in the Florida Building Code.

## **Construction Board of Adjustments & Appeals Minutes**

**January 7, 2016**

**Page 2**

>Carries forward the mechanism to process any variances and appeals which are to be heard by the Board of Adjustments, with the stipulation of limitations and restrictions related to variances.

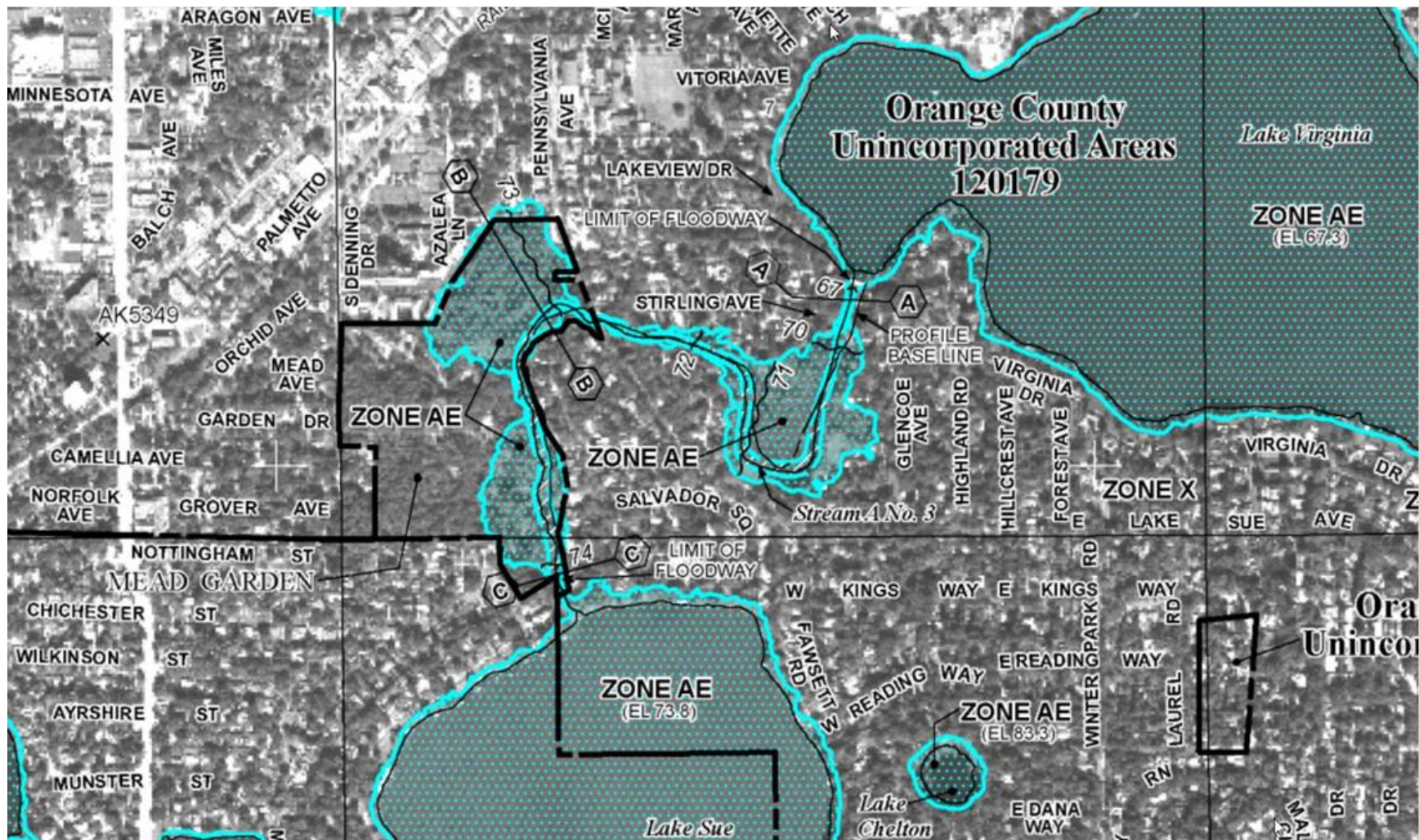
>Includes updated and expanded definitions as determined appropriate by the Federal Emergency Management Agency(FEMA).

The Board asked questions concerning the approval process, which includes forwarding this Ordinance to the City Commission for adoptions by two readings of the Ordinance. In response to a question about frequency of any building taking place in flood hazard areas, Mr. Wiggins responded that we very seldom see any new homes actually developed in flood areas. The flood hazard areas are located along the shoreline of the City's lakes and in floodways between Lake Sue & Lake Virginia, and along Howell Branch Creek north of Lake Maitland.

### **ACTION**

After further discussion by the Board, a motion to recommend approving this updated Flood Plain Regulation Ordinance with administrative and technical amendments to the City Commission, was made by Joe Fisher, and seconded by Bill Maroon. The motion passed by a unanimous vote, 6-0.

With no other items coming before the Board the meeting was adjourned at 9:00AM



Floodway Map from Lake Sue to Lake Virginia

