

mayor & commissioners				
seat 1	seat 2	Mayor	seat 3	seat 4
Gregory Seidel	Sarah Sprinkel	Steve Leary	Carolyn Cooper	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.

### meeting procedures

Persons desiring to address the Commission MUST fill out and provide the 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 commend 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. The 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.

\*times are projected and subject to change

### agenda

- 1. Meeting Called to Order
- 2. Invocation
  - a. Building Director George Wiggins

**Pledge of Allegiance** 

- 3. Approval of Agenda
- 4. Mayor's Report
- 5. City Manager's Report
  - a. City Manager's Report

- 6. City Attorney's Report
- 7. Non-Action Items
- 8. Citizen Comments | 5 p.m. or soon thereafter
- 9. Consent Agenda
  - Approve the September 15, 2017 and the a. September 25, 2017 minutes.

#### Purchases \$75,000+ b.

- 1. Purchase Order to South Seminole & North Orange County Wastewater for Operational Maintenance Interlocal Agreement Commission approve Purchase Order. Amount: \$1,017,000
- 2. Purchase Order to City of Altamonte Springs for Wholesale Sewer Treatment - Commission approve Purchase Order. Amount: \$235,000
- 3. Purchase Order to City of Orlando for Asbury Sewer - Commission Sanitary approve Purchase Order. Amount: \$575,000
- 4. Purchase Order to City of Orlando for Iron Bridge Sanitary Sewer - Commission approve Purchase Order. Amount: \$2,650,000
- 5. Purchase Order to Airgas, Inc. for Liquid Oxygen for the Water Treatment Facilities -Commission approve Purchase Order. Amount: \$160,000
- 6. Purchase Order to Odyssey Manufacturing Co. for Sodium Hypochlorite for the Water Treatment Facilities - Commission approve Purchase Order. Amount: \$144,000

#### C. Contracts

1. Contract Renewal for RFP-13-2012 - Insurance Agent/Broker of Record - Renew contract for an additional one year term. Commission approve contract renewal with Brown & Brown of Florida and authorize the Mayor to execute Contract. Amount: \$100,000.

### **10. Action Items Requiring Discussion**

#### Holiday Banner Pilot Program a.

Consideration to execute a sponsorship driven winter holiday banner pilot program

### 11. Public Hearings

5 minutes

10 minutes

5 min

а.	Resolution Correcting Scrivener's Error in Ordinance # 3086-17	5 minutes
	Resolution to correct scrivener's error in the millage ordinance regarding the rolled-back rate calculation.	
b.	W. Canton Avenue Easement Vacate Request to abandon an easement at 841 W. Canton Avenue, Winter Park, Florida.	
c.	Request for extension of Vehicle Sales Agreements at 1891, 2250, 2286, and 2324 West Fairbanks Avenue.	10 minutes
d.	Request for Conditional Use approval to construct a 29,801 square foot, two-story, memory care facility consistent with the submitted revised site plan at 1298 Howell Branch Road, zoned R-3. Request for approval of Mediated Settlement Agreement in Section 70.51, Florida Statutes Proceeding between Villa Tuscany Holdings, LLC and the City regarding the same property in conjunction with the Conditional Use approval.	40 minutes

### **12. City Commission Reports**

Appeals and Assistance

"If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105)

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



item type City Manager's Report

meeting date October 9, 2017

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	
Quiet zones	NO CHANGES. (FDOT update July 2017) - Agreements with FDOT have been executed for the SunRail Grade Crossing Quiet Zone and Safety and Security Enhancements Projects. The expected duration to complete construction for the two projects is approximately 2.5 years (expected completion December 2019). The current activities include completing design plans, procurement of materials supply and delivery and wiring of Central Florida Rail Corridor (CFRC) signal houses.	
Seminole Stormwater Study	The City of Winter Park has contracted services for dredging the drainage ditch behind the homes along the east side of Arbor Park Drive to be rescheduled.	
Electric undergrounding	Miles of Undergrounding performed Project E: 3.92 miles (Complete) Project F: 1.54 miles (90% Complete) Azalea Lane: 0.25 miles (Complete) 915 N Pennsylvania: 0.2 miles (Complete) 1666 Summer Way: 0.06 miles (Complete) 276 S. Orlando Ave "Glass Knife": 0.1 miles (Complete) McKean Cir phase1: .15 miles (90% Complete) half of the customers were on UG loop just before Irma TOTAL so far:6.05 miles 5.97 miles	
Fairbanks transmission	All information required by Duke has been provided for contractors to begin the Fairbanks conversion. Expected start date of 1/1/18.	
Orange Avenue corridor studyStakeholder meetings finished. Staff will present findings at Octobe 23rd Commission meeting.Denning DrivePhase 1 plans are complete. Phase 1 construction (from Orange A to Fairbanks Avenue) will begin mid-October and be complete befor 		

	dry season. Phase 3 (Webster to Solana) will follow directly behind phase 2 with entire project wrapped in early summer 2018.	
Scenic Boat Tour ADA ramp	Design plans, permitting through the City, and demolition are complete. Construction of the new concrete ramp will be complete began September 4, 2017, and will be complete in October 2017 to meet the City's obligation.	
Library Design	The design architect team is working on conceptual design and is expected to be available for internal review in October. The public unveiling that was scheduled for September 27, 5:30 pm at the Alfond Inn is being rescheduled. It is expected that the construction documents will be completed spring 2018.	

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.

### SPECIAL MEETING OF THE CITY COMMISSION September 15, 2017

The meeting of the Winter Park City Commission was called to order by Mayor Steve Leary, at 5:00 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The September 11 meeting was cancelled due to Hurricane Irma.

<u>Members present/absent</u>: Mayor Steve Leary Commissioner Pete Weldon Commissioner Greg Seidel Commissioner Sarah Sprinkel Commissioner Carolyn Cooper <u>Also Present</u>: City Manager Randy Knight City Clerk Cynthia Bonham City Attorney Dan Langley

City Manager Knight announced the cancellation of the library meeting on September 27 at the Alfond Inn because the design will not be ready for this meeting. This will be rescheduled.

City Manager Knight provided statistics regarding hurricane restoration, outages, crews from Georgia working to help restore power, estimate for restoring power, forestry report, flooding, debris pickup and garbage pickup.

### Mayor's Report

a. Library and Events Center Task Force

Mayor Leary addressed the information provided prior to the meeting to the Commissioners regarding this task force.

Motion made by Mayor Leary to create this task force with the following members being appointed: Tom McMacken, Leslie O'Shaughnessy, Sam Stark and a City liaison to be appointed by City Manager Knight; seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

### Citizen Comments – Items not on the agenda

No public comments were made.

### Millage and Budget Public Hearings

Mayor Leary read the following:

"The millage rate needed for Fiscal Year 2018 to generate the same property tax revenue for the City as in 2017, based on the Property Appraiser's certification, is 3.8787 mills.

The budget proposed by the staff with amendments generally agreed to by the City Commission requires a millage of 4.0923 mills which has been the rate levied by the city for the last nine years. The proposed millage of 4.0923 mills would represent an increase in property taxes, not counting new construction and the City's dedicated increment value payment to the Community Redevelopment Agency, of 5.51%. This increase in property taxes levied over the prior year is not due to any change in tax rate but is due to the increase in assessed values of properties.

In addition, a 0.1597 mill voted debt service is levied to cover the debt service of the General Obligation Bonds, Series 2011 approved by the citizens of Winter Park at the May 16, 2000 bond referendum. As well as a 0.3536 mill voted debt service levied to cover the debt service of the General Obligation Bonds, Series 2017 approved by the citizens of Winter Park at the March 15, 2016 bond referendum."

"This will be a simultaneous public hearing on two ordinances: An ordinance setting the millage for 2018 and an ordinance adopting the Fiscal 2018 budget".

Attorney Langley read both ordinances by title.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING A 4.0923 MILL AD VALOREM TAX LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE GENERAL OPERATING EXPENSES OF THE CITY, A 0.1597 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2011, AND A 0.3536 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2017 First Reading

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018 AND ACCOMPANYING FIVE YEAR CAPITAL IMPROVEMENT PLAN; APPROPRIATING FUNDS FOR THE GENERAL FUND, DESIGNATIONS TRUST FUND, STORMWATER UTILITY FUND, COMMUNITY REDEVELOPMENT FUND, FEDERAL FORFEITURE FUND, POLICE GRANT FUND, DEBT SERVICE FUND, WATER AND SEWER FUND, ELECTRIC UTILITY FUND, FLEET MAINTENANCE FUND, EQUIPMENT REPLACEMENT FUND, EMPLOYEE INSURANCE FUND, GENERAL INSURANCE FUND, CEMETERY TRUST FUND, GENERAL CAPITAL PROJECTS FUND AND STORMWATER CAPITAL PROJECTS FUND; PROVIDING FOR MODIFICATIONS; PROVIDING FOR AMENDMENTS TO SAID ANNUAL BUDGET TO CARRY FORWARD THE FUNDING OF PURCHASE ORDERS OUTSTANDING AND UNSPENT PROJECT BUDGETS AS OF SEPTEMBER 30, 2017; AND AUTHORIZING TRANSFER OF FUNDS HEREIN APPROPRIATED BETWEEN DEPARTMENTS SO LONG AS THE TOTAL FUND APPROPRIATIONS SHALL NOT BE INCREASED THEREBY First Reading

Jan Clanton, 1030 McKean Circle, spoke in support of the budget as a member of the Public Art Advisory Board and the proposed \$25,000 for the Arts and Culture subcommittee.

Kim Allen, 1800 W. Fawsett Road, spoke in support of the budget for stormwater (concerns with Fawsett Road flooding).

Mayor Leary asked if there are any questions or amendments to the proposed budget. Commissioner Weldon addressed his issues with the millage and wanting to reduce the property tax by \$500,000. He spoke about valuation increases by the Property Appraiser that will raise everyone's property tax regardless of what millage rate is agreed to this evening, increases in electric and water rates, and property damages from the hurricane whereby a percentage is mandated to pay on insurance. He stated that the City's financial position is strong and believed they could afford to lower the millage rate.

Motion made by Commissioner Weldon that we reduce the millage rate so as to reduce the property taxes to the general fund by \$1 million; seconded by Commissioner Sprinkel. Commissioner Sprinkel spoke in support of the decrease. Commissioner Seidel disagreed as he wanted more money to go toward undergrounding electric and to put street lighting back into the general fund. Commissioner Cooper spoke in opposition to reducing the millage rate because of the need to focus on our infrastructure. Mayor Leary addressed challenges with infrastructure that needs attention, traffic signalization issues, and other issues coming forward.

Nancy Shutts, 2010 Brandywine Drive, opposed a reduction in the millage rate.

Upon a roll call vote to lower the millage rate by \$1 million in the general fund, Mayor Leary and Commissioners Seidel and Cooper voted no. Commissioners Sprinkel and Weldon voted yes. The motion failed with a 3-2 vote.

Motion that we reduce the millage rate so as to recover \$500,000 for the benefit of the property owners in Winter Park in the general fund; seconded by Mayor Leary (3.9942 would be the rate).

Upon questioning by Commissioner Seidel as to how much taxes would be saved for the resident on a \$300,000 house, it was clarified to be about \$30 a year. Commissioner Seidel disagreed with lowering this because of the needs in the City.

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

Budget Manager Peter Moore addressed the current contingency balance with changes already approved and that dollar changes have already been made in the budget: eliminated funds for body cameras, reduced equipment replacement funding by \$100,000; funded the \$150,000 for the Aloma Avenue signalization improvements; and reduced the maximum merit pay from 3.5% to 3.0%. He stated after these changes, the contingency balance is \$513,000-\$514,000 so if it is reduced by \$.5 million they pretty much break even.

City Manager Knight explained that if the Commission decides to spend funds on items they can take it out of other sources (you have to take it from somewhere else to spend it somewhere else – you can't go back and change the millage rate to pay for something they want to do). Commissioner Weldon stated he is happy to proceed on that basis.

Commissioner Weldon spoke about his budget items that he wanted to see since he missed the last budget discussion. He addressed the approval of the Commission for \$150,000 for the three lights signalization on Aloma. Funding for fiber was discussed (\$600,000 budgeted and to determine whether or not a private partner can be part of that network). Commissioner Weldon asked to increase the police budget by \$500,000 which is a reduction of about \$380,000 from the budget.

**Motion made by Commissioner Weldon to limit the increase in the Police budget to \$500,000 which is 3.6%.** Mayor Leary stated he could support \$200,000 less but cannot support this if it comes out of raises because of the need to recruit good people. After discussion, a consensus was reached to support \$200,000 less. City Manager Knight stated he will discuss with the Police Chief as to the best way to reduce their budget by \$200,000. It was clarified that this is not a decrease in their current budget but increasing it.

Discussed was the Mead Garden capital request that Commissioner Weldon supported if they provide a report as to what has been done with the first \$100,000 and what they intend to do with the next \$100,000. He stated he would be happy to go back during the year and reallocate \$100,000 out of reserves for this if and when they provide a level of accountability. He recommended removing the \$100,000 for the Mead Gardens capital from the budget but that they are encouraged to bring back the actual results of their current year capital projects and the specific projections for the additional request that they request at a later date.

Commissioner Cooper commented about wanting to determine how much of the dollars provided over the years were used as planned and how much was fundraising, etc. She was supportive of Mead Gardens but wanted to see a willingness to discuss with them and have more openness and accountability. Mayor Leary asked Assistant City Manager Neuner (Acting Parks Director) to have representatives of Mead Garden bring forth this information to them.

Commissioner Weldon then addressed the parks master plan. It was clarified that an administrative update was provided. He summarized what has already been improved in our parks. Connectivity of our parks and greenspaces was discussed as well as providing a staff led survey to understand what the needs are. Commissioner Weldon suggested to ask staff to plan for a citizen survey within the existing proposed parks and recreation budget that will update the park and open space preferences of the community with our agreement that staff is to present a detailed set of objectives for such a survey for Commission approval along with cost prior to the survey being carried out.

Mayor Leary stated he would support \$60,000 to come out of the existing parks budget for a staff led initiative to present more of a master plan which includes connectivity and includes a survey to obtain feedback from the community. Commissioner Cooper agreed with having a statistically valid survey done professionally and that it be incorporated into the Parks master plan and to administratively update the plan. Upon comments, there was a consensus to take \$60,000 out of the parks budget for this.

Commissioner Weldon then spoke about updating the Florida state master file of historic properties. He stated he did not believe the Florida master file serves a constructive purpose for Winter Park and wanted to change that to remove the specific plan to update the master file to arrive at a master file dedicated to Winter Park. City Manager Knight stated they can come back with proposed criteria and what it would cost.

Commissioner Weldon then addressed either taking \$2 million out of the water and sewer fund and put \$1 million into the electric fund and \$1 million into the general fund or to forego the rate increase in the water and sewer fund in the next year because of the current surplus in the water and sewer fund. Commissioner Seidel suggested that the Utilities Advisory Board review this.

After a suggestion by Mayor Leary, there was a consensus to put money aside for the electric utility to address issues uncovered recently and set aside \$1 million in the budget that can come from all sources whether it is the general fund or franchise fees being paid into the general fund from the electric utility. This would mean a 28% increase in the undergrounding budget or if it can be pulled from the water utility and to leave that up to staff to determine. After comments, a consensus was reached. Mayor Leary asked that staff meet with the UAB to discuss the points made this evening regarding the rate increase and the reserve and to get a report back.

Attorney Langley stated based on the budget discussion if there is no desire to deviate from the millage previously discussed, that he wanted to confirm numbers with Mr. Moore and re-read the ordinance title for the millage with the adjusted millage rate. Mayor Leary reminded the Commission that they cannot raise the millage rate at the next meeting if they lower it this evening so if they remain at

the current millage they can lower it the next meeting. Mayor Leary stated he seconded the motion to lower the millage by \$500,000 to give staff enough time before the second hearing to figure out what the \$500,000 looks like and to give them time to understand what they are proposing. City Manager Knight reminded the Commission about the ad they had already place that has the 4.0923 rate. Commissioner Weldon stated they voted on a change in the millage rate to reduce the general fund property tax number by \$500,000 and did not vote on the ordinance. Attorney Langley explained his understanding that the first vote was a consensus vote on how they wanted to proceed with the discussion on the money they had in the budget and now that the budget discussion is completed, they are back to vote on the ordinance which has not been done.

## Motion made by Commissioner Sprinkel to accept the millage ordinance on first reading as written in the package with the 4.0923 millage rate; seconded by Mayor Leary.

Attorney Langley announced the following: "The City Commission of the city of Winter Park is going to adopt an operating millage of 4.0923 which represents a property tax levy that is 5.41% higher than the rolled-back rate of 3.8787 mills due to increases in assessed values."

The budget discussion continued. Commissioner Seidel spoke about street lights being paid out of the general fund that was changed to be paid for out of the electrical fund which had more funds available at that time. He asked that the street light cost go back into the general fund so more funds are available for undergrounding and to be fair to the 80% of residents who are contributing to street lighting (the other 20% are not paying for street lighting). Commissioner Cooper supported this. Mayor Leary wanted to wait to see what happens with the wireless legislation at the state level before making changes but would be happy to revisit it next year. Commissioner Cooper expressed her concern with making sure that the sewage and water are taken care of.

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

Budget Manager Peter Moore summarized the changes made as follows that will come back to the next meeting for approval: 1. Lower millage rate by \$500,000; 2. Reduction in the police budget by \$200,000; 3. Reallocate priority in the Parks Department to find \$60,000 for the master plan to be done administratively; 4. Moving \$1 million from a source to come back to the Commission to the electric fund as cash to allow for flexibility; and 5. Discuss with the Utilities Advisory Board to evaluate future revenue and are clear on all aspects of it. Other budget items discussed are no change to the existing budget and are keeping things already proposed in place.

Motion made by Commissioner Sprinkel to accept the budget ordinance on first reading as presented with changes voiced above by Mr. Moore; seconded by Mayor Leary. Upon a roll call vote, Mayor Leary and Commissioners Seidel and Sprinkel voted yes. Commissioners Cooper and Weldon voted no. The motion carried with a 3-2 vote.

### Commissioner Seidel

Commissioner Seidel spoke about looking at the City's projects we have in the transportation and stormwater groups who provided him the prioritization list. He asked if the Commission should be reviewing the priority list and if they should be doing things to make certain things happen faster because he believed they should have input on certain projects. Mayor Leary stated the City Manager's job is to discuss with department heads their priority list and then bring that to the Commission to vote on it. He stated if Commissioners see anything on the priority list that they disagree with, they should discuss that with the City Manager and if they are not satisfied with the result to bring it up at the Commission meeting.

Commissioner Weldon believed the Commission did not want to be judging the priorities that staff reports through the City Manager to the Commission unless they have a very good reason to do so. Commissioner Seidel stated he wanted the Commission to follow the infrastructure projects closer and so they know what is going on. Mayor Leary encouraged the Commission to filter things through the City Manager. Commissioner Cooper agreed that the Commission should understand what the alternatives are and to recommend changes and priorities that become the CIP that is the Commission's responsibility.

Mayor Leary reminded the Commission as to how the Charter is written that needs to be followed. Commissioner Sprinkel explained that all business happens at the dais and that there should not be any business with setting priorities with anyone but the Commission. Commissioner Cooper spoke about other cities receiving briefings from departments relative to the budget and would be in agreement if there was a consensus of the Commission to do so in the future.

### Commissioner Sprinkel

Commissioner Sprinkel thanked the people who came to her Coffee Talk.

### Commissioner Cooper

Commissioner Cooper thanked staff for the work done in the last week with the hurricane and the harder work to come this week with restoring everyone's power.

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### Commissioner Weldon

Commissioner Weldon addressed the emails coming in regarding the hurricane efforts by staff and thanked the citizens who wrote with great patience and a positive attitude. Many had understanding of the work that is difficult for staff and in some cases provided extreme compliments and appreciation for a job well done.

#### Mayor Leary

Mayor Leary spoke about how patient residents have been and has spoken with a lot of people who thanked him for staff's work. City Manager Knight provided an update that they have restored 100 customers while in this meeting.

The meeting adjourned at 7:29 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Cynthia S. Bonham, MMC

### REGULAR MEETING OF THE CITY COMMISSION September 25, 2017

The meeting of the Winter Park City Commission was called to order by Mayor Steve Leary, at 3:35 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Finance Director Wes Hamil followed by the Pledge of Allegiance.

<u>Members present/absent</u>: Mayor Steve Leary Commissioner Pete Weldon Commissioner Greg Seidel Commissioner Sarah Sprinkel Commissioner Carolyn Cooper <u>Also Present</u>: City Manager Randy Knight City Clerk Cynthia Bonham City Attorney Kurt Ardaman

### Approval of agenda

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

### Mayor's Report

No report.

### City Manager's Report

City Manager Knight reported that he has appointed Michelle Neuner as the City liaison to the Library and Events Center Task Force.

City Manager Knight summarized the debris removal caused by Hurricane Irma. He reported that the lakes are open.

### <u>City Attorney's Report</u>

No report. Commissioner Seidel asked if the Bellows mediation took place. City Manager Knight responded that the mediation happened with the result that they would do a smaller project and take it through the normal variance process with the Board of Adjustments without a rezoning.

### **Non-Action Items**

No Items.

### Consent Agenda

- a. Approve the minutes of August 28, 2017.
- b. Approve the following piggyback contracts:
  - 1. Crop Production Services, Inc. Piggyback Contract of South Florida Water Management District contract RFB#600000829 for Herbicides and

Related Adjuvants - Commission approve contract with Crop Production Services, Inc. and authorize the Mayor to execute the contract. - Amount: As-Needed Basis

- Helena Chemical Co. Piggyback Contract of South Florida Water Management District contract RFB#600000829 for Herbicides and Related Adjuvants - Commission approve contract with Helena Chemical Co. and authorize the Mayor to execute the contract. - Amount: As-Needed Basis
- c. Approve the following contracts:
  - Contract Renewal for RFP-6-2007 Medical Insurance Renew contract for an additional one year term: October 1, 2017 through September 30, 2018. Commission approve contract renewal with Aetna and authorize the Mayor to execute Contract. Amount: \$953,051.
  - Contract Renewal for RFP-19-2008 Group PPO Dental Benefits Renew contract for an addition one year term: October 1, 2017 through September 30, 2018. Commission approve contract renewal with MetLife and authorize the Mayor to execute Contract. Amount: \$379,082.
  - 3. Contract Renewal for RFP-19-2008 Group Term Life, AD&D, Voluntary Term Life for Employee, Spouse and Children, Long Term Disability, and Voluntary Short Term Disability Renew contract for an addition one year term: October 1, 2017 through September 30, 2018. Commission approve contract renewal with Cigna Group Insurance and authorize the Mayor to execute Contract. Amount: \$162,283.
- d. Approve the following purchase order:
  - 1. Purchase Orders in the amounts of \$84,000 and \$164,000 for several independent contractors who provide specialized and confidential investigative services on behalf of HIDTA, as well as a Purchase Order in the amount of \$136,000 for facility expenses of HIDTA, with all being subject to the condition that HIDTA grant funds will be the sole source of money to pay these obligations. Commission authorize the City Manager, in consultation with the City Attorney as needed, to sign Purchase Orders.
- e. Approve the Winter Park Historical Association lease agreement.

Motion made by Commissioner Sprinkel to approve the Consent Agenda; seconded by Commissioner Weldon. It was clarified that the matrix regarding the budget for that meeting will be attached to the minutes. The motion carried unanimously with a 5-0 vote. No public comments were made.

### **Action Items Requiring Discussion**

a. <u>Review of best and final officers for 1111 West Fairbanks Avenue property</u>

Planning Director Dori Stone addressed moving forward with receiving a recommendation from the Commission on the two bids received for this property and summarized the two bids received. She introduced Bobby Palta, CBRE who provided an overview of the two bids.

### Motion made by Commissioner Sprinkel to approve the first recommendation for \$3.5 million; seconded by Commissioner Weldon.

### Motion amended by Commissioner Cooper to deny both proposals as submitted for the time being. Motion failed for lack of a second.

Commissioner Cooper provided clarity as to why she wanted to deny both proposals at this time. She believed that the recent storm brought into clarity the importance of having some offset near the MLK Park in case the lake requires some reconfiguration to deal with the stormwater. She stated building the library comes into play as to what happens with the stormwater. She spoke about the acreage there that you cannot see from Fairbanks and great value that comes from view corridors from intersections or streets.

Commissioner Cooper addressed a private group trying to get off the ground that is interested in expanding greenspace and did not see any urgency with the City selling this property. She wanted to wait until they see the library and the redesign of the MLK Park and the new Parks Master Plan to see how they can utilize this property as part of the expansion of MLK Park. She spoke about the CRA Plan that CRA funds could and would be utilized to expand MLK Park toward Fairbanks.

Commissioner Seidel recommended waiting until they have the library footprint and the impact to the stormwater system before selling the property. **Motion amended by Commissioner Seidel to delay the decision on the offer until we have the full understanding of the stormwater impact of the library and events center, seconded by Commissioner Cooper.** 

Commissioner Weldon commented that if people want to hear the reasoning why he believes the property should be sold that is available by contacting him and available in the City records.

The following spoke in opposition to selling the property: Charley Williams, 757 Antonette Avenue Kim Allen, 1800 W. Fawsett

Mayor Leary clarified that this acquisition was never about park space and water treatment but was initiated because of the turning radius (a traffic management issue). Commissioner Seidel explained his understanding that the purchase was to make the turn lane but all the other space was not decided on.

### Upon a roll call vote on the amendment (to delay), Commissioners Seidel and Cooper voted yes. Mayor Leary and Commissioners Sprinkel and Weldon voted no. The motion failed with a 3-2 vote.

Mayor Leary asked if this is delayed if the bidder would sit on this. It was clarified that both buyers have tenants in hand so any delay might jeopardize the contract.

Upon a roll call vote on the main motion (to accept the offer), Mayor Leary and Commissioners Seidel, Sprinkel and Weldon voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

### Public Hearings:

a. <u>Request of Winter Park Racquet Club for Conditional Use approval to redevelop</u> <u>their property at 2111 Via Tuscany with a new kitchen building addition, a</u> <u>redeveloped 'Sugar Shack' snack and bar facility at the swimming pool and new</u> <u>on-site parking spaces subject to an updated master plan on their 7.27-acre</u> <u>property, zoned Parks and Recreation (PR).</u>

Planning Manager Jeff Briggs summarized the conditional use request to build a new kitchen wing on the south side of the building, to rebuild the snack bar at the lake and swimming pool level and wanting the ability to add additional parking areas if needed in the future (northern top of the site plan toward the boat ramp and the other is out front by Via Tuscany where originally they were going to build a new tennis court that was approved in the 2013 master plan.) He stated they are able to hide and screen the vehicles if and when they build the front parking. He addressed the positive recommendation by the Planning and Zoning Board.

Motion made by Commissioner Sprinkel to approve the request with the P&Z conditions as presented; seconded by Commissioner Weldon.

Motion amended by Commissioner Cooper to deny the approval of the 24 parking spaces facing Via Tuscany and instead we support the potential future parking becoming the immediate option for parking; seconded by Commissioner Seidel for discussion. Attorney Ardaman explained that the applicant must agree to this for the amendment to stand. Discussion continued regarding the request for parking.

John Gigliotti, representing the Racquet Club, addressed the professionals involved with the planning of this project and that they have spoken with the immediate neighbors. He stated there are some concerns with parking for special events. He explained it is behind the residential setback and there will be no cars visible from Via Tuscany because of screening. He explained the need to spread the parking out so it is not one massive parking lot. A representative from Gomez Construction explained they may need overflow during the construction. No public comments were made.

After discussion regarding the parking request and clarification, Commissioner Seidel withdrew his second to the amended motion.

Upon a roll call vote, Mayor Leary and Commissioner Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote. b. <u>Request of O'Tay LLC for conditional use approval to build a 42,068-square foot,</u> <u>two-story, office building with an underground parking level on the vacant</u> <u>property at 531 West Morse Boulevard, on the northeast corner of Morse</u> <u>Boulevard and Pennsylvania Avenue, zoned C-2.</u>

Planning Manager Jeff Briggs explained the request and the underground parking level. He stated this meets all code requirements, there are no variance requests, and the applicant has agreed to all conditions discussed at the P&Z board concerning the vehicles coming up and down the ramp from the underground parking onto the residential street (Carolina Avenue). He explained the ramp is screened from view to the neighbor to the east. He explained the two conditions that the basement level be gated/keyed access parking which makes it employee only parking which cuts down the level of vehicles coming and going. The other condition was that the driveway apron be fashioned so it forces vehicles to turn towards Pennsylvania Avenue.

Mayor Leary and all Commissioners disclosed conversations with residents, the attorney, real estate representative, or developer.

Motion made by Commissioner Sprinkel to approve the request as presented and with the P&Z Board conditions; seconded by Commissioner Weldon.

Motion amended by Commissioner Cooper to restrict the evening basement parking (lower level) to employees and tenants of the building only; seconded by Commissioner Seidel.

Attorney Tara Tedrow provided a PowerPoint presentation summarizing their proposed project.

The following spoke:

Mary Daniels, 540 Canton Avenue, expressed safety concerns with the school bus stop located at Carolina and Pennsylvania Avenues. Ms. Tedrow addressed the concerns with the school bus children who came to the stop supervised by an adult/older sibling and who had also voiced this concern with Ms. Joie Cadle of the Orange County School Board.

Lurline Fletcher, 811 English Court, opposed development on the Westside.

Upon a roll call vote on the amendment, Mayor Leary and Commissioners Seidel and Cooper voted yes. Commissioners Sprinkel and Weldon voted no. The motion carried with a 3-2 vote. Mayor Leary stated he voted yes because they do not know which way is better and that the applicant has accepted it and can be remedied if necessary. Upon a roll call on the main motion to approve the request, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

### <u>PUBLIC COMMENTS (ITEMS NOT ON AGENDA) – ALSO INCLUDED BUDGET</u> <u>COMMENTS</u>

Michael Libow, 310 Genius Drive, spoke in favor of including police body cameras in the budget.

David Williams, 209 Tyree Lane, spoke against allowing Spectrum into the City.

Mary Daniels, 650 Canton Avenue, asked about hurricane shelter information for the future.

Gary Brewer, 1250 S. Denning Drive, spoke against lowering the millage rate and to not cut the police budget or the number of police officers.

Frank Candy, 1816 Azalea Avenue, spoke against lowering the police budget.

David Davich, 1610 S. Pennsylvania Avenue, addressed the appearance of the number of trash and recycling bins throughout the City and asked that the number and size of the bins be reduced.

Ali DeMaria, presenting the Winter Park Day Nursery, spoke in favor of the funding included in the budget for them.

Sally Flynn, 1400 Highland Road, expressed concerns with some residents not hearing the tornado siren warnings.

Nancy Shutts, 2010 Brandywine Drive, spoke against lowering the millage rate.

### <u>Recess</u>

A recess was taken from 5:35 to 5:50 p.m.

c. <u>Request of Aloma Holdings, LLC to amend the Official Zoning Map to change</u> from Medium Density Multiple-Family Residential (R-3) District Zoning to Office (O-2) District Zoning on the properties at 407 St. Andrews Boulevard and 2291, 2295, 2301 and 2305 Glenwood Drive

ORDINANCE NO. 3085-17: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING, CHAPTER 58 LAND DEVELOPMENT CODE, ARTICLE II, ZONING AND THE OFFICIAL ZONING MAP TO CHANGE FROM MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING TO OFFICE (O-2) DISTRICT ZONING ON THE PROPERTIES AT 407 ST. ANDREWS BOULEVARD AND 2291/2295/2301 AND 2305 GLENWOOD DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE <u>Second Reading</u>

Attorney Ardaman read the ordinance by title.

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

d. <u>Request of the City of Winter Park to Amend the "Comprehensive Plan" Future</u> Land Use Map to change from Institutional to Open Space and Recreation Future Land Use Designation, and to Amend the Official Zoning Map from Public, Quasi-Public (PQP) to Parks and Recreation (PR) District Zoning on the Property Located Between 652 and 700 West Morse Boulevard

ORDINANCE NO. 3083-17: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF INSTITUTIONAL TO OPEN SPACE AND RECREATION ON THE PROPERTY LOCATED BETWEEN 652 AND 700 WEST MORSE BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE <u>Second Reading</u>

ORDINANCE NO. 3084-17: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE PUBLIC, QUASI-PUBLIC (PQP) DISTRICT ZONING TO PARKS AND RECREATION (PR) DISTRICT ZONING ON THE PROPERTY LOCATED BETWEEN 652 AND 700 WEST MORSE BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE <u>Second Reading</u>

Attorney Ardaman read both ordinances by title. No public comments were made.

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

Motion made by Commissioner Cooper to adopt the second ordinance; seconded by Commissioner Weldon. 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. <u>Request of Sydgan Corporation to modify the Development Order for the</u> <u>Ravaudage PD to allow project credit for public on-street parking spaces</u>

<u>RESOLUTION NO. 2193-17</u>: A RESOLUTION OF THE CITY COMMISSION OF THE OF WINTER PARK, FLORIDA, ADOPTING AMENDMENTS TO THE FIRST AMENDMENT OF THE AMENDED AND RESTATED DEVELOPMENT ORDER FOR THE RAVAUDAGE DEVELOPMENT AS ORIGINALLY ADOPTED ON JULY 24, 2017, PROVIDING FOR, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

Attorney Ardaman read the resolution by title. Planning Manager Jeff Briggs explained this is a re-visit concerning whether the master developer can count any of the parallel on-street parking spaces towards the private development. He explained when they are building the spaces on private streets the Orange County rules the City has to follow allow him to count those on-street spaces on this private street towards the development. He explained the issue for the Commission is what to do about the cases where he is building parking spaces on public streets and if he can count any of those spaces towards the private development. He stated this needs to be a policy decision when it is on a public street.

He stated that staff and the developer has come up with that he can count  $\frac{1}{2}$  of the spaces that he creates and builds towards the development on the private property with the caveat that he can only count up to  $\frac{1}{3}$  of whatever parking he needs can be out in the street and  $\frac{2}{3}$  of the parking has to be on the private property.

Commissioner Cooper addressed the last conversation that staff wanted to hold onto some of that authority and allow the DRC to have some flexibility and be able to either allow or not allow in different situations on a case by case basis. She stated she supports that because it gives them leverage in other negotiations and decisions with Ravaudage. She addressed the ratio conversation at the last meeting and stated she agrees with allowing some portion but was not sure what that should be.

Commissioner Seidel stated if the developer is comfortable with this and there are no risks with the City it makes sense that we are getting an extra 50% parking spaces built. Further discussion took place to clarify the number of spaces.

Planning Director Dori Stone agreed that allowing the DRC to have discretion over this. She stated they worked through this agreement with the developer that included the Public Works and Planning Departments. She believed they are getting more public parking from this and that the developer's urban form applies to both his private streets and his public streets. She stated they cannot go forward with any on-street parking that would count toward his project without Commission approval but that what is being provided is an urban form on City roads that do not require this but works well. CITY COMMISSION MEETING MINUTES SEPTEMBER 25, 2017 PAGE 9

Motion made by Commissioner Sprinkel to adopt the resolution and approve this; seconded by Commissioner Seidel.

Motion amended by Commissioner Cooper to have the City Attorney and the Director of Planning formalize language that: 1) gives the DRC the discretion up to what is stated now; and 2) requires that the parking places abut property that is owned by the developer and not negatively impact another property owner; seconded by Commissioner Seidel. Attorney Ardaman suggested that they should mold that language. The applicant had nothing to add. No public comments were made.

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

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

f. Request of Wekiva Capital Partners to amend the "Comprehensive Plan" Future Land Use Map to change from an Office Future Land Use designation to a Medium Density Residential Future Land Use Designation, and to amend the official Zoning Map to change from Office (O-2) district to Medium Density Residential (R-3) district zoning on the properties at 1424 and 1428 Gay Road.

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF OFFICE TO MEDIUM DENSITY RESIDENTIAL ON THE PROPERTIES AT 1424 AND 1428 GAY ROAD, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE <u>First Reading</u>

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE OFFICE (O-2) DISTRICT ZONING TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT ZONING ON THE PROPERTIES AT 1424 AND 1428 GAY ROAD, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE <u>First Reading</u>

Attorney Ardaman read both ordinances by title. Planning Manager Jeff Briggs explained the two properties involved zoned Office. He stated the applicant is purchasing those two properties and also buying 1419 and 1421 Gay Road that are zoned R-3. He stated that 75% of the properties are zoned R-3 and these two lots (25%) are zoned O-2. They are wanting to do a townhouse project in the future that has to come back to P&Z and the Commission to obtain approvals and to unify the zoning so it is all R-3. He addressed the neighbors who attended the Planning and Zoning meeting who expressed concerns with access, proximity, etc. Staff and P&Z recommended unifying the other 25% to be consistent with the other zoning of R-3.

### Motion made by Commissioner Seidel to accept the first ordinance on first reading; seconded by Commissioner Weldon.

### Motion made by Commissioner Seidel to accept the second ordinance on first reading; seconded by Commissioner Weldon.

Stephanie Barnes, 620 Killarney Bay Court, spoke about the number of units that will be built there. She stated she is not against this project but wanted to see the number of units decreased because of the traffic issues and no plans to expand the roads. She asked that development be managed in the City.

City Attorney Ardaman and Mr. Briggs answered questions of the Commission for clarification purposes. Mr. Briggs explained the applicant is not entitled to the maximum density or maximum FAR unless the project they bring in is compatible with the surroundings.

## Motion made by Commissioner Sprinkel to deny the request for the comprehensive plan change (1<sup>st</sup> ordinance), seconded by Commissioner Cooper.

Commissioner Sprinkel spoke about concerns with the R-3 zoning for the entire property that will make it denser. Commissioner Cooper expressed that the Office offers a nice buffer between high intensity commercial and the residential homes. She commented she does not see why they need to change the land use designation and zoning to accomplish a higher density on property that currently has a lower density on an overloaded intersection and a street getting new homes packed in.

Commissioner Weldon asked because of the conditional use process if there is the opportunity to negotiate a lower density and did not see a difference between the office and residential uses given the size of the current O-2 lots compared to the current R-3 lots.

### Commissioner Weldon withdrew his second to the motions above to approve the request.

The applicant was asked about 1428 Gay Road that looks like it should appropriately be a part of the 1419 Gay Road R-3 property and if they have any interest in having a partial approval that would give them 1428 but not 1424 Gay Road.

Chris Hughes, Principle Wekiva Capital Partners, asked if they were to acquire the single parcel to the south of those two lots and square that off if the Commission would allow that. He stated the numbers being requested does not make sense for their project. Commissioner Cooper stated she would not approve continuing to creep in a road (the Office buffer between commercial and residential). Mr.

Hughes stated if this is not rezoned that he is stuck with office and apartments upstairs that is not a cohesive development. Further discussion included concerns with density.

Mayor Leary suggested tabling this to allow time to work with staff so they can come back before them sooner for approval. Mr. Hughes stated the number of units he is showing is lower than the 29 units addressed (25 and 28) which is less density and believed to be a fair compromise.

Motion made by Mayor Leary to table this to allow the applicant an opportunity to work with staff to address Commission comments on this; seconded by Commissioner Weldon. 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.

g. Request of Kimley-Horn & Associates to amend the "Comprehensive Plan" Future Land Use Map to change from an Office Future Land Use designation to a Commercial Future Land Use Designation, and to amend the official Zoning Map to change from Office (O-1) district to Commercial (C-3) district zoning on the southern portion of the property at 1350 West Fairbanks Avenue.

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF OFFICE TO COMMERCIAL ON THE REAR PORTION OF THE PROPERTY AT 1350 WEST FAIRBANKS AVENUE, FRONTING ON SHOREVIEW AVENUE AND GENE STREET, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE First Reading

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE OFFICE (O-1) DISTRICT ZONING TO COMMERCIAL (C-3) DISTRICT ZONING ON THE REAR PORTION OF THE PROPERTY AT 1350 WEST FAIRBANKS AVENUE, FRONTING ON SHOREVIEW AVENUE AND GENE STREET, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE <u>First Reading</u>

This item was not heard due to the request to table made by applicant before the meeting.

### h. Fee Schedule effective October 1, 2017

City Manager Knight explained this is the fee schedule with changes that is a part of the budget to be considered this evening. The summary was included in the packet. Mayor Leary explained the fee schedule can be addressed on a line item basis at any time during the year. City Manager Knight explained the fee schedule used to be brought forward twice a year for April and October but they are now going to do this once a year as part of the budget process. CITY COMMISSION MEETING MINUTES SEPTEMBER 25, 2017 PAGE 12

Motion made by Commissioner Cooper to approve the fee schedule; seconded by Commissioner Sprinkel. 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.

### Millage and budget ordinances

Mayor Leary made opening comments. "The budget proposed by the staff with amendments generally agreed to by the City Commission requires a millage of 4.0923 mills which has been the rate levied by the city for the last nine years. The proposed millage of 4.0923 mills would represent an increase in property taxes, not counting new construction and the City's dedicated increment value payment to the Community Redevelopment Agency, of 5.51%. This increase in property taxes levied over the prior year is not due to any change in tax rate but is due to the increase in assessed values of properties."

"In addition, a 0.1597 mill voted debt service is levied to cover the debt service of the General Obligation Bonds, Series 2011 approved by the citizens of Winter Park at the May 16, 2000 bond referendum. As well as a 0.3536 mill voted debt service levied to cover the debt service of the General Obligation Bonds, Series 2017 approved by the citizens of Winter Park at the March 15, 2016 bond referendum."

"This will be a simultaneous public hearing on two ordinances: An ordinance setting the millage for 2018 and an ordinance adopting the Fiscal 2018 budget".

Attorney Ardaman read both ordinances by title.

ORDINANCE NO. 3086-17: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING A 4.0923 MILL AD VALOREM TAX LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE GENERAL OPERATING EXPENSES OF THE CITY, A 0.1597 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2011, AND A 0.3536 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2017 Second Reading

ORDINANCE NO. 3087-17: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018 AND ACCOMPANYING FIVE YEAR CAPITAL IMPROVEMENT PLAN; APPROPRIATING FUNDS FOR THE GENERAL FUND, DESIGNATIONS TRUST FUND, STORMWATER UTILITY FUND, COMMUNITY REDEVELOPMENT FUND, FEDERAL FORFEITURE FUND, POLICE GRANT FUND, DEBT SERVICE FUND, WATER AND SEWER FUND, ELECTRIC UTILITY FUND, FLEET MAINTENANCE FUND, EQUIPMENT REPLACEMENT FUND, EMPLOYEE INSURANCE FUND, GENERAL INSURANCE FUND, CEMETERY TRUST FUND, GENERAL CAPITAL PROJECTS FUND AND STORMWATER CAPITAL PROJECTS FUND; PROVIDING FOR MODIFICATIONS; PROVIDING FOR AMENDMENTS TO SAID ANNUAL BUDGET TO CARRY FORWARD THE FUNDING OF PURCHASE ORDERS OUTSTANDING AND UNSPENT PROJECT BUDGETS AS OF SEPTEMBER 30, 2017; AND AUTHORIZING TRANSFER OF FUNDS HEREIN APPROPRIATED BETWEEN DEPARTMENTS SO LONG AS THE TOTAL FUND APPROPRIATIONS SHALL NOT BE INCREASED THEREBY <u>Second Reading</u>

Motion made by Mayor Leary to approve the millage ordinance with a rate of 4.0923; seconded by Commissioner Cooper.

# Motion amended by Commissioner Weldon to reduce the millage rate to 3.9942 which would reduce the amount of property taxes to the general fund of approximately \$500,000. The amendment failed for lack of a second.

He explained the reason for his amendment: the increase from 16% to 17% on the millage rate by keeping it the same was 8.4% or \$1.5 million and from 17% to 18% as proposed based upon the assessor's valuations amounts to a 7.7% increase (another \$1.5 million). He stated they are going to be voting within the budget on a 5.1% average increase in the City's electric rates because of the commitment to the citizens to complete the undergrounding project that will increase our rates because our electric utilization has dropped. He commented that the water rates may or may not be approved in the budget to increase by 1.2% on average in order to continue to finance the sewer reserves to handle unforeseen problems. He concluded that he wanted to give back to the taxpayers a little bit of what they paid to the City for services received.

### Upon a roll call vote to approve the millage rate of 4.0923, Mayor Leary and Commissioners Seidel, Sprinkel and Cooper voted yes. Commissioner Weldon voted no. The motion carried with a 4-1 vote.

### <u>Budget</u>

Mayor Leary spoke about asking the City Manager and Chief Deal to reduce the asked for budget by \$200,000 (the proposed amount was an increase to their budget and not a decrease). City Manager Knight stated they are provided two Schedule A's; one has the \$200,000 taken from it, and one has per the advertisement.

Motion made by Mayor Leary to approve the budget as advertised which included an extra \$862,000 in the police budget (original budget for police); seconded by Commissioner Cooper.

Motion amended by Mayor Leary to withdraw the 1.2% increase in the water this year; seconded by Commissioner Sprinkel.

Motion amended by Mayor Leary to increase the Winter Park Day Nursery contribution to \$35,000 (from \$25,000) (also the Welbourne Day Nursery

### but that has to be done as the CRA Agency at a later time); seconded by Commissioner Seidel.

City Manager Knight clarified that all the changes the Commission made at the budget work session are reflected in the Schedule A. Budget Manager Peter Moore stated the only thing that is out of the original staff recommendation is the elimination of body cameras. The difference of the two Schedule A's provided is the items discussed at the last meeting: reducing equipment (vehicles) funding by \$100,000 (already included in Schedule A); funding \$150,000 for the signalization improvements for Aloma (already included in Schedule A); reducing the maximum percentage for merit pay for employees from 3.5% to 3.0% (already included in Schedule A); a change on the table to not reduce the increase in police spending by \$200,000; and discussed transferring funding from wastewater utility to the electric utility of \$1 million.

Commissioner Sprinkel addressed body cameras and that it is the police chief's responsibility to make that decision in the best interest of the police department and that they just added \$862,000 to the police budget that could be used for that if the police chief believes that is something they should do.

Commissioner Weldon explained that he cannot support the increase in the police budget in an environment where the property tax is increasing that may not happen in future years and did not believe they do a great service by spending funds when they are increasing so dramatically. He stated he cannot support the millage or budget on that basis.

Discussion included regarding the importance to recruit the best police possible and that the additional funds are needed to make sure salaries are competitive.

Commissioner Cooper summarized what is already in the budget and what is not (upgrading parks master plan to include the connectivity portion – if the plan is to be enhanced by adding the connectivity, it needs to be increased \$100,000). Assistant City Manager Neuner clarified it would be an additional \$100,000 to include that piece as the \$60,000 is for the administrative update to the parks master plan with the survey included (will include a connectivity overlay done by staff in our GIS system) and will come out of their existing budget. She explained the \$100,000 is different and will be created by a consultant.

Motion amended by Commissioner Cooper that \$100,000 be allocated toward starting to plan for our greenspace connectivity throughout the City; seconded by Commissioner Seidel.

Motion amended by Commissioner Cooper that the expense for street lighting that we moved into the electric fund during the recession be moved back into the general fund (approximately \$425,000); seconded by Commissioner Seidel. Attorney Ardaman stated they reviewed this and the key issue was when the City purchased the electric utility, it included an acquisition of the street lights that was a part of that which would be the predominate factor in the case of litigation. He stated that paying for the electricity is not going to be as a significant a factor as the original purchase. Mr. Moore explained if this is moved back the contingency is reduced significantly. It was estimated to be about \$425,000 to be put back into the electric fund. Discussion ensued regarding the undergrounding plan to be completed in about 20-30 years when the utility was purchased and that they have nine (9) more years to complete.

### Other public comments not previously made

Dykes Everett, 341 E. Webster Avenue, spoke about the \$100,000 being pledged every year (10 years total) to the Dr. Phillips Center that should not happen. He addressed the need to review how the City structures their impact fees to look at more creative ways to raise some of our capital infrastructure needs. He commended the Commission on the Gay Avenue discussion this evening.

Discussion ensued regarding moving the \$1 million from the water revenues into the electric fund and if that is still wanted.

After a suggestion made by City Manager Knight, **the motion was amended by Mayor Leary to move \$1 million from the FY 17 budget water revenue fund to the electric fund; seconded by Commissioner Sprinkel.** 

Commissioner Cooper stated she could only support this if it was used for electric undergrounding. She expressed her preference to make this a loan instead of moving it from one fund to another and not to mingle the Enterprise funds.

### Motion amended by Commissioner Cooper that we dedicate it to electric undergrounding if we're going to make the move or wait until we identify a need. Motion failed for lack of a second.

Upon a roll call vote on the amendment to move the \$1 million from the water revenues from the FY17 surplus into the electric fund, Mayor Leary and Commissioners Seidel, Sprinkel and Weldon voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

Upon a roll call vote on the amendment to move approximately \$425,000 from the electric utility to pay for street lighting back into the general fund, Commissioners Seidel, Sprinkel and Cooper voted yes. Mayor Leary and Commissioner Weldon voted no. The motion carried with a 3-2 vote.

Upon a roll call vote to allocate an additional \$100,000 for a consultant to start to plan for our greenspace connectivity throughout the City, Commissioners Seidel and Cooper voted yes. Mayor Leary and

Commissioners Sprinkel and Weldon voted no. The motion failed with a 3-2 vote.

Upon a roll call vote to increase the Winter Park Day Nursery funding to \$35,000, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote to withdraw the 1.2% increase in the water this year, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

Upon a roll call vote to adopt the budget ordinance as described which included the ask for funding for the police department; \$150,000 for the signalization along Aloma, reduction of \$100,000 for vehicle replacement; and a 3.0% merit increase, Mayor Leary and Commissioners Seidel, Sprinkel and Cooper voted yes. Commissioner Weldon voted no. The motion carried with a 4-1 vote.

### City Commission Reports:

<u>Commissioner Seidel</u> – Thanked staff for a job well done with the budget and hurricane.

<u>Commissioner Sprinkel</u> – Thanked staff for a job well done with the hurricane.

<u>Commissioner Cooper</u> – Thanked staff for a job well done with the hurricane. She also asked that staff reports in the agenda packet include what the degree of public notice was on any project and a simple chart of what the code requires (height, setback and density) in the current zoning district and what the new zoning district is proposing.

<u>Commissioner Weldon</u> – Thanked staff for a job well done and thanked the Mayor for a good job with tonight's meeting and all the things he did during the hurricane.

<u>Mayor Leary</u> – Thanked staff for a well done job during the hurricane. He asked that some type of recognition for those involved from staff and the community be considered.

The meeting adjourned at 7:45 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Cynthia S. Bonham, MMC



item type Consent Agenda		meeting date 10/9/2017	
prepared by Purchas	sing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

### <u>subject</u>

Purchases \$75,000+

### motion / recommendation

Commission approve items as presented.

### **background**

Interlocal Agreements are in place for items 1 through 4. Piggyback Contracts are in place with Orlando Utilities Commission and the City of Daytona Beach for items 5 and 6.

### alternatives / other considerations

N/A

### fiscal impact

Total expenditures included in approved FY18 budget.

### ATTACHMENTS:

Description

Purchases \$75,000+

Upload Date 9/25/2017 Type Cover Memo

# Solution item item

item type	Purchases over \$75,000	meeting date	October 9, 2017
prepared by department division	Purchasing Division	approved by	<ul> <li>City Manager</li> <li>City Attorney</li> <li>N A</li> </ul>
board approval		yes no 🔳	N A final vote

### Purchases over \$75,000

	vendor	item   background	fiscal impact	motion   recommendation	
1.	S. Seminole & N.	Purchase Order -	Total expenditure	Commission approve Purchase	
	Orange County	Interlocal Agreement -	included in	Order to S. Seminole & N.	
	Wastewater	Operational	approved FY18	Orange County Wastewater for	
		Maintenance	budget. Amount:	Operational Maintenance.	
			\$1,017,000		
		vill expire September 30, 2			
2.	City of Altamonte	Purchase Order for	Total expenditure	Commission approve Purchase	
	Springs	Wholesale Sewer	included in	Order to City of Altamonte	
		Treatment	approved FY18	Springs for Wholesale Sewer	
			budget. Amount:	Treatment.	
			\$235,000		
		vill expire September 30, 2			
3.	City of Orlando	Purchase Order for	Total expenditure	Commission approve Purchase	
		Asbury Sanitary Sewer	included in	Order to City of Orlando for	
			approved FY18 budget. Amount:	Asbury Sanitary Sewer.	
			\$575,000		
	The Purchase Order v	vill expire September 30, 2			
4.	City of Orlando	Purchase Order for Iron	Total expenditure	Commission approve Purchase	
		Bridge Sanitary Sewer	included in	Order to City of Orlando for	
		Bridge Sumary Sewer	approved FY18	Iron Bridge Sanitary Sewer.	
			budget. Amount:		
			\$2,650,000		
	The Purchase Order v	vill expire September 30, 2	2018.		
5.	Airgas, Inc.	Purchase Order for	Total expenditure	Commission approve Purchase	
		Liquid Oxygen for the	included in	Order to Airgas, Inc. for Liquid	
		Water Treatment	approved FY18	Oxygen for the Water	
		Facilities	budget. Amount:	Treatment Facilities.	
			\$160,000		
	Piggyback of Orlando Utilities Commission Contract #35-OQ currently in place.				
6.	Odyssey	Purchase Order for	Total expenditure	Commission approve Purchase	
	Manufacturing Co.	Sodium Hypochlorite for	included in	Order to Odyssey	
		the Water Treatment	approved FY18	Manufacturing Co. for Sodium	
		Facilities	budget. Amount:	Hypochlorite for the Water	
		Devite and Departure 1, "1	\$144,000	Treatment Facilities.	
	Piggyback of City of Daytona Beach Contract #ITB-0115-1900 currently in place.				

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



item type Consent Agenda		meeting date 10/9/2017	
prepared by Purchas	sing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

### <u>subject</u>

Contracts

### motion / recommendation

Commission approve item as presented.

### background

A formal solicitation was issued to award this contract.

### alternatives / other considerations

N/A

### fiscal impact

Total expenditure included in approved FY18 budget.

### ATTACHMENTS:

Description Contracts Upload Date 10/3/2017

Type Cover Memo



item type	Contracts	meeting date	October 9, 2017
prepared by department division	Purchasing Division	approved by	<ul> <li>City Manager</li> <li>City Attorney</li> <li>N A</li> </ul>
board approval		🗌 yes 🗌 no 📕	N A final vote

### **Contracts**

	vendor	item   background	fiscal impact	motion   recommendation
1.	Brown & Brown of	Amendment 4 to RFP-	Total expenditure	Commission approve
	Florida, Inc.	13-2012 – Insurance	included in	Amendment 4 with Brown &
		Agent/Broker of Record	approved FY18	Brown of Florida, Inc. and
			budget.	authorize the Mayor to
			Amount: \$100,000	execute the Amendment.
	A formal solicitation was issued to award this contract.			

# City commission agenda item

item type Action Items Requiring Discussion	meeting date 10/9/2017	
prepared by Planning / CRA	approved by	
board approval yes final vote		
strategic objective Exceptional Quality of Life, Fiscal Stewardship		

### <u>subject</u>

Holiday Banner Pilot Program

### motion / recommendation

Approve a pilot project for Holiday 2017 to allow sponsorship of banners throughout the downtown area.

### **background**

The current banner program in Winter Park applies to either events or celebrations throughout the year and is limited to not-for-profit entities.

During the winter holiday season, a number of events take place throughout the city drawing local and regional attention to Winter Park. During this time, foot traffic is at a premium. Historically, the city has displayed "Winter in the Park" banners, promoting the city's ice rink on the street lights throughout the downtown area. Coupled with the 'globes of light', Winter on the Avenue, holiday parade, new tree lighting, and other special events have continued to bring locals and guests to the city. As a result, the city has seen an increase in expenditures to account for these events. To ensure their longevity which helps keeps the city unique, staff has developed a program intended to offset some of these costs.

The 2017 Holiday Banner Pilot Program would allow merchants to buy a banner to increase their exposure during the holidays and showcase their business during the entire holiday season. The banners would follow a city approved template to ensure continuity.

Staff shall review requested banner locations to ensure there are no conflicts between sponsors and location and has the discretion to decline. Additionally, merchants must follow set criteria for consideration by staff including having a location within Winter Park limits, and not be located more than 500 feet from their storefront. Sponsor name/logo may not include politicial or religious subjects or specific products. They may not include any tobacco or alcohol advertising.

Merchants would be responsible for delivering their logo and payment by the deadline to ensure printing and installation time. Banner sponsorship will range from \$150 to \$225 per banner depending on location. Street poles without sponsored banners would have either the banner template or Winter in the Park banner to

ensure continuity along the road.

The Economic Development Advisory Board recommended this as a pilot program for consideration at their August 22 meeting. Revenues generated from the program would be used to offset expenditures incurred throughout the winter holiday season. A copy of the program guidelines and application are included as backup.

If the pilot is successful, the staff will come back with an annual program for inclusion into the banner program.

### alternatives / other considerations

Approve the program on a limited scope for specific streets Do not approve the pilot program

### fiscal impact \$0 - \$30,825 in sponsorship revenue

ATTACHMENTS:

Description Holiday Banner Pilot Program Guidelines and Application Upload Date 10/2/2017

Type Backup Material



Planning & Community Development Economic Development Division 401 South Park Avenue Winter Park, FL 32789

### HOLIDAY BANNER PILOT PROGRAM

Every year the City shines during Winter in the Park. Thousands of residents and visitors flock to charming Winter Park to shop, dine and celebrate the holidays during the Christmas in the Park, Christmas Parade, tree lighting, concerts and to ice skate in Central Park.

The city has decorated light poles with festive holiday banners in the past but this year sponsors have the opportunity to support Winter in the Park and the unique ability to showcase their businesses.

Colorful custom Winter in the Park banners installed on decorative light posts banner arms can now feature Winter Park merchants' logos and names on the city's most visible streets. Winter in the Park Sponsors can select their holiday banner locations on a first come –first served basis for display during the Winter in the Park holiday season. Sponsor holiday banners will be displayed from November 17 to January 7 to celebrate Winter in the Park. The city will fabricate the custom banners and install them for our Sponsors for the duration of Winter in the Park.

### **APPLICATION PROCESS**

Winter in the Park Sponsor holiday banner locations are on a first come first serve basis. Some restrictions apply. Applicants must have a physical location in Winter Park. A banner location map is included with this application. Sponsors are encouraged to request banner locations within 500 feet of their business. All applications must be submitted to the Economic Development Division for approval. Staff shall review requested banner locations to ensure there are no conflicts between sponsor and location, and has the discretion to decline The department will reserve the location(s) only after an application has been locations. accepted and payment received. Applications shall be submitted at least 45 days in advance of the installation date and must be accompanied by a high resolution image. Detailed specifications for the submission of banner artwork are included with this application. The holiday banners will be displayed from November 17, 2017 to January 7, 2018. The city will remove them after the end date. Sponsors may retrieve their banners at the conclusion of the Winter in the Park display.

#### CUSTOM WINTER IN THE PARK BANNER DESIGN

Banners will be made from non-combustible material that will not shred and that is weatherproof. The City's designer has created a unique festive holiday design to frame the banners that will provide generous space to feature a Sponsor name and/or logo. Production will scale Sponsor's names and/or logos for the best visual effect on the custom designed holiday banners. The banners will be designed to be easily read by motorists and pedestrians. All final banner designs will be approved prior to production by the City's Economic Development Manager or their designee, and the Sponsor.



#### **SPONSORSHIP**

Winter in the Park Sponsors – There are a la carte options to showcase your business and sponsorship of Winter in the Park in a

targeted area during the holidays. Some restrictions apply. Sponsors are encouraged to request banner locations within 500 feet of their business. Sponsors must have a City of Winter Park location. Sponsor name/logo may not include political or religious subjects or specific products. Winter Park event logos may be posted on the banners. Banners shall not contain any tobacco or alcohol advertising. The fees per banner are as follows:

Park Avenue	\$200.00 each (21 poles available)	
Morse Boulevard	\$225.00 each (21 double-sided poles available)	
New England Avenue	Avenue \$150.00 each (New York Avenue to Hannibal Square West, 16 poles available)	
Pennsylvania Avenue	<b>\$150.00 each</b> (Lyman Avenue to Garfield Avenue , 24 poles available )	
Orange Avenue	\$150.00 each (Fairbanks Avenue to Orlando Avenue, 40 poles available)	
Fairbanks Avenue	\$150.00 each (Pennsylvania Avenue to Ollie Avenue, 42 pole available)	
Aloma Avenue	\$150.00 each (Osceola Avenue to Lakemont Avenue, 24 poles available)	

#### PAYMENTS

Applicant's total payment will be based according to the selected banner locations. Sponsorships are all inclusive and include production and the City's cost for installation and removal of banners. All fees are due upon the Economic Development Division's approval of the application. Locations will be reserved upon approval and donation receipt. No locations will be reserved in advance of payment.

#### **AVAILABILITY**

The Planning and Community Development Department Economic Development Division is the contact for Winter in the Park Holiday Banner Sponsorships. Staff will review banner applications when submitted, and applications will be approved on a "first come, first serve" basis upon receipt of payment.

#### **BANNER POLE LOCATIONS AND SPECIFICATIONS**

The City has permanent street banner pole hardware available at the identified locations on the banner maps. The City will scale Sponsors names/ logos for the best visual effect on custom designed holiday banners. Banners sizes are as follows:

**Morse Boulevard** Double-arm poles, Total flat banner size: 23 1/8" x 51"

All other streets Single-arm poles, Total flat banner size: 20" x 38"

#### **ARTWORK REQUIREMENTS FOR PRODUCTION**

#### **Digital Output:**

- High resolution PDF, TIFF, PSD, AI or EPS.
- Include all fonts used in your document or convert to outlines.
- Include all placed graphics.
- Keep a backup of all of your files. Collect for output.
- Set up your document in proportion to your final output size.
- Disk(s) or emailed digital files should contain only the files needed.
- If necessary, include a hard copy and indicate color matches if required.

## Color Modes: 150 dpi @ full size Notes:

- Do not flatten layers in file.
- Delete extra layers and channels.

Do not change the file format - leave in original RGB or CMYK format.



Sponsor Logo here

#### LIABILITY

The applicant must acknowledge and accept full responsibility for public risk. The City, or any division of the City, shall not be held responsible for any damage to the banners due to installation, removal, or storage.

I understand that banners must be picked up within five (5) business days after removal if the Sponsor intends to retain them. The City has the right to dispose of the banners after the set deadline at no cost to the City.

Guidelines and application are available online at cityofwinterpark.org > Departments > Economic Development/CRA Department or by calling 407-599-3498.

#### Submit applications to:

Planning & Community Development Economic Development Division Attention: Holiday Banner Pilot Program 401 South Park Avenue Winter Park, Florida 32789 (P) 407-599-3498 (F) 407-643-1659 Lhayes@cityofwinterpark.org



Planning & Community Development Economic Development Division 401 South Park Avenue Winter Park, FL 32789

#### HOLIDAY BANNER PILOT PROGRAM APPLICATION

Business or Organization N	lame:	
Contact:		
Address:		
Phone:	Fax:	Email:
Business, Organization or	Event on Banner:	
Describe the Business, Org	ganization or Event:	

#### Banner Location Request (Please note any specific locations on the attached banner maps):

Available	Location	Cost Per Each	Quantity	
21	Park Avenue	\$200.00		
21	Morse Boulevard	\$225.00		
16	New England Ave.	\$150.00		
24	Pennsylvania Ave.	\$150.00		
40	Orange Avenue	\$150.00		
42	Fairbanks Avenue	\$150.00		
24	Aloma Avenue	\$150.00		
			Total	

On behalf of the organization listed above, I, as applicant, hereby acknowledge that I have read and understand the Holiday Banner Policy Guidelines. The applicant/organization agrees to indemnify and hold harmless the City if Winter Park, its agents, officers, and employees from and against all loss, costs, expenses including suits, demands, claims, judgements, liens, attorney's fees in connection with injury to or death of any person or persons or loss of or damage to property resulting from any and all operations performed by or through this application.

Organization Representative Signature

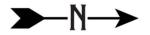


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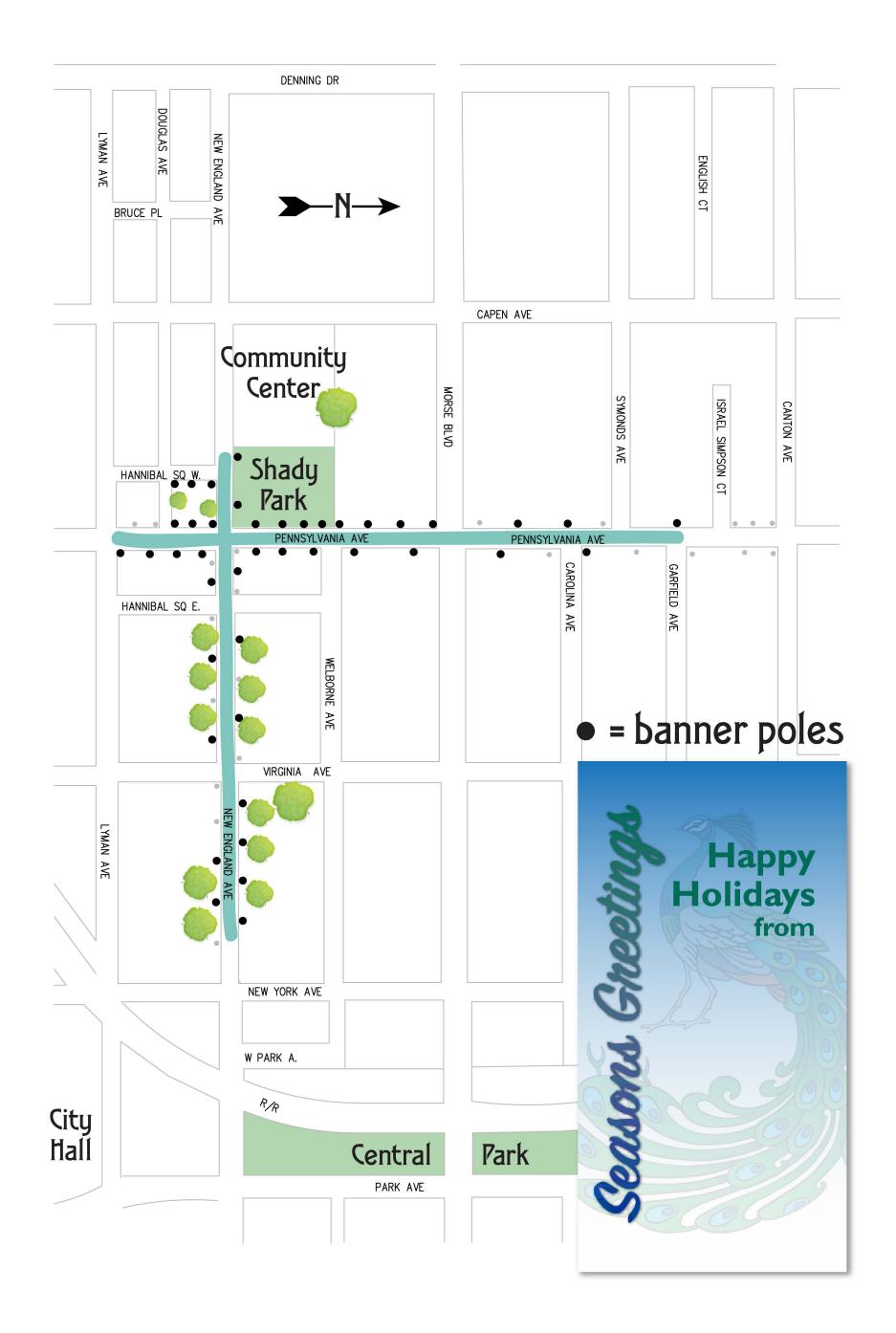
## Morse Boulevard



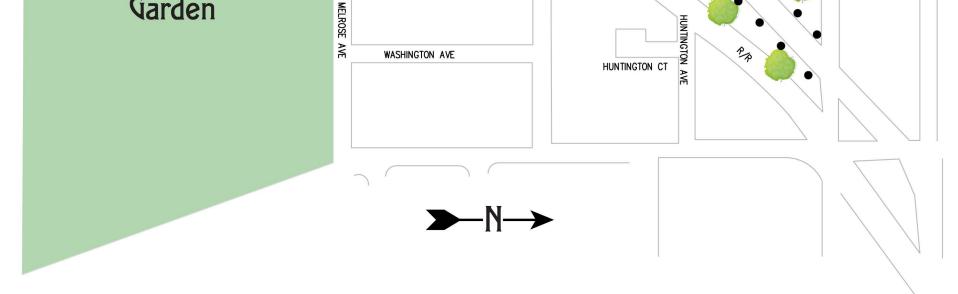


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# Pennsylvania & New England Avenues



### Orange Avenue • = banner poles CAVERDISH RD MICHIGAN AVE INDIANA AVE MILLER AVE Happy Holidays from HARMON AVE ORANGE AVE ORLANDO AVE BAICH STR. RIR BALCH AVE FELLY PL ORCHID AVE N KENTUCKY CKY AVE MINNESOTA AVE Pp AVE MEAD AVE BUNGALOW AVE Lake Midget DENNING DRIVE BARNUM AVE Pp ARAGON AVE FAIRBANKS HOLT AVE AVE Azalea Lane **Rec Center** Mead CAPEN AVE **Botanical** AZALEA LN Garden





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## Fairbanks Avenue



S WINTER Part Topped	Economic Deve 401 Park Avent Winter Park, FL 3 Phone: 407-64 Fax: 407-643-1 www.cityofwin	2789 3-1657 659	ł	Holiday	'Event E Appli	Banne cation
Organization Name:						
Contact Person:						
Address:						
City, State, Zip Code:						
Phone:		Fax:		Email:		
Logo Name:			Event D	Date(s):		
Dates Requested for E	Banners:			] to		
Banner Location:						
O North Park Avenue			○ New Englan	nd Avenue		
$\bigcirc$ South Park Avenue			O Pennsylvani	a Avenue		
C East Morse Bouleva	ard		O North Oran	ge Avenue		
O West Morse Boulev	ard		○ South Oran	ge Avenue		
O East Fairbanks Aver	nue #1		⊖ East Fairbar	nks Avenue #2		
			Tota	Amount Due	\$	

On behalf of the organization listed above, I, as applicant, hereby acknowledge that I have read and understand the Holiday Banner Policy Guidelines. The applicant/organization agrees to indemnify and hold harmless the City if Winter Park, its agents, officers, and employees from and against all loss, costs, expenses including suits, demands, claims, judgements, liens, attorney's fees in connection with injury to or death of any person or persons or loss of or damage to property resulting from any and all operations performed by or through this application.

The City of Winter Park reserves the right to deny banner placement for any organization. Once approved, applicant must schedule a drop date with the Economic Development Department. Banners are only hanged on Tuesday, Wednesdays, and Thursdays. I understand that the City may hold banners for future use. The City, or any division of the City, shall not be held responsible for any damage to the banners due to installation, removal, or storage. The City has the right to dispose of the banners after five (5) business days after written communication at no cost to the City.

Organization Representative Signature	Date	
City Use Only Date Received: Payment Received: Yes No	Dates Available: Yes No	Design Approved: Yes No
Notes:		



item type Public Hearings	meeting date 10/9/2017
prepared by Budget and Performance Measurement	approved by City Manager, City Attorney
board approval final vote	
strategic objective Fiscal Stewardsh	ip

#### subject

Resolution Correcting Scrivener's Error in Ordinance # 3086-17

#### motion / recommendation

Adopt the resolution as presented.

#### **background**

The rolled-back rate provided to the City Commission as adopted in the millage ordinance was incorrectly stated as 3.8787. This rate is lower than the actual rate which should have been disclosed as 3.8822. This overstated the increase in property taxes for the purpose of TRIM compliance with the change in taxes being 5.41%, not 5.51%. The Department of Revenue has said that adopting a resolution acknowledging this error will allow the city to still be compliant. The city has 30 days from the September 25th budget hearing date to submit all forms related to TRIM compliance.

### alternatives / other considerations

N/A

#### fiscal impact

None. The rolled-back rate has no effect on the adopted budget or millage ordinance. The resolution only seeks to properly correct the record for TRIM compliance purposes.

#### ATTACHMENTS: Description Resolution Correcting Rolled Back Rate

Upload Date 10/2/2017

Type Cover Memo

#### RESOLUTION NO.

#### A RESOLUTION OF THE CITY OF WINTER PARK, FLORIDA, CORRECTING A SCRIVENERS' ERROR IN ORDINANCE NO. 3086-17 CONCERNING THE DISCLOSURE OF THE ROLLBACK MILLAGE RATE AND THE PERCENTAGE DIFFERENCE BETWEEN THE ADOPTED 2017/2018 AD VALOREM TAX MILLAGE RATE AND THE ROLLBACK MILLAGE RATE.

**WHEREAS,** on September 25, 2017, the City Commission adopted Ordinance No. 3086-17 setting the ad valorem tax levy millage rate for the fiscal year beginning October 1, 2017 and ending September 30, 2018; and

WHEREAS, a scriveners' error was found in Ordinance No. 3086-17 concerning the disclosure of the rollback millage rate and the percentage difference between the adopted 2017/2018 ad valorem tax millage rate and the rollback millage rate which disclosed a slightly higher increase in the millage rate adopted from the rollback rate than what was actually adopted by the City; and

**WHEREAS**, this Resolution is adopted to correct the scriveners' error in Ordinance No. 3086-17, and does not alter or affect the ad valorem tax levy millage rate adopted by Ordinance No. 3086-17.

#### NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK:

**SECTION 1**. The roll back millage calculation set forth in the 2<sup>nd</sup> Whereas clause of Ordinance No. 3086-17 is hereby corrected *nunc pro tunc* from "3.8787" to "3.8822."

**SECTION 2.** Section 2 of Ordinance No. 3086-17 is corrected *nunc pro tunc* to read: "The above levy to cover general operating expenses of the City is two thousand one hundred and one tenthousandths above the rolled back millage of 3.8822 mills. Pursuant to State Statutes this levy represents a 5.41% increase in property taxes above the rolled back rate."

**SECTION 3.** This Resolution shall take effect immediately upon adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, held in City Hall, Winter Park, Florida this 9th day of October, 2017.

Steve Leary, Mayor

Attest:

Cynthia S. Bonham, City Clerk



item type Public Hearings	meeting date 10/9/2017
prepared by Public Works	approved by
board approval no final vote	
strategic objective	

#### subject

W. Canton Avenue Easement Vacate

#### motion / recommendation

Approve motion to vacate easement. There are no known utilities within this easement and letters of "no objection" are attached from each potential utility.

#### background

The City of Winter Park received a request from Lowndes, Drosdick, Doster, Kantor and Reed, PA, to vacate the easement located at 841 W. Canton Avenue.

#### alternatives / other considerations

Not approve easement vacate.

#### fiscal impact

No direct financial impact as a part of this action

#### ATTACHMENTS:

Description	Upload Date	Туре
Canton Ave Easement Vacate title sheet	9/19/2017	Cover Memo
Canton Ave Easement Vacate Back up	9/19/2017	Cover Memo
Canton Ave Easement Vacate Ordinance	9/19/2017	Cover Memo
Canton Ave Easement Vacate Exhibit A	9/19/2017	Cover Memo



item type	Public Hearing	meeting date	September 25, 2017
· · · · · · · · · · · · · · · · · · ·	Don Marcotte Public Works Administration	ic Works	
board approval		yes no 🔳	NA final vote
strategic objective		Exceptional Quality of LifeFiscal StewardshipIntelligent Growth & DevelopmentPublic Health & SafeInvestment in Public Assets & Infrastructure	

#### subject

Request to abandon an easement at 841 W. Canton Avenue, Winter Park, Florida.

#### motion | recommendation

Approve motion to vacate easement. There are no known utilities within this easement and letters of "no objection" are attached from each potential utility.

#### background

The City of Winter Park received a request from Lowndes, Drosdick, Doster, Kantor and Reed, PA, to vacate the easement located at 841 W. Canton Avenue.

#### alternatives | other considerations

Not approve easement vacate.

#### fiscal impact

No direct financial impact as a part of this action



#### TARA L. TEDROW

tara.tedrow@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6361 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

TIT MERITAS LAW FIRMS WORLDWIDE

September 1, 2017

#### VIA EMAIL AND HAND DELIVERY

City of Winter Park 500 N. Virginia Ave, Winter Park, FL 32789 Attn: Donald J. Marcotte Email: dmarcotte@cityofwinterpark.org

Vacation of Easements Recorded in Official Records Book 1859, Page 55; Official Records Book 1859, Page 90 and Official Records Book 1859, Page 579, all of the Public Records of Orange County, Florida (collectively, the "Easement") for the property located at 841 W. Canton Avenue (the "Property")

Dear Don:

With regards to the above-referenced matter, enclosed please copies of the following documents and required approvals to vacate the Easement:

1. A copy of the City of Winter Park Easement Vacation Instructions;

2. A copy of the recorded Easement;

3. A survey of the Property showing the location of the Easement;

4. A signed letter approving the vacation from Nick Brana, on behalf of Duke Energy (dated 9/1/17);

5. A signed letter approving the vacation from Christian Read, on behalf of Century Link (dated 7/25/17);

6. A signed letter approving the vacation from Crystal L. Corbitt, on behalf of Teco (dated 8/2/17);

7. A signed letter approving the vacation from Jason Riegler, on behalf of the City of Winter Park's Wastewater Utility Department (dated 8/2/17);

Re:

8. Michael Passarella, on behalf of the City of Winter Park's Engineering Department (dated 8/3/17);

9. A signed letter approving the vacation from Marvin L. Usry, Jr., on behalf of Bright House Networks, Inc. (dated 8/29/17); and

10. A signed letter approving the vacation from Michel L. Champagne, on behalf of Charter Communications, Inc. (dated 8/30/17).

Please do not hesitate to contact me should you have any questions concerning any of the documents enclosed herein. Since we cannot record our plat for the Property until this easement has been vacated of record, please confirm if there is anything else needed as we will be happy to provide. Thank you for your assistance!

Regards,

Tara L. Tedrow

TLT/TLT

Encl.

Cc:

Anil Deshpande (via email) Steve O'Dowd (via email) Dave Schmitt (via email) Patrick Finnerty (via email)

#### #1: A copy of the City of Winter Park Easement Vacation Instructions

[See Attached]

2

 $\mathbf{a}$ 



CITY OF WINTER PARK 401 PARK AVENUE SOUTH WINTER PARK, FLORIDA 32789-4386

- 1) Submit letter of request, including reasons for requesting the Easement Release.
- 2) Submit a copy of a Survey Plat showing the proposed area to be released.
- 3) Submit copies of letters from all utility companies stating their position on the proposed release. (List at bottom of page).

The request can be submitted by mail to Don Marcotte, City Engineer, 401 Park Avenue South, Winter Park, Florida 32789 or hand delivered to 500 N. Virginia Ave, Winter Park, FL 32789. Contact Donald J. Marcotte, P.E., City Engineer (407) 599-3424 or E-mail: <u>dmarcotte@cityofwinterpark.org</u> if you have any questions regarding Release of Easements.

#### **UTILITY CONTACT LIST**

TECO/Peoples Gas 600 West Robinson P.O. Box 2433 Orlando, FL 32802-2433 Attn: Bruce A. Stout, Sr. Engineer Tech 407-420-2678 407-843-6174 FAX

Bright House Networks Inc Marvin Usry 407-532-8509 P J King, Construction Supervisor 407-532-8508 3767 All American Blvd. Orlando, FL 32810 407-532-8544 FAX

City of Winter Park Phil Daniels Water/Wastewater Asst. Utility Director 401 Park Avenue South Winter Park, FL 32789-4386 407-599-3355 407-643-1680 FAX Duke Energy, Inc. 3300 Exchange Place Lake Mary, FL 32746 Lori L. Herring Easement Specialist 407-942-9463 407-942-9417 FAX

Century Link Steve O'Brien 407-830-3650 Candy Crim 407-830-3421 952 First St. Altamonte Springs, FL 32701 407-260-2683 FAX

City of Winter Park Terry Hotard Electric Asst. Director 401 Park Avenue South Winter Park, FL 32789-4386 407-599-3400 407-599-3417 FAX

Date:	
Dear	

I am in the process of requesting the City of Winter Park vacate an (easement/right of way) as shown on the copy of the enclosed tax map. The site is located at (address) in Winter Park. In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Please review your records, complete the form, below, and return this letter to me at \_\_\_\_\_. If you have any questions, please

contact\_\_\_\_\_

Sincerely

Name:	
Address:	
City, State, Zip Code:	

\_\_\_\_\_

The subject parcel is not within our service area.

The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.

The subject parcel is within our service area. We object to the vacation.

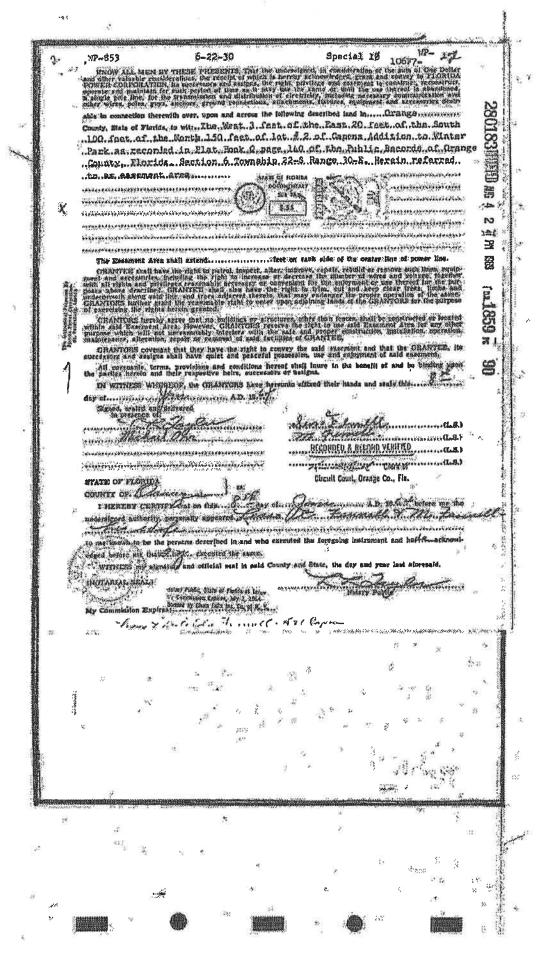
Additional comments: \_\_\_\_\_

Signature:	
Print Name:	
Title:	
Date:	

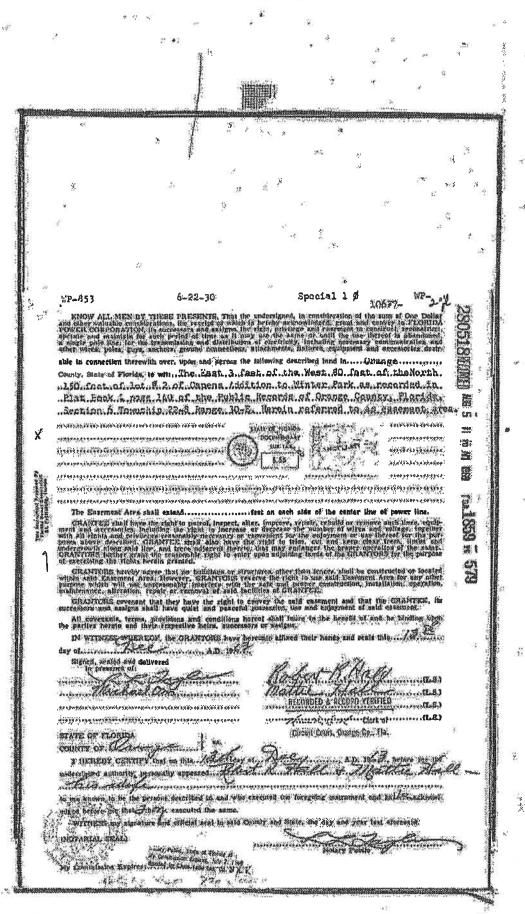
#2: A copy of the recorded Easement

[See Attached]

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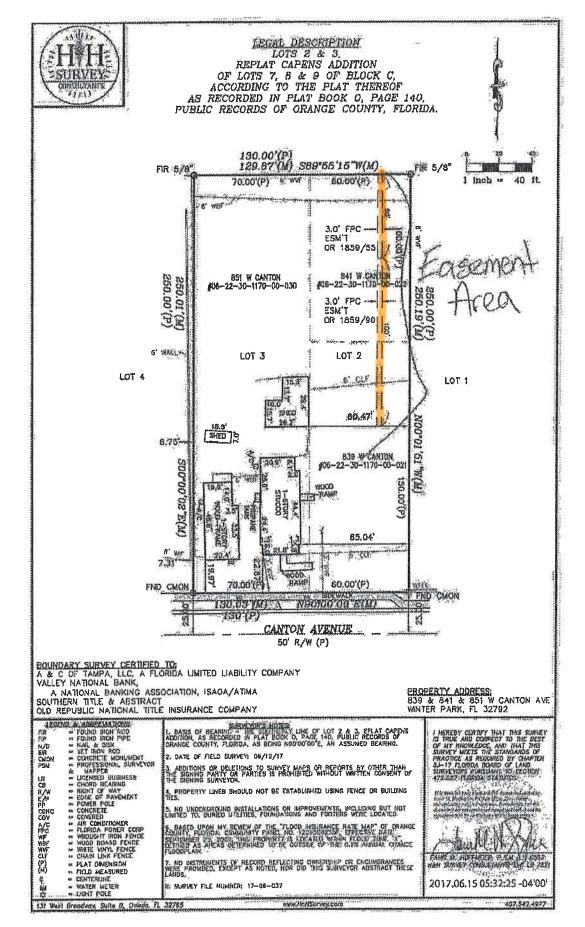
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### #3: A survey of the Property showing the location of the Easement

[See Attached]

Baird, Monica L.



#### #4: A signed letter approving the vacation from Nick Brana, on behalf of Duke Energy (dated 9/1/17)

[See Attached]



AT LAW

PETER H. SIMMONS

peter.simmons@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6379 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

MERITAS LAW FIRMS WORLDWIDE

July 20, 2017

#### VIA FACSIMILE

Duke Energy, Inc. 3300 Exchange Place Lake Mary, Florida 32746 Attn: Lori L. Herring, Easement Specialist Fax: 407-942-9463

#### Re: Request to Vacate Unused Utility Easement at 841 W. Canton Ave, Orlando, Florida

Dear Ms. Herring:

I am in the process of requesting the City of Winter Park vacate an unused utility Easement Area (with such Easement Area and the respective rights thereto established pursuant to those certain instruments recorded in the Public Records of Orange County, Florida and enclosed herein for your review and reference). The Easement Area, as shown on the copy of the enclosed Boundary Survey, is located at 841 W. Canton Ave in Winter Park (with such parcel being more particularly depicted as Lot 2 on the enclosed Boundary Survey). In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Accordingly, after you have had an opportunity to review the enclosed documents and your records, please complete the form included below at your earliest convenience.

X The subject parcel is not within our service area.

\_ The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.

The subject parcel is within our service area. We object to the vacation.

Additional comments:	Area	has	been	transferred	-10	City	of	Winter	Park.
						1			

Signature: Print Name Title: Date:

NICK	BRANA
AND R	EP FLONDA REGION

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www.lowndes-law.com

July 20, 2017 Page 2

Please <u>promptly return this letter</u> (with the form above completed and signed by you on behalf of the abovenamed utility company) to me via email at <u>peter.simmons@lowndes-law.com</u>. If you have any questions, please do not hesitate to contact me.

Very truly yours,

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Peter H. Simmons

Enclosures

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> #5: A signed letter approving the vacation from Christian Read, on behalf of Century Link (dated 7/25/17)

> > [See Attached]

-



LAW

PETER H. SIMMONS

peter.simmons@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6379 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

TH MERITAS LAW FIRMS WORLDWIDE

July 20, 2017

#### VIA FACSIMILE

TOR

A T

Century Link 952 First St. Altamonte Springs, Florida 32701 Attn: Steve O'Brien; Candy Crim Fax: 407-260-2683

Re:

#### Request to Vacate Unused Utility Easement at 841 W. Canton Ave, Orlando, Florida

Dear Mr. O'Brien and Ms. Crim:

I am in the process of requesting the City of Winter Park vacate an unused utility Easement Area (with such Easement Area and the respective rights thereto established pursuant to those certain instruments recorded in the Public Records of Orange County, Florida and enclosed herein for your review and reference). The Easement Area, as shown on the copy of the enclosed Boundary Survey, is located at 841 W. Canton Ave in Winter Park (with such parcel being more particularly depicted as Lot 2 on the enclosed Boundary Survey). In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

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The subject parcel is within our service area. We object to the vacation.

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and the state of the second	f f - f - f - f - f - f - f - f - f - f
Signature:	Clotu KA
Print Name:	Cheistian ISEAD
Title:	East
Date:	7-25-17

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Page 2

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July 20, 2017 Page 2

Please promptly return this letter (with the form above completed and signed by you on behalf of the abovenamed utility company) to me via email at peter simmons@lowndes-law.com. If you have any questions, please do not besitate to contact me.

Very truly yours,

1212 A ...... Stranger Her

Peter H. Simmons

Enclosures:

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## #6: A signed letter approving the vacation from Crystal L. Corbitt, on behalf of Teco (dated 8/2/17)

[See Attached]



Crystal Corbitt Distribution Easement Coordinator, Real Estate Office: 813.228.1091 FAX: 813.228.1376 clcorbitt@tecoenergy.com

AN EMERA COMPANY

August 2, 2017

Peter Simmons Peter.simmons@lowndes-law.com

RE: Request to Vacate Unused Utility Easement at 841 W. Canton Ave., Orlando, Florida

Peter Simmons:

Please be advised that Peoples Gas System, a division of Tampa Electric Company has no interest in any easements that may or may not be a matter of public record. We have no objection to such easements being released.

If you have any questions, please feel free to contact me.

Thank you,

Crystal L. Corbitt Distribution Easement Coordinator Real Estate Services

PEOPLES GA5 702 NORTH FRANKLIN STREET P.O. BOX 2562 TAMPA, FL 33601-2562 AN EQUAL OPPORTUNITY COMPANY

> #7: A signed letter approving the vacation from Jason Riegler, on behalf of the City of Winter Park's Wastewater Utility Department (dated 8/2/17)

> > [See Attached]

#### PETER H. SIMMONS

peter.simmons@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6379 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

THE MERITAS LAW FIRMS WORLDWIDE

July 20, 2017

#### VIA FACSIMILE

City of Winter Park 401 Park Avenue South Winter Park, Florida 32789 Attn: Phil Daniels, Water/Wastewater Asst. Utility Director Fax: 407-643-1680

#### Re: Request to Vacate Unused Utility Easement at 841 W. Canton Ave, Orlando, Florida

Dear Mr. Daniels:

Х

I am in the process of requesting the City of Winter Park vacate an unused utility Easement Area (with such Easement Area and the respective rights thereto established pursuant to those certain instruments recorded in the Public Records of Orange County, Florida and enclosed herein for your review and reference). The Easement Area, as shown on the copy of the enclosed Boundary Survey, is located at 841 W. Canton Ave in Winter Park (with such parcel being more particularly depicted as Lot 2 on the enclosed Boundary Survey). In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

Accordingly, after you have had an opportunity to review the enclosed documents and your records, please complete the form included below at your earliest convenience.

\_\_\_\_\_ The subject parcel is not within our service area.

The subject parcel is within our service area. We do not have any facilities within the

easement/right of way. We have no objection to the vacation.

#### The subject parcel is within our service area. We object to the vacation.

Additional comments: Only applicable to potable water and sanitary sewer.

Signature:	Digitally signed by Jason Riegler, P.E. DN: C=US, E=Iriegler@citvofwinterpark.org.	
Print Name:	O=Clty of Winter Park, OU=Water and	
Title:	Wastewater Utility Department, CN="Jason Riegler, P.E."	
Date:	Date: 2017.08.02 14:09:10-04'00'	
		_

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Agenda Packet Page 72

July 20, 2017 Page 2

Please <u>promptly return this letter</u> (with the form above completed and signed by you on behalf of the abovenamed utility company) <u>to me via email</u> at <u>peter.simmons@lowndes-law.com</u>. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Peter H. Simmons

Enclosures

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Agenda Packet Page 73

September 1, 2017 Page 10

# #8: Michael Passarella, on behalf of the City of Winter Park's Engineering Department (dated 8/3/17)

[See Attached]

#### PETER H. SIMMONS

peter.simmons@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6379 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

TH MERITAS LAW FIRMS WORLDWIDE

July 20, 2017

#### VIA FACSIMILE

City of Winter Park 401 Park Avenue South Winter Park, Florida 32789 Attn: Terry Hotard, Electric Asst. Director Fax: 407-599-3417

#### Re: Request to Vacate Unused Utility Easement at 841 W. Canton Ave, Orlando, Florida

Dear Mr. Hotard:

I am in the process of requesting the City of Winter Park vacate an unused utility Easement Area (with such Easement Area and the respective rights thereto established pursuant to those certain instruments recorded in the Public Records of Orange County, Florida and enclosed herein for your review and reference). The Easement Area, as shown on the copy of the enclosed Boundary Survey, is located at 841 W. Canton Ave in Winter Park (with such parcel being more particularly depicted as Lot 2 on the enclosed Boundary Survey). In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

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 \_\_\_\_\_\_
 The subject parcel is not within our service area.

 \_\_\_\_\_\_
 X

 \_\_\_\_\_\_
 The subject parcel is within our service area. We do not have any facilities within the easement/right of way. We have no objection to the vacation.

The subject parcel is within our service area. We object to the vacation.

#### Additional comments: \_\_\_\_\_

Signature:	Michael A. Passarella Discinitude A. Passarella Discinitude A. Passarella Discinitude A. Passarella Discinitude A. Passarella Scilly of Winter Park, our-Electric Utility Operations, Date: 2017 of Votor	
Print Name:	Michael Passarella	
Title:	Sr. Electrical Engineer	
Date:	Aug. 3, 2017	

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July 20, 2017 Page 2

Please **promptly return this letter** (with the form above completed and signed by you on behalf of the abovenamed utility company) to me via email at peter.simmons@lowndes-law.com. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Peter H. Simmons

Enclosures

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Agenda Packet Page 76

September 1, 2017 Page 11

> #9: A signed letter approving the vacation from Marvin L. Usry, Jr., on behalf of Bright House Networks, Inc. (dated 8/29/17)

> > .

[See Attached]

#### PETER H. SIMMONS

peter.simmons@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6379 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

TH MERITAS LAW FIRMS WORLDWIDE

July 20, 2017

#### VIA FACSIMILE

Bright House Networks Inc. 3767 All American Blvd. Orlando, Florida 32810 Attn: Marvin Usry; PJ King, Construction Supervisor Fax: 407-532-8544

#### Re: Request to Vacate Unused Utility Easement at 841 W. Canton Ave, Orlando, Florida

Dear Mr. Usry and Mr. King:

I am in the process of requesting the City of Winter Park vacate an unused utility Easement Area (with such Easement Area and the respective rights thereto established pursuant to those certain instruments recorded in the Public Records of Orange County, Florida and enclosed herein for your review and reference). The Easement Area, as shown on the copy of the enclosed Boundary Survey, is located at 841 W. Canton Ave in Winter Park (with such parcel being more particularly depicted as Lot 2 on the enclosed Boundary Survey). In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

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\_\_\_\_\_

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The subject parcel is within our service area. We object to the vacation.

Additional comments: \_\_\_\_

Signature:	-Manufatter -	
Print Name:	MARVIN L. USRY, JR.)	
Title:	CONSTRUCTION SUPERVISOR	
Date:	8/29/2017	

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July 20, 2017 Page 2

Please promptly return this letter (with the form above completed and signed by you on behalf of the abovenamed utility company) to me via email at peter.simmons@lowndes-law.com. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Enclosures

Peter H. Simmons

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September 1, 2017 Page 12

> #10: A signed letter approving the vacation from Michel L. Champagne, on behalf of Charter Communications, Inc. (dated 8/30/17)

> > [See Attached]

....

#### PETER H. SIMMONS

peter.simmons@lowndes-law.com 215 North Eola Drive, Orlando, Florida 32801-2028 T: (407) 418-6379 | F: 407-843-4444 MAIN NUMBER: 407-843-4600

July 20, 2017

#### VIA FACSIMILE

Bright House Networks Inc. 3767 All American Blvd. Orlando, Florida 32810 Attn: Marvin Usry; PJ King, Construction Supervisor Fax: 407-532-8544

# Re: Request to Vacate Unused Utility Easement at 841 W. Canton Ave, Orlando, Florida

Dear Mr. Usry and Mr. King:

I am in the process of requesting the City of Winter Park vacate an unused utility Easement Area (with such Easement Area and the respective rights thereto established pursuant to those certain instruments recorded in the Public Records of Orange County, Florida and enclosed herein for your review and reference). The Easement Area, as shown on the copy of the enclosed Boundary Survey, is located at 841 W. Canton Ave in Winter Park (with such parcel being more particularly depicted as Lot 2 on the enclosed Boundary Survey). In order to have this action heard, I must provide letters of no objection from utility companies serving the neighborhood.

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The subject parcel is within our service area. We object to the vacation.

Additional comments:

#### **BRIGHT HOUSE NETWORKS, LLC**

By: Charter Communications, Inc., Its Manager

Signature:

Print Name: Michel L. Champagne

Title: Area Vice President, Field Operations

Date: 8/

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

## ORDINANCE NO. <u>-17</u>

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AN EASEMENT LOCATED AT 841 W. CANTON AVENUEES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN OFFICIAL RECORDS BOOK 1859, PAGE 55, OFFICIAL RECORDS BOOK 1859, PAGE 90 AND OFFICIAL RECORDS BOOK 1859, PAGE 579, OF THE PUBLIC RECORDS OF ORANGE COUNTY, MORE PARTICULARLY DESCRIBED IN PLAT BOOK O, PAGE 140; PROVIDING FOR CONFLICTS, RECORDING AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Winter Park has authority to adopt this Ordinance by virtue of its home rule powers and Charter with respect to abandoning and vacating rights of way no longer needed for public purposes, and the City Commission has made such a determination.

#### 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 the easement legally described in that certain legal description and sketch of description attached hereto as **Exhibit "A"**.

**Section 2.** In the event of any conflict between this Ordinance and any other ordinance or portions of ordinances, this Ordinance controls

**Section 3.** After adoption, this Ordinance shall be recorded in the public records of Orange County, Florida.

**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 \_\_\_\_\_, <u>2017.</u>

Mayor Steven Leary

ATTEST:

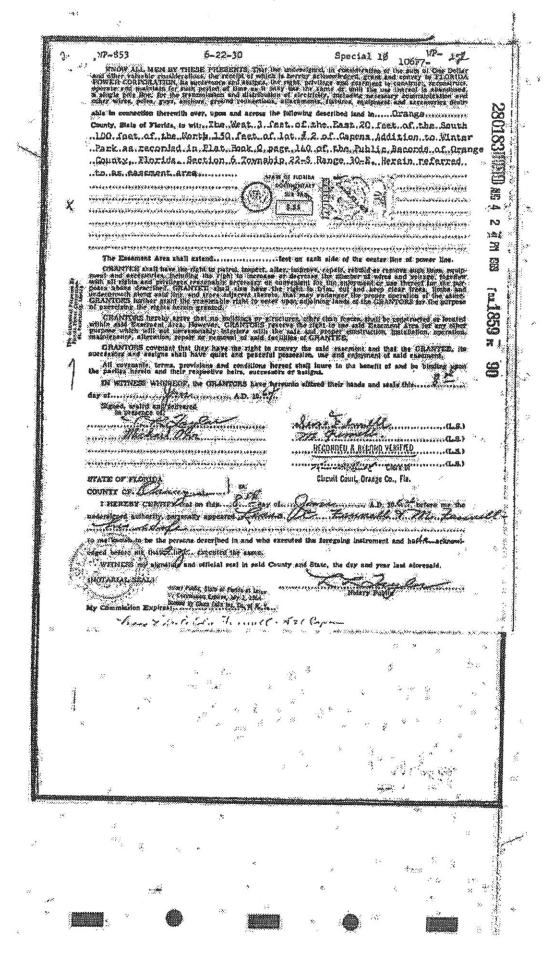
City Clerk Cynthia S. Bonham

Agenda Packet Page 82

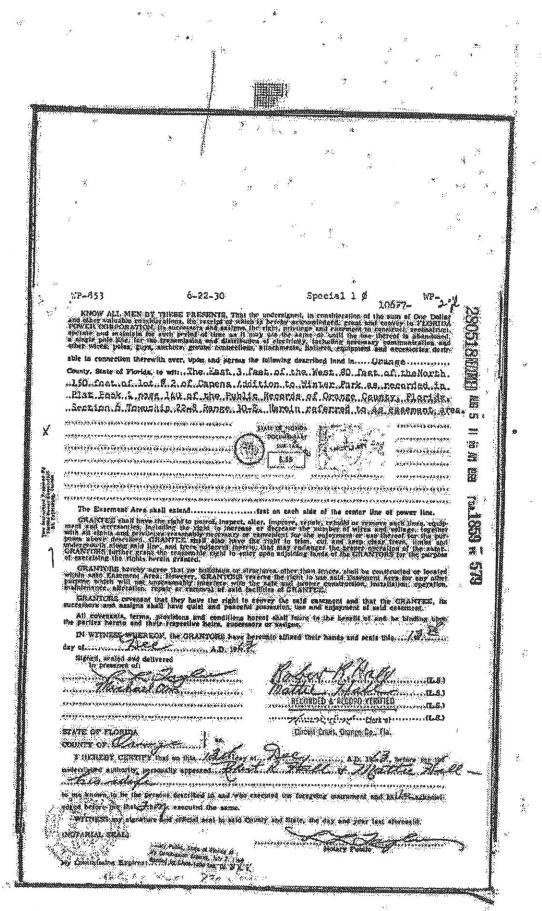
11/ ÷. Exhibit ma 22/2 6-22-30 W-8:3 Spacial 1 # KNOW ALL MEN BY THESE DECENTS, that the , other valuable considerations, the receipt of which is with CORPORATION. Its operators and configuration with CORPORATION the operators and configuration. The set and analytic for another period as draw as the forma-ingle pole like, for the transmission and distribution. telenation of longiture of One 2801501010 pressure and analysis. The right, proving and reacting period as direct as it may use the same or would be smitheling and distribution of specifically, including new way, ground approaching, alterningta, maintee, equipa to construct, th poich curs. shis in connection therewith over, upon and percess the following described land in ...... Orange ..... County, State of Florida, to with. The ... Vest. A. Lest. of ... tho. East. 20. Lest. of .. the .North .50. fest. of. lot. A.Z. of. Capons, Addibion. to. Minter, Park, as recorded in .... Plat. Look. Q. rare. 140. of the Public Records. of Orange. Countys. Florida. X Section.f. Township. 72-8. Hange. 10-2. Herein. referred.te.as. sagement.sree. PLATE OF FLORIDA ATT TIM -----200 \*\*\*\*\*\*\*\*\* 3 12.1 40. SUR TAX 14 Aratestate "d" 8.55 \*\*\*\*\*\*\* \*\*\*\* \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\* 100 \*\*\*\*\*\*\* far 1859 CRANTER shall have the right to paired, jeapert, aller, improve, repuir, rebuild or remove such lines, equivalent and solve and reliance of show and reliance frequencies of some solves and reliance frequencies. A13 . M sement for the enjoyment sight to trim, cut and in 10000 ng lange of the Greper operation of the 31 versiving the sights herein granized. shall he considered and incals that no be res. However, DRAMTNIS severe the right to use and unreamanically interfere with the and and proper consist repairs at termoval of and facilities of GRANTER. sociit Ares for any , inelaitation, spec 83 GRANIORS coveragit that they have the right to convey the said enarment and that the GRANIZE, its successors and assigns shall have quiet and peaceful provided, use and enjoyment of said essencent. All consecuting terms, provisions and econfictions harded shall intre to the benefit of and be binding upon parties foreito and their respective heing, successors or assigns. De parine arrende and then respective nerges successors or assigns. De WITNESS WIGHEOF, the GRAFTERS force bereauto affined their hands and scale this. If the Strate of the second delivered in pression affined deli (L-S.) \*\*\*\*\*\* STATE OF FLORIDA compre or ant the margareter Junya Altari Barta T TIEREDY CENTER That an able .. . . SA Gett before me The authority; personijily appeared ne to flood det tal + bird 3 . Parket ....... 2 its me known to be the periodic described in and who executed the pregating theiroment and hable, account Clerk 3 terd before me that if he for encours the name. WITHESS my signature and writers area in said County and Blate, the day and year last storessid. Drange INCTARTAL SEALS: Court, Samo a they a state 03080738 Circult NY C Come 18 deerer partien Stat & Papers With this will be ana wan alut ma n v millennenengen h : 2/ 1 4 X

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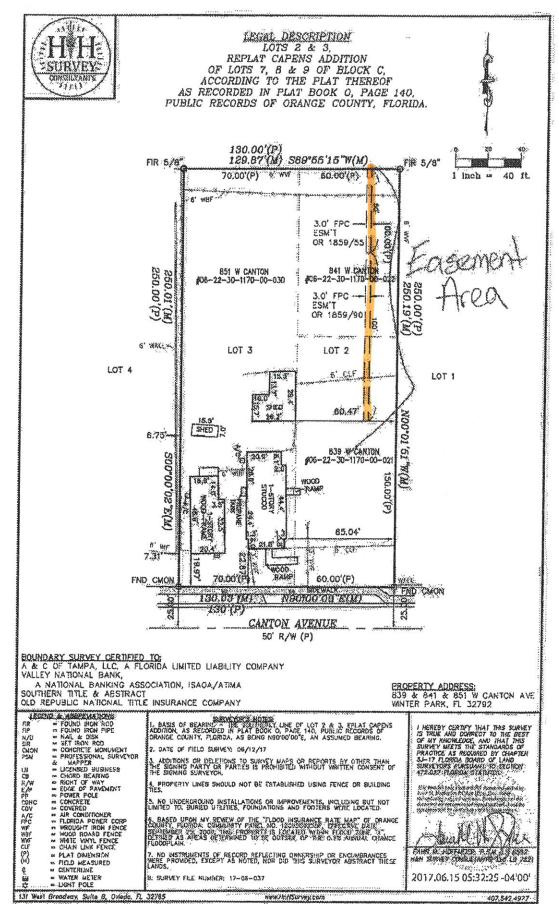
Baird, Monica L.



Agenda Packet Page 84



Baird, Monica L.



# City commission agenda item

item type Public Hearings	meeting date 10/9/2017			
prepared by Planning / CRA Manager Approval	approved by City Manager, City Attorney			
board approval N/A final vote				
strategic objective Exceptional Quality of Life, Intelligent Growth and Development, Investment in Public Assets and Infrastructiure				

# subject

Request for extension of Vehicle Sales Agreements at 1891, 2250, 2286, and 2324 West Fairbanks Avenue.

# motion / recommendation

Recommend that the Commission does not extend the car sales agreements and close the prohibited uses within a maximum of 90 days.

# background

The property owners of 1891 West Fairbanks (Frank Ray) and 2250, 2286 and 2324 West Fairbanks (Jim Veigle) are asking for City Commission approval to extend the period of vehicle sales permitted on these properties, which expired on September 30, 2017. These owners would like as long a period as possible but recognize that the Agreement for vehicle sales at the Orlando RV properties (860 West Fairbanks (former Holler Chevrolet)), 805 West Fairbanks (former Holler truck lot across the street) and 710 West Fairbanks (former Holler Corvette on corner of Capen Avenue) expires in December 2018. They wish to be consistent with this approval.

**Summary:** A major part of the decision to invest in the West Fairbanks corridor, with the extension of sanitary sewer, new traffic lights, new street lights, repaving of the road and undergrounding of the electric power was to encourage the redevelopment of this gateway corridor into the City. For that reason the City changed the Zoning Code in 2006 to make car/vehicle sales a prohibited use rather than a conditional use. The intention is that as car lots go out of business they cannot be replaced along the entirety of Fairbanks Avenue. Since 2006, three used car lots have ceased operations along West Fairbanks Avenue.

However, the City Commission desired to be fair to the affected property owners especially when the downturn in the economy occurred in 2007 and in recognizing the construction period for the sanitary sewer and other infrastructure project impacts. As a result, the City Commission approved vehicle sales agreements for these properties at 1891, 2250, 2286 and 2324 West Fairbanks that permitted car sales up until September 2015. That was subsequently extended by the City Commission until September 2017.

Planning Staff Recommendation: The ultimate goal for the City is to have

redevelopment occur along the West Fairbanks corridor. There is less incentive for a property owner to sell or redevelop as long as they have revenue from a car sales lot. From the owners perspective, there is not a good time to end these car sale agreements because it will take immediate revenue from the property owners in lieu of future returns. The property owners would like to keep those car lots until the period of time when the construction activities involved for the undergrounding of the power lines will impact this corridor. But until these agreements end, there is little motivation for redevelopment.

The City Commission has extended these agreements for 10 years. Redevelopment is actively occurring throughout the city and the city has made significant capital investments along West Fairbanks Avenue. Staff recognizes that from the property owners perspective there is never a good time to close down a business, however 10 years is a long period of time to extend their nonconformance with the zoning code.

Staff feels that it is time to enforce the applicable Zoning Code and does not recommend any further extensions. Staff recommends that the there be no further extensions of the agreements and that the prohibited uses close in a maximum of 90 days.

# alternatives / other considerations

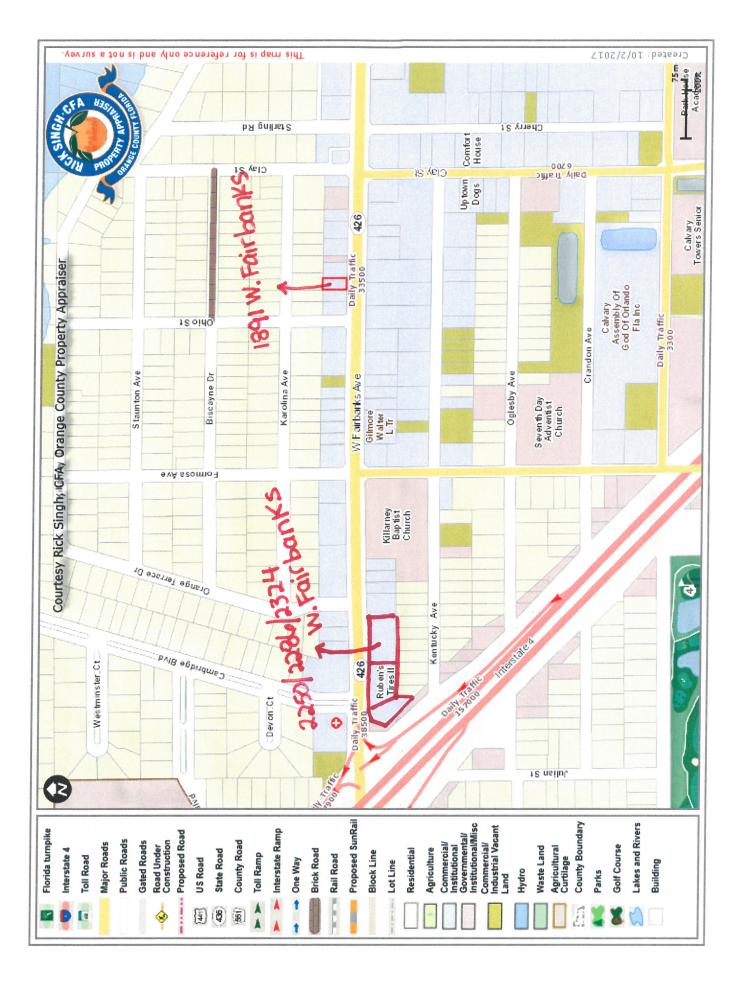
N/A

## fiscal impact N/A

ATTACHMENTS:

## Description

W Fairbanks Properties Map Approved Non conforming use agreements Requset by Veigle Upload Date 10/2/2017 10/2/2017 10/2/2017 Type Exhibit Cover Memo Cover Memo



Prepared by and return to: Usher L. Brown, Esq. Brown, Garganese, Weiss & D'Agresta, P.A. P.O. Box 2873 Orlando, FL 32802 Tel: (407) 425-9566 Fax: (407) 425-9596 DOC # 20090591336 B: 9943 P: 8830 10/05/2009 03:44:11 PM Page 1 of 8 Rec Fee: \$69.50 Doc Type: AGM Deed Doc Tax: \$0.00 Intangible Tax: \$0.00 Mortgage Stamp: \$0.00 Mortgage Stamp: \$0.00 Martha 0. Haynie, Comptroller Orange County, FL MB - Ret To: BROWN, GARGANESE, WEISS &

# AGREEMENT TO REMOVE NON-CONFORMING USE

This Agreement to Remove Non-Conforming Use (the "Agreement") is made and entered into this 28th day of September, 2009 by and between the CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation (the "City"), whose address is 401 Park Avenue South, Winter Park, Florida 32789, and JAMES P. VEIGLE and CHARLES H. VEIGLE, (jointly and severally referred to as the "Property Owners"), whose business address is 663 Harold Avenue, Winter Park, Florida 32789.

#### RECITALS

WHEREAS, the City has established the zoning regulation that prohibits vehicle sales businesses in certain portions of the City, including Fairbanks Avenue and including the property owned by the Property Owners at 2250 and 2286 West Fairbanks Avenue, more particularly described as Lots 13-20, Block A, Olympia Heights Annex subdivision as recorded in Plat Book "J", Page 83 of the Public Records of Orange County, Florida (Tax ID #'s 11-22-29-6180-01130 and 11-22-29-6180-01170) (said properties hereinafter referred to as the "2250/2286 Properties"); and the property at 1234 West Fairbanks Avenue, more particularly described as Lots 19-20, Beverly Park subdivision as recorded in Plat Book "K", Page 45 of the Public Records of Orange County, Florida (Tax ID #12-22-29-0064-00190) (hereinafter referred to as the "1234 Property"); and

WHEREAS, the Property Owners want to temporarily reestablish automobile vehicle sales from the 2250/2286 Properties as a non-conforming use, and such property has previously been

Page 1 of 8

used for vehicle sales, and such continued non-conforming use would be for a limited period of time under the terms and conditions set forth in this Agreement; and

WHEREAS, the Property Owners, as consideration to the City for the City entering this Agreement, do hereby agree and commit to permanently and promptly discontinue vehicle sales from the 1234 Property; and

WHEREAS, absent this Agreement it would be an unlawful non-conforming use for the Property Owners to conduct a vehicle sales business from the 2250/2286 Properties; and

WHEREAS, Subsection 58-64(e), City of Winter Park Code of Ordinances, prohibits the enlargement, extension, reconstruction, movement or structural alteration of any non-conforming use except in changing the use of the property to a use permitted in the district in which the property is located; and

WHEREAS, pursuant to this Agreement, the non-conforming use of the 2250/2286 Properties will be promptly terminated and said property will be devoted only to a conforming use; and

WHEREAS, pursuant to this Agreement, the 1234 Property will, within the time period specified in this Agreement, have its non-conforming use terminated and the property thereafter devoted strictly to a conforming use in the district in which it is located; and

WHEREAS, this Agreement is consistent with the intent and purpose of subsection 58-64(e), City of Winter Park Code of Ordinances; and

WHEREAS, the City will agree to the provisions of this Agreement because the nonconforming use of the 2250/2286 Properties will be promptly terminated and that property will be devoted to a conforming use and the non-conforming use of the 1234 Property will be terminated within the period specified in this Agreement and thereafter the property will be devoted only to a conforming use; and

Page 2 of 8

· • .'

WHEREAS, the elimination of the non-conforming uses of the 2250/2286 Properties and the 1235 Property pursuant to the terms and conditions of this Agreement is consistent with the City's plans for the improvement and development of West Fairbanks Avenue.

NOW, THEREFORE, in consideration of these premises and the mutual consideration and covenants set forth in this Agreement, the parties agree as follows:

1. **Recitals**: The recitals set forth above are true and correct, and the recitals are incorporated herein and fully made a part of this Agreement.

2. The Property Owners may conduct or pursuant to agreement, allow others to conduct, subject to all other applicable laws and regulations, vehicle sales businesses from the 2250/2286 Properties, but such vehicle sales businesses will only be allowable for no more than six (6) years from the date of this Agreement. After the expiration of six (6) years following the effective date of this Agreement, there shall be no further vehicle sales business or activities permitted from the 2250/2286 Properties.

3. Automated Occupational License Renewal Process: Should any occupational license renewal be issued by the City in violation of the six (6) year time limit specified herein with respect to the 2250/2286 Properties and with respect to the 1234 Property should any license renewal occur, such license or licenses will have no effect, will be void and shall not alter or vary the terms of this Agreement which calls for the cessation of the non-conforming use of the properties within the time periods mentioned herein. However, the owner or tenant will receive a refund of any fees paid should an occupational license for vehicle sales be issued for a period of time when, pursuant to this Agreement and the City's Land Development Code, no vehicle sales would be permitted from the premises.

4. Termination of Vehicle Sales at the 1234 West Fairbanks Property: The Property Owners agree to terminate all vehicle sales, business and activity from the 1234 Property at the

Page 3 of 8

time of the commencing vehicle sales or vehicle sales activities from the 2250/2286 Properties, or within six (6) months from the date of this Agreement, whichever occurs first, and they further agree and commit that no future vehicle sales, business or activity can be or will be conducted from the 1234 Property and that such activity would be a non-conforming use prohibited under the Land Development Code and the applicable regulations of the City of Winter Park.

5. Improvements to the 2250/2286 Properties: As an essential part of the consideration for this Agreement, the Property Owners agree and shall improve the 2250/2286 Properties as set out in this section of the Agreement, subject to the standards of the City for improvements. Before commencing any vehicle sales or vehicle sales activity from the 2250/2286 Properties, the Property Owners shall construct or cause to be constructed to the standards set by the City, a five (5) foot landscape strip along the entire Fairbanks Avenue frontage of the 2250/2286 Properties, except for an agreed upon driveway access. Said new landscape area will contain seven (7) gallon podocarpus hedges, spaced thirty (30) inches apart and maintained at thirty (30) inches in minimum height, interspersed at twenty (20) foot intervals with crepe myrtles. Additionally, the Property Owners shall maintain the existing landscaping and palm trees on the 2250/2286 Properties. It shall be required and a term and condition of this Agreement that all of the landscaping and palm trees on the property, including the new landscaping required pursuant to this section, shall be maintained by the Property Owners in good condition subject to the standards set by the City throughout the term of this Agreement, and enforcement of said landscaping and maintenance shall be subject to the City's remedies as set out in Section 6 of this Agreement. In addition, the Property Owners agree to remove, before commencing vehicle sales or vehicle sales activities, the outdoor canopy structure previously used on the property from the 2286 Property and will also remove the non-conforming sign at the rear of the 2250/2286 Properties.

6. Enforcement: This Agreement shall be subject to enforcement pursuant to the City's Code Enforcement Board, subject to all due process and procedures set out in the Ordinances of the City of Winter Park and the Procedures of the Code Enforcement Board, including but not limited to the imposition of appropriate fines on a per diem basis for continuing violations of this Agreement. Additionally, the City of Winter Park shall have all remedies available pursuant to Florida law for a breach of this Agreement by the Property Owners which is not cured within ten (10) calendar days following notice.

- 7. *Notice:* Notice to a party shall be made as follows:
  - a. <u>To the City of Winter Park</u>: By delivery to the City Manager, 401 Park Avenue South, Winter Park, Florida 32789.
  - b. <u>To the Property Owners</u>: By delivery to James P. Veigle and Charles H. Veigle, 663 Harold Avenue, Winter Park, Florida 32789.

#### 8. Miscellaneous Provisions:

- a. As used herein, the term vehicle sales or vehicle sales activities shall include any business in which any vehicle sales is accomplished or attempted, whether such activities is conducted by the Property Owners or a tenant, agent, transferee, assignee, successor or heir of the Property Owners.
- b. All applicable laws and regulations of the City of Winter Park shall continue to apply with respect to the conduct of business and the activities taking place on or about the 2250/2286 Properties and the 1234 Property, and no provision of this Agreement shall be construed to limit the effect of any applicable law, regulation or ordinance.
- c. This Agreement is intended to be recorded in the Public Records of Orange County, Florida and shall run with all of the property identified in this Agreement.

Page 5 of 8

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

Signed, sealed and delivered in the Presence of:

**OWNER** 

Printed dsey Veigle Printed Name: oren

By: James & Veigle

STATE OF FLORIDA COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this  $1^{5f}$  day of October, 2009 by James P. Veigle, who is personally known to me or who has produced as identification and who did take an oath and who acknowledged to me that he/she executed the same for the purposes set forth herein.

	JEROME M CLAXTON MY COMMISSION # DD826597
NOTARY PUBL	(407) 398-0153 Florida Notary Service.com
	Charton
(Name typed or p	rinted)
(Seal)	
<b>Commission Expi</b>	ires: 9/28/12

Sep 29 2009 6:55PM HP LASERJET FAX

4072601038

page 9

Signed, sealed and delivered in the Presence of:

OWNER

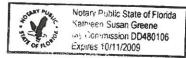
Printed Name: PATRICIA

Printed Name: Geo nhar

e Se By: Charles H.

STATE OF FLORIDA COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of September, 2009 by Charles H. Veigle, who is personally known to me or who has produced as identification and who did take an oath and who acknowledged to me that he/she executed the same for the purposes set forth herein.



(Name typed or printed) ENE (Seal) Commission Expires: 10-11-09

Page 7 of 8

Signed, sealed and delivered in the Presence of:

. .

< Printed Name: Muchel Printed Name: tran NOT

CITY OF WINTER PARK, FLORIDA

By: Kenneth W. Bradley, Mayor Attest: C City Clerk [SEAL]

Page 8 of 8

## PREPARED BY AND RETURN TO:

Jeffrey Briggs, Planning Manager City of Winter Park 401 Park Avenue Winter Park, FL 32789 (407) 599-3440

# AGREEMENT TO REMOVE NONCONFORMING USE EXTENSION

THIS AGREEMENT TO REMOVE NONCONFORMING USE EXTENSION (the "Agreement") is made and entered into in on <u>DetoBER</u> 7, 2015, between the CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation (the "City"), at 401 Park Avenue South, Winter Park, Florida 32789, and JAMES P. VEIGLE and CHARLES H. VEIGLE ("Owners"), whose address is <u>1301</u> *W*. FAIKBANK S AVE, *WINTER PARK*, FL.

#### WITNESSETH

WHEREAS, Owners own certain real property (the "Property") located within the municipal boundaries of City, as described on and attached as Exhibit "A";

WHEREAS, the use of the Property for the sale of vehicles is a nonconforming use;

WHEREAS, City and Owners have entered into an Agreement to Remove Nonconforming Use ("Removal Agreement") dated September 28, 2009, and recorded n O.R. Book 9943, Page 8830, of the Public Records of Orange County, Florida;

WHEREAS, the Removal Agreement will terminate September 28, 2015;

WHEREAS. Owners have requested City to extend the Removal Agreement for another two years;

WHEREAS, on March 11, 2015, the City Commission agreed to allow for the extension until September 28, 2017:

WHEREAS, the City Commission agreed to the extension because there will be extensive construction on Fairbanks Avenue to move electric facilities underground during the next two years, which will result in decreased business interests in the area; and

WHEREAS, the City Commission has determined that it makes better business sense to extend the nonconforming use for the next two years than chance that the Property will sit empty because of the construction.

NOW THEREFORE, in consideration of mutual promises and covenants, City and Owner agree:

**SECTION 1. RECITALS.** The above recitals are true and correct and incorporated and made a part of this Agreement.

# SECTION 2. NONCONFORMING USE FOR VEHICLE SALES EXTENDED

1. The Removal Agreement will be extended for a term of two years beginning on September 28, 2015, and ending on September 28, 2017 (the "Term").

2. At the expiration of the Term, either Owner or Tenant of the Property may petition City for additional extensions of the Term. Any additional extensions may be granted at City's sole discretion.

3. Owner or Tenant may receive a renewal of their occupational license by mail via City's automated license renewal process to operate a vehicles sales business on the Property. Such license will only be valid for the duration of this Agreement and any other extensions as City may provide, at its sole discretion. Owner or Tenant may be entitled to a refund of any licensing fees paid if Owner or Tenant is unable to operate a vehicles sales business on the Property because of the expiration of this Agreement and no time extensions were provided by City.

4. Other than the extension of the termination date, all other terms in the Removal Agreement will remain in full force and effect. The terms of the Removal Agreement and this Agreement are applicable to any persons conducting vehicle sales business on the Property.

# SECTION 3. AMENDMENTS TO THIS AGREEMENT

Amendments to this Agreement may be approved by City at its sole discretion. Any Amendments allowed by City must conform with the City's Land Development Code and be in writing using the method noted in City's Ordinance.

# SECTION 4. BINDING EFFECT ON SUCCESSORS IN INTEREST

This Agreement, including all supplementary orders and resolutions, approved development plans, master site plans, and final site plans, are binding upon Owner and their successors in interest, shall run with the Property and be administered in a manner consistent with Florida Statutes and local law.

# **SECTION 5. EQUITABLE REMEDY**

The Parties agree that there is no adequate remedy at law for a breach of this Agreement and therefore, City is entitled to specific performance.

# **SECTION 6. ATTORNEY'S FEES**

Owner is responsible for all costs and expenses (the "Costs"), including attorney's fees, whether or not litigation is necessary, incurred by City in enforcing the terms of this Agreement. The Costs will include those incurred by City for appeals. The Costs will be a lien upon the Property and will be superior to all other liens, to the maximum extent allowed by law. Interest on unpaid overdue Costs will accrue at the rate of eighteen percent (18%) compounded annually or at the maximum allowable rate.

## SECTION 7. GOVERNING LAW; VENUE

This Agreement is governed by the laws of the State of Florida. The venue for purposes of litigation will be in Orange County, Florida.

#### **SECTION 8. RECORDING**

This Agreement will be recorded, at Owner's expense, in the Public Records of Orange County, Florida, within fourteen (14) days after full execution. The recording will not constitute any lien or encumbrance on title to the Property but will serve as a record notice of governmental regulations governing the use and enjoyment of the Property.

## SECTION 9. TIME IS OF THE ESSENCE

Time is of the essence as to the lawful performance of all duties and obligations noted in this Agreement.

#### SECTION 10. SEVERABILITY

If any provision of this Agreement or of any document incorporated by reference is held invalid, such invalidity will not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared severable.

# SECTION 11. DEVELOPMENT PERMITS

This Agreement does not affect the City's authority to grant or deny any development permit applications.

#### SECTION 12. SUBORDINATION/JOINDER

Unless otherwise agreed to by City, all liens, mortgages and other encumbrances not satisfied or

released, must be subordinated to the terms of this Agreement or the lienholder must join in this Agreement. Prior to the execution of this Agreement, Owner must provide City with a signed subordination/joinder form that is satisfactory to the City Attorney.

# SECTION 13. TERM; EFFECTIVE DATE

This Agreement is effective upon the last date for which the last Party to this Agreement signs and will terminate on September 28, 2017, unless earlier terminated by City because of a breach by Owner or Owner's successor in interest.

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

Signed, sealed and delivered in the presence of

**OWNER:** 

Bi

Print Name

Name: James P. Veigle

Print Name\_\_\_\_\_

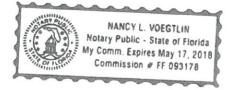
Print Name

Print Name

By: Name: Charles H. Veigle

# STATE OF FLORIDA COUNTY OF ORANGE

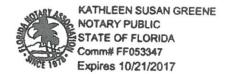
The foregoing instrument was acknowledged before me this <u>1</u> day of <u>OCTOBER</u>, 2015, by James P. Veigle (check one)  $\overrightarrow{v}$  who is personally known to me or  $\square$  who produced as identification.



Manay L. Volgtlin Notary Public Printed Name: <u>Hancy L. Voeattin</u> My commission expires: 05/17/2018

# STATE OF FLORIDA COUNTY OF Semi Nole

The foregoing instrument was acknowledged before me this  $\frac{28}{28}$  day of  $\frac{0.4362r}{0.4362r}$ , 2015, by Charles H. Veigle (check one) who is personally known to me or  $\Box$  who produced as identification.



Sin & -

Notary Public Printed Name: KAHLEEN Susan Greene My commission expires: 10/21/2017

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# CITY OF WINTER PARK, FLORIDA

ATTEST:

By: \_\_\_\_\_\_ Mayor Steven J. Leary

By: \_\_\_\_

City Clerk

# STATE OF FLORIDA COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_\_, 2015. by Steven J. Leary, Mayor of the City of Winter Park, Florida, who is personally known to me.

> Notary Public Printed Name: My commission expires:

G (Docs/Crites/Winter Park) Agreements & Contracts/Vehicle Sales on Fairbanks Avenue/Vehicle Sales Agreement extension 2250 & 2286 Fairbanks 6-2-15 clean doc

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#### EXHIBIT "A"

# 2250 AND 2286 WEST FAIRBANKS AVENUE

LOTS 13-20, BLOCK A, OLYMPIA HEIGHTS ANNEX SUBDIVISION AS RECORDED IN PLAT BOOK "J", PAGE 83 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

7

PROPERTY TAX ID #'s 11-22-29-6180-01130 and 11-22-29-6180-01170

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

PREPARED BY

Jeffrey Briggs, Planning Manager City of Winter Park 401 Park Avenue Winter Park, FL 32789 (407) 599-3440 DOC# 20150331943 B: 10942 P: 7583 08/22/2015 12:14:18 PM Page 1 of 9 Rec Fee: \$78.00 Deed Doc Tax: \$0.00 DOR Admin Fee: \$0.00 Intangible Tax: \$0.00 Mortgage Stamp: \$0.00 Martha 0. Haynie, Comptroller Orange County, FL SA - Ret To: CITY OF WINTER PARK

#### VEHICLE SALES AGREEMENT EXTENSION

THIS VEHICLE SALES AGREEMENT EXTENSION (the "Agreement") is made and entered into on <u>/8 JUNE</u>, 2015, between the CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation ("City"), at 401 Park Avenue South, Winter Park, Florida 32789, and FRANKLIN D. RAY ("Owner"), at 26242 Sackamaxon Drive, Sorrento, Florida 32776, licensed by City for the operation of vehicle sales businesses at 1891 and 1899 West Fairbanks Avenue, Winter Park, Florida 32789.

#### WITNESSETH

WHEREAS, Owner owns certain real property (the "Property") located within the municipal boundaries of City, as described on and attached as Exhibit "A";

WHEREAS, the use of the Property for the sale of vehicles is a nonconforming use;

WHEREAS, City and Owner have entered into a Vehicle Sales Agreement Extension ("Sales Agreement") dated May 25, 2011, a copy of which is attached hereto as Exhibit "B", to allow for the nonconforming use on the Property;

WHEREAS, the Sales Agreement will terminate on September 28, 2015;

WHEREAS, Owner has requested City to extend the Sales Agreement for another two years;

WHEREAS, on March 11, 2015, the City Commission has agreed to allow for the extension until September 28, 2017;

WHEREAS, the City Commission agreed to the extension because there will be extensive construction on Fairbanks Avenue to move electric facilities underground during the next two years, which will result in decreased business interests in the area; and

WHEREAS, the City Commission has determined that it makes better business sense to extend the nonconforming use for the next two years than chance that the Property will sit empty because of the construction.

NOW THEREFORE, in consideration of mutual promises and covenants, City and Owner agree:

#### **SECTION 1. RECITALS**

The above recitals are true and correct and is therefore, incorporated and made a part of this Agreement.

## SECTION 2. NONCONFORMING USE FOR VEHICLE SALES EXTENDED.

1. The Sales Agreement will be extended for a term of two years beginning on September 28, 2015, and ending on September 28, 2017 (the "Term").

2. At the expiration of the Term, either Owner or Tenant of the Property may petition City for additional extensions of the Term. Any additional extensions may be granted at City's sole discretion.

3. Owner or Tenant may receive a renewal of his occupational license by mail via City's automated license renewal process to operate a vehicles sales business on the Property. Such license will only be valid for the duration of this Agreement and any other extensions as City may provide, at its sole discretion. Owner or Tenant may be entitled to a refund of any licensing fees paid if Owner or Tenant is unable to operate a vehicles sales business on the Property because of expiration of this Agreement and no time extensions were provided by City.

4. Other than the extension of the termination date, all other terms in the Vehicles Sales Agreement will remain in full force and effect. The terms of the Vehicle Sales Agreement and this Agreement are applicable to any persons conducting vehicle sales business on the Property.

#### **SECTION 3. AMENDMENTS TO THIS AGREEMENT**

Amendments to this Agreement may be approved by City at its sole discretion. Any Amendments allowed by City must conform with the City's Land Development Code and be in writing using the method noted in City's Ordinance.

#### SECTION 4. BINDING EFFECT ON SUCCESSORS IN INTEREST

This Agreement, including all supplementary orders and resolutions, approved development plans, master site plans, and final site plans, are binding upon Owner and his successors in interest, shall run with the Property and be administered in a manner consistent with Florida Statutes and local law.

# SECTION 5. EQUITABLE REMEDY

The Parties agree that there is no adequate remedy at law for a breach of this Agreement and therefore, City is entitled to specific performance.

# SECTION 6. ATTORNEY'S FEES.

Owner is responsible for all costs and expenses (the "Costs"), including attorney's fees, whether or not litigation is necessary, incurred by City in enforcing the terms of this Agreement. The Costs will include those incurred by City for appeals. The Costs will be a lien upon the Property and will be superior to all other liens, to the maximum extent allowed by law. Interest on unpaid overdue Costs will accrue at the rate of eighteen percent (18%) compounded annually or at the maximum allowable rate.

# SECTION 7. GOVERNING LAW; VENUE

This Agreement is governed by the laws of the State of Florida. The venue for purposes of litigation will be in Orange County, Florida.

## **SECTION 8. RECORDING**

This Agreement will be recorded, at Owner's expense, in the Public Records of Orange County, Florida, within fourteen (14) days after full execution. The recording will not constitute any lien or encumbrance on title to the Property but will serve as a record notice of governmental regulations governing the use and enjoyment of the Property.

#### **SECTION 9. TIME IS OF THE ESSENCE**

Time is of the essence as to the lawful performance of all duties and obligations noted in this Agreement.

#### **SECTION 10. SEVERABILITY**

If any provision of this Agreement or of any document incorporated by reference is held invalid, such invalidity will not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared severable.

# **SECTION 11. DEVELOPMENT PERMITS**

This Agreement does not affect the City's authority to grant or deny any development permit applications.

# SECTION 12. SUBORDINATION/JOINDER

Unless otherwise agreed to by City, all liens, mortgages and other encumbrances not satisfied or released, must be subordinated to the terms of this Agreement or the lienholder must join in this Agreement. Prior to the execution of this Agreement, Owner must provide City with a signed subordination/joinder form that is satisfactory to the City Attorney.

#### **SECTION 13. TERM; EFFECTIVE DATE**

This Agreement is effective upon the last date for which the last Party to this Agreement signs and will terminate on September 28, 2017, unless earlier terminated by City because of a breach by Owner or Owner's successor in interest.

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

Signed, sealed and delivered in the presence of

**OWNER:** 

rint Name Print Name

By: 1/ Janker W. ag

# STATE OF FLORIDA COUNTY OF <u>Orange</u>

The foregoing instrument was acknowledged before me this  $12^{44}$  day of 1000, 2015, by Franklin D. Ray (check one)  $\Box$  who is personally known to me or  $\chi$  who produced  $\Box DL R000244-34-3580$  as identification.



asa yn.

Notary Public Printed Name: Lisa M My commission expires: 1

#### **CITY OF WINTER PARK, FLORIDA**

ATTEST: By: i Boulam Mayor Steven J. Leary City Clerk

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STATE OF FLORIDA COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 18 day of 500, 2015, by Steven J. Leary, Mayor of the City of Winter Park, Florida, who is personally known to me.

u Ben Notary Public

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



G: Docs/Cities/Winter Park/Agreements & Contracts/Vehicle Sales on Fairbanks Avenue/Vehicle Sales Agreement extension 1891 & 1899 Fairbanks 6-2-15 CLEAN.doc

#### **EXHIBIT "A"**

### 1891 AND 1899 WEST FAIRBANKS AVENUE

## LOTS 14 & 15, BLOCK D, KAROLINA ON KILLARNEY SUBDIVISION AS RECORDED IN PLAT BOOK "M", PAGE 105 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

PROPERTY TAX ID #'s 12-22-29-4076-04140 and 12-22-29-4076-04150

#### EXHIBIT "B"

#### VEHICLE SALES AGREEMENT EXTENSION

THE VEHICLE SALES AGREEMENT (the "Agreement") is made and entered into in 2007, by and between the CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation (the "City"), whose address is 401 Park Avenue South, Winter Park, Florida 32789, and FRANKLIN D. RAY, ("Owner") 26242 Saxamaxon Drive, Sorrento, Florida 32776 licensed to do business as Ray's Cars and Trucks, whose address is 1891/1899 West Fairbanks Avenue and RYAN MCDAVID ("Tenant"), licensed to do business as McDavid Motors LLC, whose address is 1891 West Fairbanks Avenue, Winter Park, Florida 32789 is hereby extended from the term to expire in March 2010 for an additional term to now expire on September 28, 2015. After the expiration of such extension period, no vehicle sales shall be permitted from those Properties at 1891 and 1899 W. Fairbanks Avenue. Either the Owner or Tenant, if said business otherwise meets all applicable requirements for permitting and licensing, may petition the City for additional annual extensions to this Agreement which shall be considered at the sole discretion of the City. As part of the automated occupational license renewal process, should any occupational license renewal be mailed and renewed in violation of such three year time limit or extensions as may be granted by the City Commission, such license shall have no effect of altering the terms of this Agreement. However, Owner or Tenant shall be entitled to a full refund of any such fees paid if no vehicle sales use may be made of the Properties under the Land Development Code or this Agreement. All other terms of the original Agreement still apply. This Agreement shall be transferable to other tenants different from those signatory to this extension Agreement but the terms shall remain in full force and effect as are applicable to the properties at 1891 and 1899 West Fairbanks Avenue, more particularly described as Lots 14 & 15, Block D, Karolina on Killarney subdivision as recorded in Plat Book "M", Page 105 of the Public records of Orange County, Florida. (Tax ID #'s 12-22-29-4076-04140 and 12-22-29-4076-04150) herein referred to as "Properties".

This Agreement shall not be required to be recorded in the Public Records of Orange County, Florida to be in full force and effect but is intended to run with title to the Properties.

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IN WITNESS WHEREOF, the parties have caused these presents to be executed as of the date and

- 2 -

year first above written.

Signed, sealed and delivered in the presence of

**OWNER:** 

Print Name Shoron L. Miller

By:

Name: Franklin Ray "Owner" Ray's Cars and Trucks

STATE OF FLORIDA COUNTY OF \_ ange

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared <u>front in County</u>, who <u>in</u> is personally known to me or <u>in</u> produced <u>as identification</u>, as identification, and that he acknowledged executing the same in the presence of two subscribing witnesses, freely and voluntarily, for the uses and purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 25 day of 2011.

Signature of Notary

MOTARY PUBLIC-STATE OF PLORIDA Daniel J. Lefevre Commission & DD950749 Expires: JAN. 10, 2014 BORDED THERO ATLANTIC BOADDAG CO. BEC. Commission No.

Name of Notary (Typed, Printed or Stamped)

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Signed, sealed and delivered in the presence of

TENANT:

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- 3 -

Bv Name: Ryan McDavid

McDavid Motors LLC

STATE OF FLORIDA COUNTY OF Change

harm

Print Nan

Print Name

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared <u>Mgan</u>, <u>Manad</u>, who [\_\_] is personally known to me or [\_\_] produced <u>Anutes</u> / <u>incress</u> as identification, and that he acknowledged executing the same in the presence of two subscribing witnesses, freely and voluntarily, for the uses and purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 25 day of 2011.

Signature of Notary

NOTARY PUBLIC STATE OF PLORDA Daniel J. LePeyre Commission # DD950749 Expires: JAN. 10, 2014 BORDED DERIV ATLANTIC BOYDERO DO, DR.

miller

Name of Notary (Typed, Printed or Stamped)

CITY:

CITY OF WINTER PARK, FLORIDA

-----Original Message-----From: toren veigle [mailto:tory24@mac.com] Sent: Wednesday, June 21, 2017 11:05 AM To: Jeffrey Briggs Subject: Re: Car lots

Hello Jeff.

I would like to ask for an extension on the car lot locations for two more years. With the I 4 construction and the upcoming project of electric lines being moved it's setting our development back. Please let me know if you need anything from me and I appreciate your help

Locations 2250 w Fairbanks ave 2286 w Fairbanks ave 2324 w Fairbanks ave

Tory Veigle Tory@veigle.net 407.756.8640

Sent from my iPhone

## City commission agenda item

item type Public Hearings	meeting date 10/9/2017
prepared by Planning / CRA Manager Approval	approved by City Manager, City Attorney
board approval final vote	
strategic objective Exceptional Quality of Development	of Life, Intelligent Growth and

#### <u>subject</u>

Request for Conditional Use approval to construct a 29,801 square foot, two-story, memory care facility consistent with the submitted revised site plan at 1298 Howell Branch Road, zoned R-3. Request for approval of Mediated Settlement Agreement in Section 70.51, Florida Statutes Proceeding between Villa Tuscany Holdings, LLC and the City regarding the same property in conjunction with the Conditional Use approval.

#### motion / recommendation

A. Staff Recommendation is to approve the Conditional Use request with the following conditions:

- 1. That the project be limited to a lower scale monument sign; no pole sign is permitted (March 7 P&Z condition);
- 2. That the traffic signal upgrades at the corner of Howell Branch and Temple Trail necessary to provide signalized access to the Project shall be made at the expense of the applicant (March 7 P&Z condition);
- 3. That the Project/property owner grant to the City sidewalk and drainage easements, as necessary in a form and with terms acceptable to the City (March 7 P&Z condition);
- 4. That the site clearing and tree removal be done in coordination with Urban Forestry and that options for further tree preservation be explored at that time (March 7 P&Z condition);
- 5. That the Project install and maintain, at their expense, a private on-site sewer lift station meeting the City's requirements (March 7 P&Z condition);
- 6. That due to the extraordinary water levels possible following hurricane events, that the Project submit to the Public Works Dept. a structural waterproofing and drainage solution to resolve potential flooding and water intrusion issues due to the 15 foot wetland setback (new condition from staff); and
- 7. That the architectural features above the roof height be reduced to thirty-four (34) feet in height in conformance with the terms of the settlement agreement (new condition to meet settlement requirements).
- 8. The use shall only be for a memory care facility. Any change of use, including for another type of congregate, group or assisted living arrangement shall not be permitted without further conditional use approval pursuant to applicable provisions of the land development code.
- B. Staff recommendation is to approve the Mediated Settlement Agreement, as attached.

#### background

A previous conditional use request for a three story memory care facility for the subject property was denied at the March 27, 2017 City Commission meeting, for failure to mee certain standards of approval required for conditional uses. Subsequent to the denial, th property owner filed a Request for Relief to the City triggering a Land Use Disput Resolution Process pursuant to Section 70.51, Florida Statutes, which required th As part of the Section 70.51, Florida Statute appointment of a Special Magistrate. process, the Special Magistrate conducted mediation between the property owner and th City, with the City Manager representing the City in his capacity to make recommendation of settlement to the City Commission. The attached Mediate Settlement Agreement, which is contingent on City Commission approval, was reached a This revised application package has been submitted to meet th mediation. requirements of that Mediated Settlement Agreement. In the § 70.51, Fla. Stat. disput resolution process, the city staff, without the ability for consultation with the Cit Commission attempted to reach an agreement for changes to the plans to addres comments heard at the March 27, 2017 public hearing.

The City Commission is under no obligation to concur with the staff recommendation an may reject the Mediated Settlement Agreement and deny the requested conditional use The City Commission may agree, may agree to a further revised plan submittal or der the request. If the City Commission desires to require further revisions to the pla submittal or add additional conditions of approval that are not articulated in the Mediate Settlement Agreement, the property owner/applicant should be requested to consent t the same to ensure that the approval of the conditional use with the modified plan c revised conditions will fully resolve the dispute as contemplated by the Mediate Settlement Agreement.

#### Summary:

These revised plans propose to build a two-story, 29,801 square foot memory car facility with 49 beds/44 units at 1298 Howell Branch Road, on property zoned R-3. Th type of facility falls under the "adult congregate living facilities" or "assisted livin facilities", conditional use provision in the R-3 zoning, as well as being a building ove 10,000 square feet.

Per the applicant's survey, the entire property is 3.777 acres in size. Of that total lan area size, there is 2.18 acres (94,961 square feet) that is land above the Ordinary Hig Water (OHW) elevation (66.6 feet – NAVD 88 datum) of the two waterbodies onsite. Th larger waterbody to the south is Lake Temple and the smaller waterbody to the northeas is a remnant sinkhole with no name. The ordinary high water boundary is defined as th ordinary or normal reach of water during the high water season. The term "ordinary excludes floods and other extraordinary high water events but includes the average c normal reach of high water of each year. The remaining 1.597 acres (69,565 square fee is then both water bodies either as actual water or shoreline below the Ordinary Hig Water elevation of 66.6 feet (NAVD 88 datum). All of these numbers have bee confirmed by a recent survey.

For this type of development request the Land Development Code the setbac requirements for buildings to water/lakefronts is 75 feet, and 50 feet to wetlands. Th code interpretation made by the City Commission at the March 27, 2017 meeting is that the required setback to parking lots on a lakefront, is 50 feet from Lake Temple. The revised plan does conform to those setbacks from Lake Temple. However, the applicant

is requesting a variance to locate the building at 15 feet from the wetland boundary lir of the sinkhole/karst lake element. Thus, this development proposal has the buildin located 15 foot from the wetland line, in lieu of the required 50 feet.

The recent Hurricane Irma presents an example of the difference in the field between th ordinary high water elevation which is typically the same location as the wetland line an an "extraordinary" high water event, such as the recent hurricane. Water condition today are much higher and thus closer to the proposed building and parking than typical during the peak summer months when water levels reach the "ordinary" hig water elevation. This is exacerbated by the fact that the sinkhole/karst functions as storm water retention area for Howell Branch Road which has caused the sinkhole t reach higher than normal water levels. This type of hurricane/rain event does not happe often, but this recent experience causes concern due to the fact that the applicant proposing a 15 foot setback to the wetland/sinkhole and that proximity will result the water will be against the side of the building in a similar hurricane event. As a result, th staff is recommending a condition requiring that structural waterproofing and drainag plans be submitted to the Public Works department to resolve this potential flooding an water intrusion concern.

**Changes from the Previous Plans:** The settlement agreement required the applicat to revise the plans to make changes to the previous submittal to reduce the overa building size and thus by extension the visual impact on the nearby residences. Th proposed memory care facility is now two stories in height (versus three storie previously). This has resulted in some decrease in height. The previous building had roof/mansard height of 35 feet, a height of architectural features of 38 feet and a height of the required elevator/stair tower elements of 40 feet.

The settlement agreement stated that the project must meet the following heigh requirements: (a) 28 feet maximum height to the top of second floor; (b) 31 fee maximum height to top of any rooftop parapet or mansard; (c) 35 feet maximum heigh to top of any elevator/stair element; and (d) 34 feet maximum height to top of ar architectural feature above roof height. By reducing the building height to two stories 31 foot building was accomplished versus a 35 foot three-story building, a four foo height reduction. While this reduction in height is not to the extent to be expected t eliminating an entire floor, it is consistent with the settlement agreement.

The project proposal is meeting all of these requirements with the exception of the architectural elements on all facades of the building that are 35 feet in height versus the agreed-upon 34 feet. To be consistent with the architectural style of the building planning staff feels that these architectural appendages accomplish the intent of the Coc by adding architectural interest and appeal to the facades.

In terms of building size the project is now 29,801 square feet, versus 41,352 square feet previously. There will be 49 beds and 44 units, which has been reduced from 51 bec and 51 units. The proposed building lot coverage (footprint) of 15,787 square feet c 9.6% is within the maximum permitted of 40%, and less than the previous proposal a 14.8%. The front setback variance that was requested along Howell Branch Road in the previous submittal has been eliminated. The lakefront setback variance for the previou parking lot location has been eliminated.

The project proposes a six-foot wall buffer with landscaping for the parking lot in orde

to screen view of vehicles from the residential properties to the south and west. Th Zoning Code specifies that "to the extent practical, vehicles shall not be visible from th lake". The proposed six foot wall screening the parking lot and the dumpster pad wi ensure that the neighbors are not looking at cars in the parking lot or getting glare from windshield deflection. It also will serve as a buffer for headlights given the shift change for the staff of this facility.

**Traffic/Mobility & Parking:** Parking and drives as shown on the plan, accommodal 25 parking spaces on-site, versus the previous submittal that proposed 23 parking space on-site and four (4) spaces directly across the street via a long term easemer commitment. The proposed 25 spaces meet the parking requirements of one space fc every three residents (49 residents) and one space for every staff member (eight sta members during the day-shift). The settlement agreement outlines a parking variance fc two spaces based upon the 10 day shift employees expected at that time. However, th applicant now indicates that the reduction in beds from 51 to 49 allows them to eliminal two employees. Based on 8 employees during the peak day shift, the parking meel code.

The front driveway entrance/exit is aligned with the traffic light at the Howell Branc Road and Temple Trail intersection for safe turning movements into and out of the site There is also an additional exit-only to the west of the main entrance. This additional ex allows the Fire Department safe and easy ingress/egress to the site, and does not requir them to go into the parking lot and perform a three-point turn to exit. There is also porte-cochere at the main entrance that is sized appropriately to accommodate fire/safel vehicles.

A memory care facility is not a large traffic generator as the residents do not drive so th traffic is staff turnover, deliveries and visitors. In terms of traffic impact for the propose use, according to the Institute of Transportation Engineers (I.T.E.) data, the traff generation/car trips per day for this project will be approximately 50-80 daily trip ends A majority of the traffic will enter and exit on Howell Branch Road via the signalize intersection at Temple Trail and Howell Branch Road, onto the roadway with 30,600 cai a day. Utilizing access at the traffic light will insure safe turning movements into and or of the project. The traffic signal upgrades will be done at the applicant's expense.

**Tree Preservation:** This vacant property is covered with trees of all types and sizes The City's code requires identification of the trees nine inches in diameter or greater. Th applicant has submitted a tree survey and plan showing the trees to be removed and th trees proposed to be saved. There are 66 protected shade trees on the property. Of thos 66 trees, the applicant's plans contemplate that 28 trees are to be removed and 38 tree are to remain. The applicant has committed to work with Urban Forestry, once the site cleared of underbrush and the invasive trees to explore opportunities for further tree preservation. The applicant has also provided a preliminary landscape plan depicting th existing trees to remain and additional plantings.

**Other City Department Comments:** The Public Works Department has asked for tw easements. One is for those sections of the sidewalk along Howell Branch Road the encroach upon this property. Another is for a drainage easement over the weir or control structure between these two water bodies in case maintenance work is required. Othe comments from Public Works related to the traffic signal upgrades have been agreed t by the applicant. Similarly, the sanitary sewer lift station necessary for this project wi

be designed to meet city specifications.

**Planning Staff Analysis:** Locating a memory care facility on a four lane arteria highway of Howell Branch Road, at a signalized intersection, is an acceptable location for this type of Conditional Use for an assisted living/memory care facility. The architectura style of the building is also appropriate for this location on Howell Branch Road an adjoining residential neighborhoods and the overall two-story image facing th neighborhoods is appropriate in scale.

This property has a Future Land Use designation of Multi-Family Residential and zone R-3, a two-story building with 29,801 square feet is within the Code parameters. Th applicant is entitled through the Conditional Use process to develop a project of this size This use and development proposal is appropriate, and consistent with the settlement agreement. The only variance is the setback to the wetland line of the sinkhole/kar: feature of 15 feet in lieu of the 50 feet required.

**Public Notice:** Based on the City's Land Development Code requirements, staff maile out public notices of this hearing to properties within 500 feet, published notice of th hearing in the newspaper, as well as posted an erected notice on the property.

#### alternatives / other considerations

N/A

### fiscal impact

N/A

#### ATTACHMENTS:

Description	Upload Date	Туре
Villa Tuscany Site Plans	10/2/2017	Backup Material
Settlement Agreement	10/2/2017	Backup Material
March 27, 2017 CC Minutes	10/2/2017	Backup Material
Public Notice	10/2/2017	Backup Material
Letter in Favor	10/2/2017	Backup Material
Letters in Opposition	10/2/2017	Backup Material



September 20, 2017

#### Reference: Villa Tuscany Memory Care - Project Description Commission #17003.00

Villa Tuscany is a proposed 2 story Modern Tuscan style Memory Care project, situated at the intersection of Howell Branch Road and Temple Trail in Winter Park, Florida. The project requests a conditional use to allow a Memory Care use in an R-3 zone. The building will feature 49 beds, as well as full service amenities, care, and services to support the residents. Nestled between Lake Temple and Howell Branch Road, the project will have a total of approximately 29,801 square feet. The architecture is a design featuring details such as tile roofs, arched openings, and stucco finishes. The mass of the building is broken down to human scale using a number of architectural elements including roof elements and multiple materials. Additionally, to break up the mass and give the building architectural interest, there is a portion of the façades with feature elements that have parapets in lieu of the predominant mansard roofline.

Site	Data:
Sile	Dala:

Size:	3.777 Acres (164,526.1 SF)	
Site Above OHW:	2.18 Acres (94,960.8 SF)	
Zone:	R-3	
Future Land Use:	Medium Density Residential	
Max. Density:	17 DU/AC	
Max. Height:	2 Stories, 31 ft.	
Min. Setbacks:	Front = $25$ ft.; Side = $20$ ft.; Rear = $25$ ft.	
Min. Wetland Buffers:	To Buildings = 50 ft. (15' at Sinkhole); To Parking = 25 ft.	
Min. Lakefront Setbacks:	To Buildings = 75 ft.; To Parking = 50 ft.	
Max. FAR:	110%	

Project Statistics:

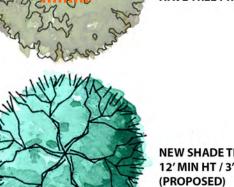
Style:	Modern Tuscan
Stories:	2

Villa Tuscany Product Description Page 2

Height:	31 ft. (with architectural appurtenances less than or equal to an additional 4 feet of height for a total of 35 ft.
Square Feet:	29,801
FAR:	31%
Dwelling Units:	44
Beds:	49
Parking:	25 Spaces on site (1 Handicap)
Parking Ratio Used:	1 space for every 3 residents (49 residents = $17$ spaces)
	1 space for every staff member (Day shift = 8 spaces)
	Total spaces required = $25$
Building Lot Coverage:	15,787 SF
% of Total Site:	9.6%

## SITE LEGEND

	PROPERTY BOUNDARY
	OHW LINE (INTERPOLATED) (SHOWN PER BOUNDARY AND TOPOGRAPHIC SURVEY PREPARED BY SECOM, LLC)
	50-FT OHW LINE SETBACK (PARKING)
<u> </u>	75-FT OWW LINE SETBACK (BUILDING)
<u> </u>	WETLAND LINE
	15-FT WETLAND SETBACK
· · · · · ·	25-FT WETLAND SETBACK
	25-FT BUILDING SETBACK
	CITY LAKE MAINTENANCE ACCESS EASEMENT (PROPOSED)
	TREE PROTECTION
A Contraction of the second se	EXISTING TREES TO REMAIN AND HAVE TREE PROTECTION



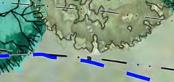
NEW SHADE TREES 12' MIN HT / 3" CALIPER



NEW HEDGES 30" HT MIN SPACED 42" O.C. (PROPOSED)

	EAR TREE (DIA. IN INCHES)
	OAK TREE (DIA. IN INCHES)
1 m	PALM TREE (DIA. IN INCHES)
(18)	TREE, UNKNOWN (DIA. IN INCHES)
	EXIST. TREE TO REMAIN

14-FT ACCESS ESMT. FOR CITY LAKE MAINTENANCE (FINAL LIMITS TO BE DETERMINED DURING SITE PLAN APPROVAL)



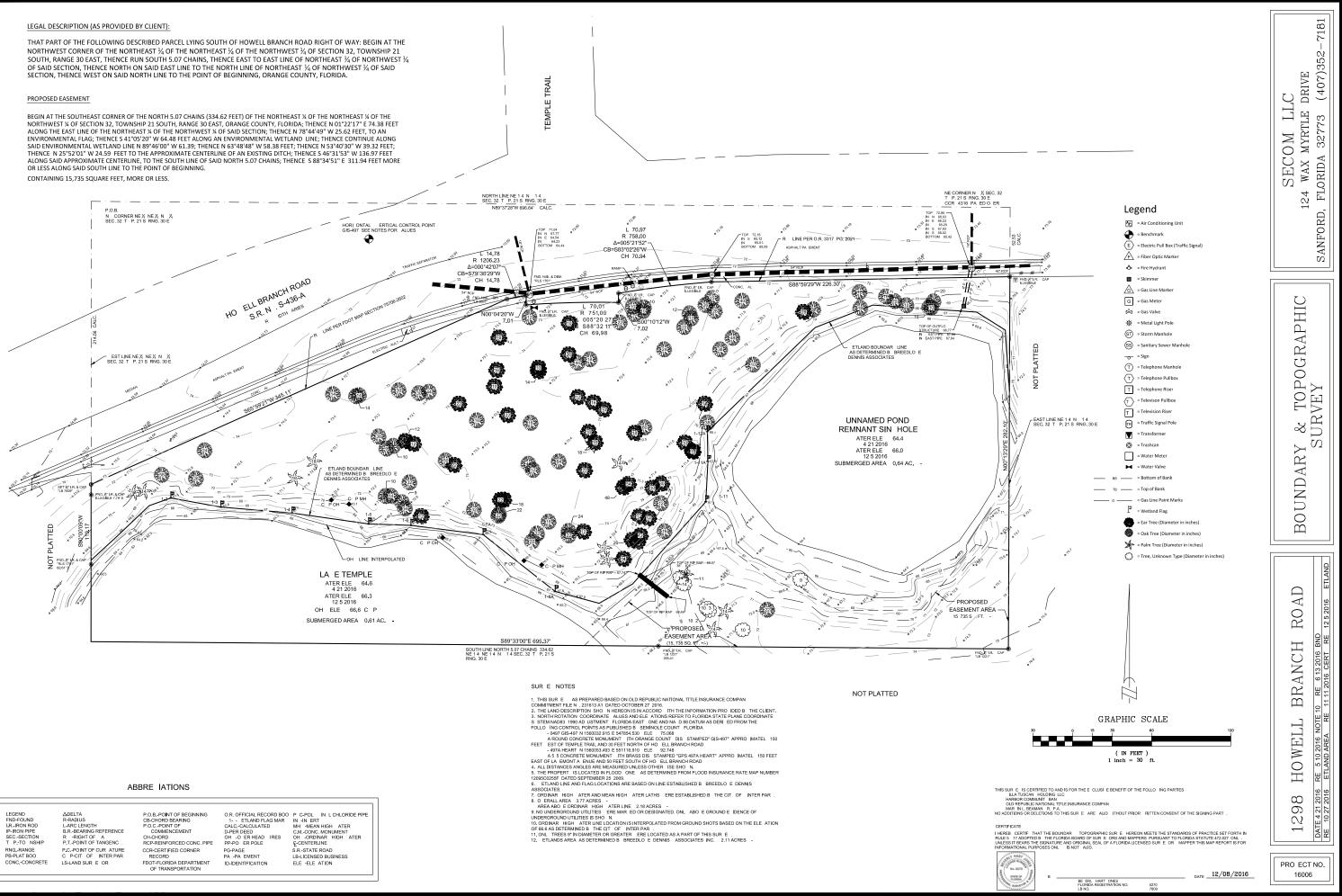
8'LANDSCAPE -BUFFER

WETLAND -LINE (TYP)



WATER ELEV = 66.3 12/5/2016 OHW ELEV = 66.6 (CWP) UBMERGED AREA = 0.61 AC. +/-





LEGEND	∆DELTA	P.O.B. POINT OF BEGINNING	O.R. OFFICIAL RECORD BOO	P C-POL IN L CHLORIDE PIPE
FND-FOUND	R-RADIUS	CB-CHORD BEARING	1- ETLAND FLAG MAR	IN -IN ERT
I.RIRON ROD	L-ARC LENGTH	P.O.CPOINT OF	CALC,-CALCULATED	MH -MEAN HIGH ATER
IP-IRON PIPE	B.RBEARING REFERENCE	COMMENCEMENT	D-PER DEED	C.MCONC. MONUMENT
SECSECTION	R -RIGHT OF A	CH-CHORD	OH -O ER HEAD IRES	OH -ORDINAR HIGH ATER
T P. TO NSHIP	P.TPOINT OF TANGENC	RCP-REINFORCED CONC. PIPE	PP-PO ER POLE	Ç-CENTERLINE
RNGRANGE	P.C. POINT OF CUR ATURE	CCR-CERTIFIED CORNER	PG-PAGE	S.RSTATE ROAD
PB-PLAT BOO	C P-CIT OF INTER PAR	RECORD	PA -PA EMENT	LB-LICENSED BUSINESS
CONCCONCRETE	LS-LAND SUR E OR	FDOT-FLORIDA DEPARTMENT OF TRANSPORTATION	ID-IDENTIFICATION	ELE -ELE ATION

1 THIS SUR E AS PREPARED BASED ON OLD REPUBLIC NATIONAL TITLE INSURANCE COMPAN
COMMITMENT FILE N . 231613 A1 DATED OCTOBER 27 2016.
2. THE LAND DESCRIPTION SHO IN HEREON IS IN ACCORD. ITH THE INFORMATION PRO IDED B. THE CLIENT.
3. NORTH ROTATION COORDINATE ALUES AND ELE ATIONS REFER TO FLORIDA STATE PLANE COORDINATE
S STEM NAD83 1990 AD USTMENT FLORIDA EAST. ONE AND NA D 88 DATUM AS DERI. ED FROM THE
FOLLO ING CONTROL POINTS AS PUBLISHED B SEMINOLE COUNT FLORIDA
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FEET EST OF TEMPLE TRAIL AND 30 FEET NORTH OF HO ELL BRANCH ROAD
- 497A HEART N 1560053.493 E 551116.910 ELE 92.748
A 5 5 CONCRETE MONUMENT ITH BRASS DIS STAMPED "GPS 497A HEART" APPRO IMATEL 150 FEET
EAST OF LA. EMONT A ENUE AND 50 FEET SOUTH OF HO ELL BRANCH ROAD
<ol> <li>ALL DISTANCES ANGLES ARE MEASURED UNLESS OTHER ISE SHO N.</li> </ol>
5. THE PROPERT IS LOCATED IN FLOOD ONE AS DETERMINED FROM FLOOD INSURANCE RATE MAP NUMBER
12095C0255F DATED SEPTEMBER 25 2009.
<ol><li>ETLAND LINE AND FLAG LOCATIONS ARE BASED ON LINE ESTABLISHED B BREEDLO E DENNIS</li></ol>
ASSOCIATES.
7. ORDINAR HIGH ATER AND MEAN HIGH ATER LATHS ERE ESTABLISHED B THE CIT OF INTER PAR.
8. O ERALL AREA 3.77 ACRES -
AREA ABO E ORDINAR HIGH ATER LINE 2.18 ACRES -
9. NO UNDERGROUND UTILITIES ERE MAR ED OR DESIGNATED. ONL ABO E GROUND E IDENCE OF
UNDERGROUND UTILITIES IS SHO N.
10. ORDINAR HIGH ATER LINE LOCATION IS INTERPOLATED FROM GROUND SHOTS BASED ON THE ELE ATION OF 66.6 AS DETERMINED B THE CIT OF INTER PAR
11 ONL TREES 9" IN DIAMETER OR GREATER ERE LOCATED AS A PART OF THIS SUR E
12. ETLANDS AREA AS DETERMINED B BREEDLO E DENNIS ASSOCIATES INC. 2.11 ACRES
12. ETLANDS AREA AS DETERMINED & BREEDLO E DENNIS ASSOCIATES INC. 2.11 ACRES -

#### SITE DATA

#### NAME OF DEVELOPMENT-VILLA TUSCANY MEMORY CARE

#### PARCEL ID. NO.-32-21-30-0000-00-029

FUTURE LAND USE- MEDIUM DENSITY RESIDENTIAL

CURRENT ZONING- R-3

TOTAL SITE AREA = 3.77-AC

TOTAL SITE ABOVE OHW = 2.18-AC

MAX. DENSITY = 17-DU/AC

MAX. HEIGHT = 3 STORIES / 35-FT

#### FAR = 110%

SETBACKS (CITY OF WINTER PARK LDC)-

FRONT = 25-FT, SIDE = 20-FT, REAR = 25-FT BUILDING (MIN)-WETLANDS (MIN)-BUILDINGS = 50-FT, PARKING = 25-FT LAKEFRONT / OHW (MIN)- BUILDINGS = 75-FT

#### PRELIMINARY STORMWATER CALCULATIONS

PURSUANT TO DISCUSSIONS WITH CITY STAFF, THIS PROJECT DISCHARGES TO A CLOSED BASIN, LAKE TEMPLE. THEREFORE, THE 100-YR / 24-HR STORM EVENT IS REQUIRED TO BE RETAINED ON-SITE.

#### SCS METHOD -

HCH5@DCGH!89J9@CDA9BH'5F95'C: K5H9FG<98'1'((ǎ(+)!G: ff%\$&-57Ł POST-DEVELOPMENT IMPERVIOUS AREA = 29,897-SF (CN<sub>i</sub> = 98) **POST-DEVELOPMENT PERVIOUS AREA = 14,578-SF** (CN<sub>i</sub> = 39)

HYDRAULIC SOIL TYPE A

S = 2.66-IN

COMPOSITE CURVE NUMBER, (CNc) = ((98\*29,897-SF)+(39\*14,578-SF))/44,475-SF  $CN_c = 79$ 

MAXIMUM SOIL STORAGE, (S) =  $\frac{1000}{CNc}$  -10 =  $\frac{1000}{78}$  -10

ACCUMULATED RAINFALL, (P) = 10.6-IN

(100-YR / 24-HR RAINFALL EVENT)

RUNOFF, (R) =  $((P-0.2S)^2)/(P+0.8S) = ((10.6-0.2(2.66))^2)/(10.6+0.8(2.66))$ R = 7.96-IN

RUNOFF VOLUME, (V) = R\*A = 7.96-IN(<u>FT</u>)\*44,475-SF V = 29,502-CF (0.68-AF)

NUMBER OF SUBSURFACE STORMWATER MANAGEMENT UNITS REQUIRED STORMTECH CHAMBER MODEL SC-740 (OR APPROVED EQUIVALENT) MIN. INSTALLED STORAGE VOLUME = 74.9-CF (PER CHAMBER)

SITE LEGEND

BY SECOM, LLC)

(PARKING)

(BUILDING)

WETLAND LINE

15-FT WETLAND SETBACK

25-FT WETLAND SETBACK

25-FT BUILDING SETBACK

CITY LAKE MAINTENANCE

ACCESS EASEMENT

(PROPOSED)

NUMBER OF UNITS REQUIRED = 29,502-CF / 74.9-CF

\_\_\_\_

**—** · **—** · **—** 

\_\_\_·\_\_

\_\_\_\_

\_\_\_\_\_

# P.O.B. NW CORNER NE $\frac{1}{4}$ , NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SEC. 32, TWP. 21 S, RNG. 30 E BIA69F'C: IB+HG'F9EI+F98'1''-'-

SETBACKS-

BUILDING (MIN)-

LAKEFRONT / OHW (MIN)-

**DEVELOPMENT CRITERIA-**

• MAX. HEIGHT = 2 STORIES

\*\* KARST/DEPERESSION AREA (MIN)-

(REQUIRES A VARIANCE OF 35-FT)

•• MAX. HEIGHT TO 2ND FLOOR = 28-FT •• MAX. HEIGHT TO ROOFTOP/MANSARD = 31-FT

• MAX. BLDG. AREA = 30,896-SF (GROSS)

• NUMBER OF PARKING SPACES REQUIRED-

•• 1 SPACE / 3 RESIDENTS = 50/3 = 17 SPACES

•• TOTAL SPACES REQUIRED = <u>27 SPACES</u>

(REQUIRES A VARIANCE OF 2 SPACES)

• MAX. DENSITY = 46-DU W/ 50 BEDS

•• MAX. HEIGHT TO TOWER ELEMENT = 35-FT

•• MAX. HEIGHT TO ANY OTHER ARCH. FEATURE = 34-FT

•• 1 SPACE / STAFF MEMBER (DAY SHIFT) = 10 SPACES

\*\* MIN. NUMBER OF PARKING SPACES ALLOWED = <u>25 SPACES</u>

MEDIATED SETTLEMENT AGREEMENT (7/26/2017)

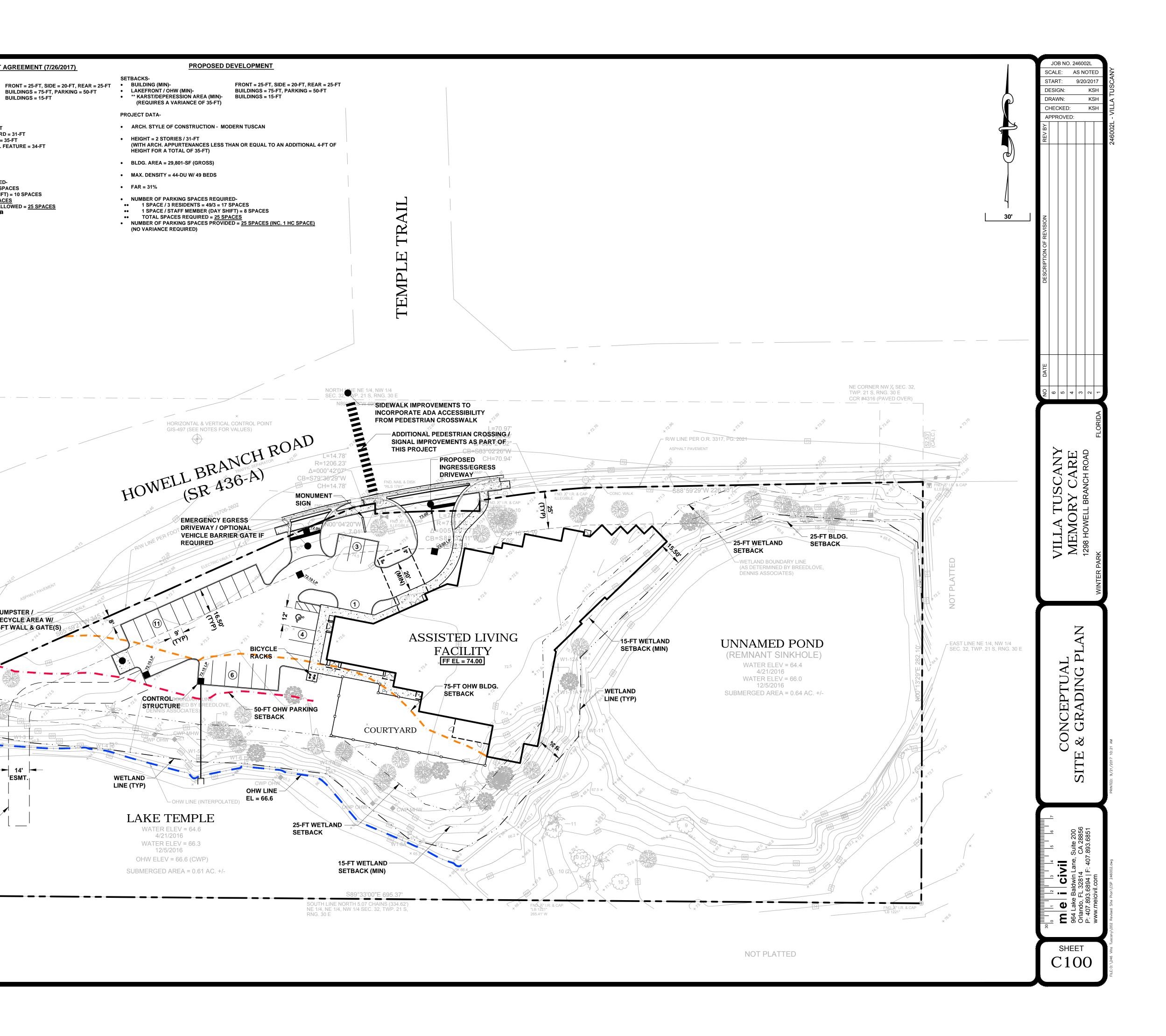
BUILDINGS = 15-FT

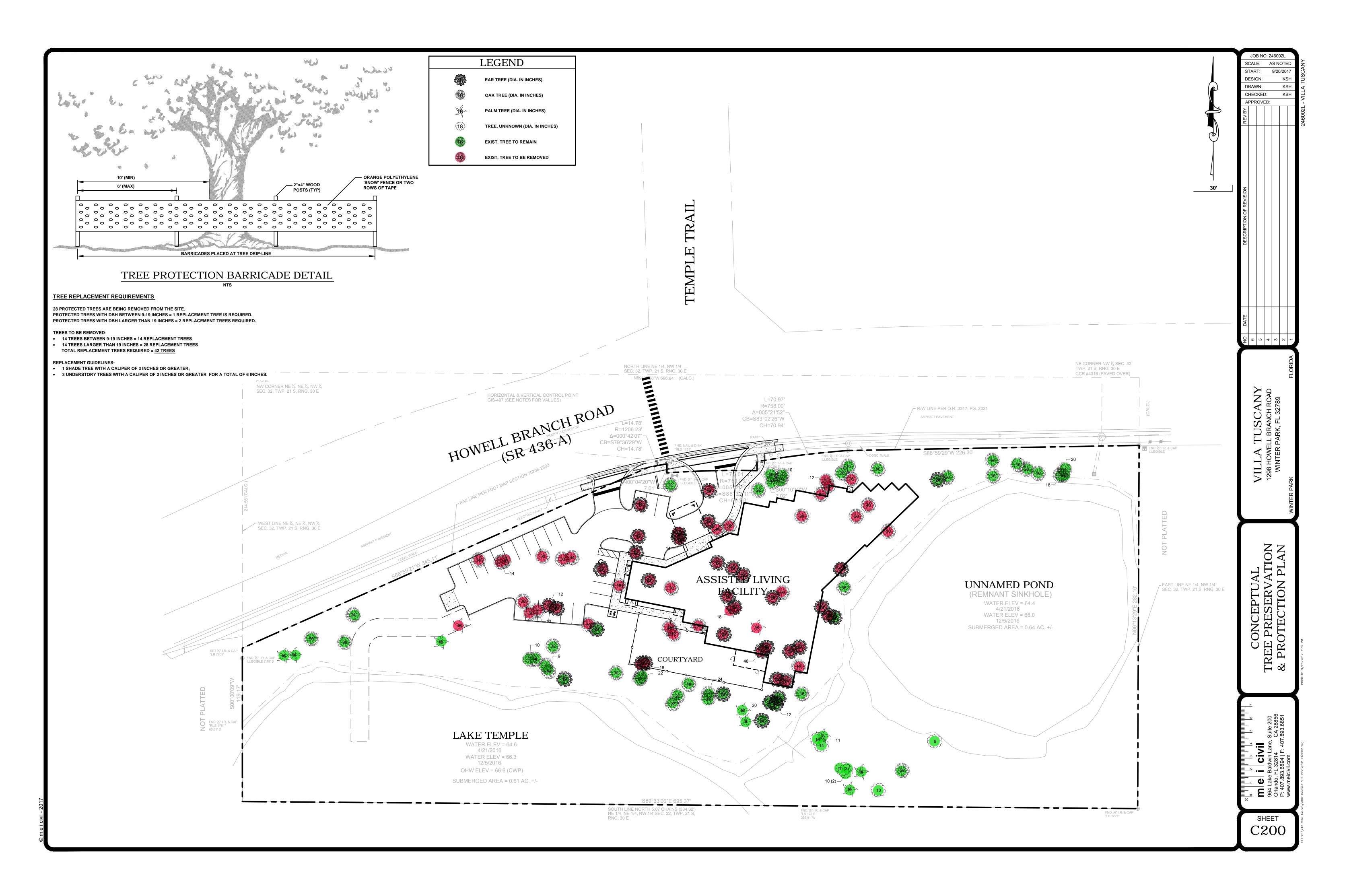
PROPERTY BOUNDARY OHW LINE (INTERPOLATED) (SHOWN PER BOUNDARY AND TOPOGRAPHIC SURVEY PREPARED 50-FT OHW LINE SETBACK ← WEST LINE NE ¼, NE ¼, NW ¼ SEC. 32, TWP. 21 S, RNG. 30 E 75-FT OWW LINE SETBACK

DUMPSTER / **RECYCLE AREA W/** 6-FT WALL & GATE(S)

# 25-FT BLDG. SETBACK

14-FT ACCESS ESMT. FOR CITY -LAKE MAINTENANCE (FINAL LIMITS TO BE DETERMINED DURING SITE PLAN APPROVAL)





# VILLA TUSCANY MEMORY CARE SOUTH ELEVATION



Agenda Packet Page 126



# VILLA TUSCANY MEMORY CARE NORTH ELEVATION









Agenda Packet Page 128

MAX BUILDING HEIGHT $35' - \Theta''$ MANSARD HEIGHT $31' - \Theta''$ BUILDING HEIGHT $28' - \Theta''$ BEARING HEIGHT 24' - 2''				
SECOND FLOOR				
13' - 6" 0 FIR9T FLOOR 0'-0"				
	TERIOR ELEVATION			

9/20/2017 8:50:09 A



ARCHITECTURE License #AA 7901 4TH ST. NO ST. PETERSBUR	
PROFESSIO	P; NC. ICONTAINED, INCLUDING ALL SHEREIN ARE THE EXCLUSIVE UP; INC. SHALL NOT BE COPIED OR ESS WRITTEN CONSENT OF UST BE RETURNED UPON REQUEST. NOT FOR CONSTRUCTION
VILLA TUSCANY	l 298 Howell Branch Road Winter Park, Florida 32789
ISSU DATE: ISSUED FC 09-01-17 SCHEMATIC	DR:
REVIS NO. DATE	IONS DESCRIPTION
DRAWN BY: PROJECT MANAGER CHECKED BY: DATE:	KJB KJB
EXTERIOR	

#### **VILLA TUSCANY - TREE PRESERVATION AND PROTECTION**

Protected Trees			
Species	DBH (Diameter at beast height) in Inches	QTY	Total Inches
Oak	9	2	18
Oak	10	10	100
Oak	12	6	72
Oak	14	5	70
Oak	15	1	15
Oak	16	1	16
Oak	18	8	144
Oak	20	3	60
Oak	22	8	176
Oak	24	3	72
Oak	26	3	78
Oak	27	0	0
Oak	30	2	60
Oak	32	2	64
Oak	38	3	114
Oak	40	1	40
Oak	44	3	132
Oak	48	1	48
Oak	50	1	50
Oak	54	0	0
Oak	58	1	58
Oak	60	1	60
Oak	64	1	64

Existing Tree Inventory - based on updated survey revised 12/5/2016

Exempt Trees			
Species	DBH (Diameter at beast height) in Inches	QTY	Total Inches
Palm Tree	9	1	9
Palm Tree	11	1	11
Palm Tree	12	1	12
Palm Tree	14	4	56
Palm Tree	16	1	16
Palm Tree	18	1	18
Ear Tree	10	6	60
Ear Tree	12	8	96
Ear Tree	14	4	56
Ear Tree	16	4	64
Ear Tree	18	4	72
Ear Tree	20	2	40
Ear Tree	22	5	110
Ear Tree	26	1	26
Ear Tree	28	1	28
Ear Tree	30	1	30
Ear Tree	48	1	48
Ear Tree	54	1	54
Unknown	9	1	9
Unknown	10	6	60
Unknown	14	2	28

Total Quantity Trees: 66 Total Protected Tree Inches:

0

Total Quantity Trees: 56 Total Exempt Tree Inches:

903

#### Per Winter Park Code of Ordinance - Division 6: Protected Trees

"Protected tree shall mean any self-supporting woody or fibrous perennial plant of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk dbh of nine inches or greater and is not an exempt tree. The term "protected tree" shall also apply to any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit and all trees on city property. "

1,511

#### Exempt Trees

"Exempt trees. No permit shall be required to remove the following types of trees: Citrus Ear (Enterolobium species); Camphor (Cinnamomum camphora); Chinaberry (Melia azedarach); Mulberry (Morus species); Cajeput punk or Melaeuca trees (Melaeuca quinquinervia/leucadendra); Palm; Australian Pine (Casuarina species); Australian Silk Oak (Grevillea robusta); Chinese Tallow (Spaium sebiferum); Brazilian Pepper (Schinus terebinthifolius); Any tree with a dbh less than nine inches, as long as the tree was not planted as a replacement tree."

#### **VILLA TUSCANY - TREE PRESERVATION AND PROTECTION**

Protected Trees			
Species	DBH (Diameter at beast height) in Inches	QTY	Total Inches
Oak	9	1	9
Oak	10	2	20
Oak	12	4	48
Oak	14	4	56
Oak	15	0	0
Oak	16	0	0
Oak	18	3	54
Oak	20	0	0
Oak	22	1	22
Oak	24	1	24
Oak	26	1	26
Oak	27	0	0
Oak	30	2	60
Oak	32	0	0
Oak	38	2	76
Oak	40	0	0
Oak	44	3	132
Oak	48	1	48
Oak	50	1	50
Oak	54	0	0
Oak	58	0	0
Oak	60	1	60
Oak	64	1	64

Existing Trees to be Removed - based on updated survey revised 12/5/2016

Exempt Trees			
Species	DBH (Diameter at beast height) in Inches	QTY	Total Inches
Palm Tree	9	0	0
Palm Tree	11	0	0
Palm Tree	12	0	0
Palm Tree	14	1	14
Palm Tree	16	0	0
Palm Tree	18	2	36
Ear Tree	10	5	50
Ear Tree	12	4	48
Ear Tree	14	3	42
Ear Tree	16	4	64
Ear Tree	18	3	54
Ear Tree	20	1	20
Ear Tree	22	4	88
Ear Tree	26	1	26
Ear Tree	28	0	0
Ear Tree	30	1	30
Ear Tree	48	1	48
Ear Tree	54	1	54
Unknown	9	0	0
Unknown	10	0	0
Unknown	14	0	0

Total Quantity Trees: Total Protected Tree Inches:

28

Total Quantity Trees: 31 Total Exempt Tree Inches:

574

#### Per Winter Park Code of Ordinance - Division 6: Protected Trees

"Protected tree shall mean any self-supporting woody or fibrous perennial plant of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk dbh of nine inches or greater and is not an exempt tree. The term "protected tree" shall also apply to any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit and all trees on city property. "

749

#### Exempt Trees

"Exempt trees. No permit shall be required to remove the following types of trees: Citrus Ear (Enterolobium species); Camphor (Cinnamomum camphora); Chinaberry (Melia azedarach); Mulberry (Morus species); Cajeput punk or Melaeuca trees (Melaeuca quinquinervia/leucadendra); Palm; Australian Pine (Casuarina species); Australian Silk Oak (Grevillea robusta); Chinese Tallow (Spaium sebiferum); Brazilian Pepper (Schinus terebinthifolius); Any tree with a dbh less than nine inches, as long as the tree was not planted as a replacement tree."

#### **VILLA TUSCANY - TREE PRESERVATION AND PROTECTION**

Protected Trees			
Species	DBH (Diameter at beast height) in Inches	QTY	Total Inches
Oak	9	1	9
Oak	10	8	80
Oak	12	2	24
Oak	14	1	14
Oak	15	1	15
Oak	16	1	16
Oak	18	5	90
Oak	20	3	60
Oak	22	7	154
Oak	24	2	48
Oak	26	2	52
Oak	27	0	0
Oak	30	0	0
Oak	32	2	64
Oak	38	1	38
Oak	40	1	40
Oak	44	0	0
Oak	48	0	0
Oak	50	0	0
Oak	54	0	0
Oak	58	1	58
Oak	60	0	0
Oak	64	0	0

Existing Trees to Remain - based on updated survey revised 12/5/2016

Exempt Trees			
Species	DBH (Diameter at beast height) in Inches	QTY	Total Inches
Palm Tree	9	1	9
Palm Tree	11	1	11
Palm Tree	12	1	12
Palm Tree	14	3	42
Palm Tree	16	1	16
Palm Tree	18	1	18
Ear Tree	10	1	10
Ear Tree	12	4	48
Ear Tree	14	1	14
Ear Tree	16	0	0
Ear Tree	18	1	18
Ear Tree	20	1	20
Ear Tree	22	1	22
Ear Tree	26	0	0
Ear Tree	28	1	28
Ear Tree	30	0	0
Ear Tree	48	0	0
Ear Tree	54	0	0
Unknown	9	1	9
Unknown	10	6	60
Unknown	14	2	28

Total Quantity Trees: Total Protected Tree Inches:

38

Total Quantity Trees: 25 Total Exempt Tree Inches:

329

#### Per Winter Park Code of Ordinance - Division 6: Protected Trees

"Protected tree shall mean any self-supporting woody or fibrous perennial plant of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk dbh of nine inches or greater and is not an exempt tree. The term "protected tree" shall also apply to any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit and all trees on city property. "

762

#### Exempt Trees

"Exempt trees. No permit shall be required to remove the following types of trees: Citrus Ear (Enterolobium species); Camphor (Cinnamomum camphora); Chinaberry (Melia azedarach); Mulberry (Morus species); Cajeput punk or Melaeuca trees (Melaeuca quinquinervia/leucadendra); Palm; Australian Pine (Casuarina species); Australian Silk Oak (Grevillea robusta); Chinese Tallow (Spaium sebiferum); Brazilian Pepper (Schinus terebinthifolius); Any tree with a dbh less than nine inches, as long as the tree was not planted as a replacement tree."

## SECTION 70.51, FLORIDA STATUTES - SPECIAL MAGISTRATE PROCEEDING VILLA TUSCANY HOLDINGS, LLC,

Petitioner,

VS.

CITY OF WINTER PARK, a Florida municipal corporation

Respondent.

#### MEDIATED SETTLEMENT AGREEMENT IN SECTION 70.51, FLA. STAT. PROCEEDING

This Mediated Settlement Agreement (this "Agreement") is entered into by and between Villa Tuscany Holdings, LLC (the "VTH") and the City of Winter Park, a Florida municipal corporation (the "City"). VTH and the City are sometimes herein jointly referred to as the Parties.

#### RECITALS

WHEREAS, VTH is the fee simple owner of that certain approximately 3.78 gross acre property located at 1298 Howell Branch Road with an Orange County Tax Parcel Identification # 32-21-30-0000-00-029, and legally described in that certain Warranty Deed recorded at Document #20160600204, Orange County Public Records (the "Property"); and

WHEREAS, VTH submitted an application seeking conditional use approval and variances/waivers in order to develop the Property with a three-story 41,352 gross square foot memory care/assisted living facility ("Application"); and

WHEREAS, on March 27, 2017, the City of Winter Park City Commission ("City Commission") conducted a public hearing on the Application and after hearing the arguments and evidence in the record, denied the Application; and

WHEREAS, on or about April 26, 2017, VTH filed a Request for Relief Pursuant to Section 70.51, Florida Statutes to challenge the City Commission's denial of the Application; and

WHEREAS, a mediation pursuant to Section 70.51, Florida Statutes was conducted by Special Magistrate, Carlos Alvarez between VTH and the City as represented by City Manager, Randy Knight in his capacity to make a recommendations of settlement to the City Commission, and such mediation was continued so that Parties could continue to explore settlement options prior to the Special Magistrate hearing initially set for July 21, 2017; and

WHEREAS, as part of a Section 70.51, Florida Statutes proceeding, the City through its City Manager, Randy Knight in his capacity to make recommendations of settlement and the VTH agreed to a mediated settlement agreement which the Parties desire to memorialize such herein; and

WHEREAS, the § 70.51, Florida Statutes Special Magistrate hearing initially set for July 21, 2017 has been postponed to allow an opportunity for the City Commission to consider this Agreement and the Modified Application, as defined herein.

NOW, THEREFORE, in consideration of the promises, representations, and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby stipulate and agree as follows:

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1. <u>RECITALS</u>. The foregoing recitals are true and correct, and are incorporated herein and made a part hereof by reference.

2. <u>MODIFIED APPLICATION</u>. On or before September 5, 2017, VTH shall submit to the City a revised engineered site plan, revised architectural perspective elevations, revised landscape and tree preservation plan and an application and application fee for conditional use for the development of the Property with a memory carc/assisted living facility exceeding 10,000 square feet reflecting the following changes from the Application ("Modified Application"):

i. Reduce building from three stories to two-stories. This eliminates one of the three conditional use requests.

ii. Meet the following maximum building height requirements: (a) the maximum height to the top of the second floor is twenty-eight (28) feet; (b) the maximum height to the top of any rooftop parapet or mansard is thirty-one (31) feet; (c) the maximum height to the top of any elevator/stair tower element is thirty-five (35) feet; and (d) the maximum height to the top of any other architectural feature above the roof height is thirty-four (34) feet. No waivers or variances concerning height of building shall be sought;

iii. Reduce building from 41,352 gross square feet to a maximum of 30,896 gross square feet;

iv. Provide at least 25 on-site parking spaces which meet the land development code requirements for vehicular parking (which reflects a waiver/variance of up to two required parking spaces);

v. Building set back shall be no less than 75 feet from the Ordinary High Water Line of Lake Temple;

vi. Paved parking area/lot shall be no less than 50 feet from the Ordinary High Water Line of Lake Temple;

vii. Reduce patient units from 51 to 46 and reduce patient beds from 51 to 50;

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viii. Relocation of the building towards the depression/karst feature by moving the building a minimum of 30 feet eastward on the property from the previous location. Building to be no closer than 15 feet from the wetland boundary line of the depression/karst feature (which is a waiver/variance of up to 35 feet) and will comply with the St. Johns Water Management District's setback requirements;

ix. Provide heavy attractive landscaping waterward of the parking area/lot sufficient in size, height and density to screen parking area from residents across Lake Temple;

x. Meet all minimum City land development code requirements, except the need for a waiver for building setback from the depression/karst feature on the Property and up to a two (2) vehicular parking space waiver;

xi. Porte-cochère attached to the building shall have at least 14 feet of clearance.

xii. Fire Department and emergency vehicular access shall be at least 20 feet wide and have a 50 foot minimum turn around radius;

xiii. Architectural features and quality of the building to be substantially similar to architectural renderings and elevations submitted with the Application.

The revised engineering plan submitted by VTH shall contain all of the information and be in a size and form required by the City and its land development code for conditional use approval.

Further, the Modified Application will include the following conditions if approved: (i) use of lower scale monument sign, no pole sign; (ii) VTH, at its expense, to upgrade traffic signal at the corner of Howell Branch and Temple Trail in order to provide signalized access to the site; (iii) VTH, at no charge to the City, to grant a public sidewalk easement over and through the Property adjacent to Howell Branch Road and grant a drainage easements over, under and through the Property concerning the weir or control structure; (vi) site clearing and tree removal be done in coordination with the City's Urban Forestry and that options for further tree preservation be explored at that time; and (v) VTH to install and maintain, at its expense, a private on-site sewer lift station meeting the City's requirements.

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Provided the Modified Application complies with the aforesaid requirements, within forty-five (45) days of receiving a complete Modified Application the City will schedule a public hearing before the City Commission for the City Commission's consideration of the Modified Application and this Agreement and the City Manager will recommend approval of the Modified Application and this Agreement to the City Commission. The City Manager's recommendation of the Modified Application will include a recommendation for a waiver to the applicable setback from the depression/karst feature to allow the memory care building to be 15 feet from such depression/karst feature and a waiver of up to two (2) vehicular parking spaces required by the City's land development code; the City Manager shall have no obligation to make any other positive recommendations concerning waiver/variances. VTH shall be responsible for paying (or reimbursement of) the cost of any and all public notices for the City Commission's public hearing on the Modified Application and this Agreement.

The Modified Application and this Agreement shall be presented to the City Commission during a public hearing for which the City staff, VTH and members of the public shall have the right to speak and submit documentation for the City Commission's consideration. After conducting the public hearing, the City Commission may approve or reject the Modified Application and this Agreement.

3. <u>CONTINGENT RELEASE</u>. If the City Commission approves the Modified Application or any version of the Modified Application for which VTH consents as acceptable, VTH agrees that it thereby waives and releases the City and its officials, officers and employees from any and all petitions for writ of certiorari, Bert J. Harris Act claims, § 70.51, Florida Statutes proceedings, appeals, damages, causes of action, claims and lawsuits arising out or relating to the City Commission's denial of the Application.

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4. EFFECTIVENESS. The City is a public entity required to operate in accordance with Chapter 286, Florida Statutes and in accordance with jurisdiction established to its City Commission. The Parties acknowledge and agree that the City Manager, Randy Knight only has the authority to execute this Agreement in his capacity to make a recommendation of settlement in this Section 70.51, Fla. Stat. proceeding and that he cannot bind the City and its respective boards and City Commission, except to agree to make those certain City staff recommendations set forth in this Agreement. The effectiveness of this Agreement remains subject to and conditioned upon the City Commission's approval of Modified Application. If the City Commission rejects or denies the Modified Application, then this Agreement (except Sections 5, 6, and 7 which are intended to survive) shall be null and void, and the § 70.51, Fla. Stat. proceeding concerning the City Commission's denial of Application shall move forward to final hearing to be conducted by Special Magistrate Carlos Alvarez within fifty (50) days of the City Commission's rejection or denial of the Modified Application (or such other time and date beyond 50-days agreed to by the Parties or as necessary to accommodate the schedule of Special Magistrate Carlos Alvarez), unless VTH decides to dismiss or abandon the § 70.51, Florida Statutes proceeding.

5. <u>PUBLIC RECORD</u>. The Parties acknowledge and agree this Agreement and the Modified Application are public records and are not confidential including pursuant to §§ 44.405 and 70.51, Florida Statutes. This Agreement and the Modified Application are required be considered by the City Commission at an open public hearing and such will be part of a publicly available City Commission agenda package or otherwise provided upon request and will be freely discussed in the public realm. Therefore, the Parties may provide a copy of this Agreement and the Modified Application to members of the public and communicate details of

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this Agreement and the Modified Application to members of the public at any time. In event this Agreement is rejected by the City Commission, this Section shall survive.

6. SETTLEMENT DISCUSSIONS. This Agreement and the City Commission's consideration of this Agreement and the Modified Application constitutes a good faith attempt to resolve a disputed matter in a § 70.51, Fla. Stat. proceeding. If this Agreement and the Modified Application are not approved by the City Commission, then this Agreement and the City Commission hearing to consider this Agreement and the Modified Application and any record containing or referring to this Agreement, the Modified Application and the related settlement discussions shall not be used by either party as evidence or be admissible in any judicial or administrative proceeding for any purpose. If the City Commission rejects this Agreement or denies the Modified Application, VTH acknowledges and agrees that such decision by the City Commission constitutes a rejection of a settlement proposal and is not reviewable or appealable (via petition for writ of certiorari or otherwise) to a court of law through an action brought by VTH. However, the Parties acknowledge that if the Modified Application is approved by the City Commission (i.e. results in the approval of a development order) that pursuant to law other persons with legal standing may challenge the City Commission's approval of the Modified Application in the appropriate court of law. In event this Agreement is rejected by the City Commission, this Section shall survive.

7. <u>SPECIAL MAGISTRATE FEES/ATTORNEY'S FEES</u>. VTH and the City each shall remain responsible for their ½ share of the Special Magistrate fees and expenses incurred in the Section 70.51, Florida Statutes proceeding and for their own respective attorneys' fees and costs. In event this Agreement is rejected by the City Commission, this Section shall survive.

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8. <u>MISCELLANOUS</u>. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement. Facsimiles or other electronic images of executed signature pages to this Agreement shall be considered originals so long as they are provided to the other parties by the party's attorney. Nothing in this Agreement shall: (i) constitute a waiver of or be construed as a restriction on or release of the City's police power and zoning authority and regulations, or (2) constitute or be deemed to require the City to issue any development order, development permit or any legislative, quasi-judicial or administrative approval or particular decision.

Villa Tuscany Holdings, LLC 1/14 Treary Howes Print Title Date:

**City of Winter Park** By: Randy Knight City Manager

Date:

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CITY COMMISSION MEETING MINUTES MARCH 27, 2017 PAGE 8 OF 14

Motion amended by Commissioner Seidel that the developer be required to make a connection to Balfour for an exit at the signalized roadway. Motion failed for lack of a second.

Motion amended by Commissioner Seidel to have the building located towards the front of the property to follow the village character that our vision plan has put in place for the City of Winter Park. Motion failed for lack of a second.

Discussion ensued that the main motion is to deny if the applicant finds it unacceptable. Ms. Wilson clarified the Commission agrees with using the Panera Bread 24 spaces but is uncomfortable with them using the second 24 spaces at the dentist office. She explained when they would be utilizing those spaces and that this would meet code at the peak times. Commissioner Weldon encouraged them to come back after the other Orchard Supply in the City opens and prove that the actual requirements are in conformance with what they claim it is. He stated that would be a substantiated new argument in favor of reconsideration.

Motion made by Commissioner Weldon to deny based upon non-compliance that the proposed plan meets or exceed all other applicable minimum standards and requirements as set forth (variance for parking); and that the site plan provides onsite parking to meet the code required and expected demands of the proposed use (variance for parking); seconded by Commissioner Cooper to accept the revised motion.

The following spoke in opposition to the request: Danielle Allison, 722 Carnation Drive (provided a PowerPoint presentation); and Susan Kragh, 1024 Tuscany Place.

Ms. Wilson was allowed the opportunity to respond to comments. Executive Vice President, CPH, engineer of record for the project provided traffic numbers. The process to be followed if they come back with a revised plan was discussed. Attorney Ardaman stated it would be a new application so that process needs to be followed.

Upon a roll call vote to deny the conditional use approval, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weldon voted yes. The motion carried unanimously with a 5-0 vote.

#### **Recess**

A recess was taken from 6:36 – 6:54 p.m.

d. <u>Request of Villa Tuscany Holdings, LLC</u>: Conditional use approval to build a three story, 41,352 square foot, 24 unit, 51 bed, Memory Care Facility at 1298 Howell Branch Road, zoned Multi-Family Residential (R-3), providing for certain exceptions and for a development agreement, if required. CITY COMMISSION MEETING MINUTES MARCH 27, 2017 PAGE 9 OF 14

Planning Manager Jeff Briggs addressed the conditional use request. He spoke about the parking requirements that meet the requirements based on the code regarding assisted living, landscaping, walls, variances, height of the building, and architecture of the building and that the project will have all turning movements in and out at the traffic light to ensure safety at the sight. He stated that the Planning and Zoning Board approved this project with conditions. Mr. Briggs spoke about what could be built there if this is not approved. He answered questions regarding the lakefront setback, parking at the location, the square footage of the corner points within the 25' setback, and the existing weir between the lakes.

All Commissioners and the Mayor disclosed conversations prior to the meeting with various staff, applicant, and residents.

Attorney Becky Wilson, representing the applicant, provided a PowerPoint presentation showing property context photographs of commercial uses on the north side of Howell Branch Road, the east of property along Temple Drive, and residential south and west of the property; the property location and zoning, comprehensive plan and zoning, the use and need in Winter Park, the P&Z Board approvals, the site plan, building size, front yard setback, architecture (front and rear perspective), view of site from across Lake Temple, response to neighborhood concerns, additional proposed conditions, and their request of the final CUP with staff and owner conditions.

Commissioner Cooper expressed concerns with providing ample parking spaces for those that drive. Ms. Wilson stated vehicles are not allowed (will be a part of the developer's agreement). Commissioner Sprinkel spoke about her struggle with this request and placing conditions on who can live there depending on the seriousness of their memory care. She expressed concerns with not having enough parking for visitors and building this facility close to the R-1 zoned neighborhood because of the large size of the building. She also addressed the people across the lake having to look at the building and asked about building a structure so it is not visible.

Motion made by Commissioner Sprinkel to deny the conditional use approval because of <u>non-compliance</u> with: the proposed plan being inconsistent with Policy 1-3.8.6 of the comprehensive plan, the proposed plan not meeting all applicable minimum standards and requirements as set forth (front setback); and that the building size, floor area ratio, height and mass are not compatible and consistent with the scale and character of the immediate neighborhood; and that parking is not in compliance with the lakefront setback; seconded by Commissioner Cooper.

Ms. Wilson addressed questions of the Commission regarding saving trees, size and scale of the building and the view from the lake.

Commissioner Weldon stated he supports the use of the property but believed this building in its current form is not compatible with the other two story buildings that are present along Howell Branch Road. He stated he wants to work to make this happen and the use for the neighbor's benefit is benign compared to what can be built with townhomes. He stated if the stories and height were lowered he would be interested in looking at variances that would allow them to do what they need to do within that kind of massing.

Mayor Leary addressed his challenge with the request because of being part of a residential neighborhood and not being compatible with the neighborhood. He reiterated the fact that other projects could be built there that could have a greater impact. Commissioner Cooper agreed with the use but had an issue with compatibility with the neighbors, the lack of adequate setback from the lake for the parking lot and associated wall, and that the project is too large for the site.

Motion made by Commissioner Weldon to table this item with the understanding that it will come back with a project that is no more than two stories and 30' high and the limitation on the occupancy and residents to be as stated in the condition offered by the applicant that was edit by our City Attorney (the Villa Tuscany facility shall be licensed only as an assisted living facility under Florida Statutes and the resident population shall be limited to the treatment and care for adults primarily with Alzheimer's disease or a related dementia or memory disorder and such the resident population will specifically exclude those undergoing drug or alcohol rehabilitation and/or mental health treatment; and that no resident shall be allowed to bring their own vehicles to the facility) and with the same conditions of the applicant and Planning and Zoning Board. Motion failed for lack of a second.

The following spoke in opposition: Mark and Nancy Freeman (PowerPoint presentation); Bob Halback, 1160 Howell Branch Road; Paul Morgan, 1056 Tuscany Place; Debra Wert, 1621 Via Tuscany; Charlotte Schmitt, 1124 Howell Branch Road; Jim Bogner, 1009 Tuscany Place; Barbara Anderson, 1016 Tuscany Place, Elizabeth Bosserman, 818 Antonette Avenue; David and Sarah Danziger, 1049 Tuscany Place; Barbara Diaz, 1048 Tuscany Place; Jim Kragh, 1024 Tuscany Place; Alie Weber, 303 Sandlewood Trail; Van Bogan, 2456 Via Sienna; Phil Karr (Winter Springs - unknown address); Stephen Coutant, 905 Lakeview Drive; and Susan Block, 1060 Via Morano Court (representing their HOA).

The following spoke in favor: Eric Mock, 2000 N. Semoran Blvd.; Charlie Joseph, 130 Birchwood Drive, Maitland; Robyn Edelstein, 430 E. Packwood Ave., Maitland; Amy Cameron O'Rourke, 202 Quayside Circle, Maitland; Maura Brandes of behalf of Deborah Carroll, 310 E. Morse Blvd.; and Joe Terranova, 151 N. Virginia Avenue.

Following public comments, Ms. Wilson commented that they are happy to go back and take into consideration comments made by the public and the Commission regarding location of the parking. She spoke about people agreeing with the use and if they reassess the site plan and bring it back to the Commission they hope they can come to an agreement.

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CITY COMMISSION MEETING MINUTES MARCH 27, 2017 PAGE 11 OF 14

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

#### **Recess**

A recess was taken from 8:49 – 8:59 p.m.

e. <u>Request of BFC New England LLC</u>: Conditional use approval to construct a three story mixed use building of 52,601 square feet with parking in a basement level on property zoned Commercial (C-2) at 158 East New England Avenue and providing for certain exceptions including setbacks and parking and for approval of a developer's agreement.

Planning Manager Jeff Briggs summarized the conditional use request. He stated that the Planning and Zoning Board was in support of the building with two exceptions that were both supported by staff and the P&Z Board. He addressed the two exceptions/variances: Have a building height of 45' in lieu of the maximum of 40' because the applicant wants to have the floor to ceiling heights necessary for the first floor retail/restaurant spaces, and to achieve the design parameters for the Class A office space on the second and third floors; and for no setback for the third floor of the building along the Knowles Avenue frontage.

Mr. Briggs spoke about the request by the applicant for 122 spaces (25% variance). He summarized the parking at the Bank of America building parking garage and that the applicant has provided 197 fobs who are allowed to utilize the garage at any time via the provision of their lease. He stated there are 90 spaces left open after considering the 197 fobs (all may not be there at the same time). He stated the applicant wants to utilize the 90 spaces towards the parking needs of the new project. He concluded that the proposed project requires 122 parking spaces; they have 57 spaces provided on-site and 90 spaces within the Bank of America parking garage to equal 147 spaces. The applicant asked to be able to use the 25 surplus spaces to allow 100 seats for lunch time use in the restaurants and proposed the use of a valet service to park the cars for the 100 seats. Staff did not support further parking for any daytime restaurant seating. Mr. Briggs addressed the 3-3 vote of the P&Z Board.

In summary, the three variances requested were: 1) use the 3 spaces per 1,000 (staff approved); 2) use the 90 vacant spaces across the street (staff approved); and 3) to allow 244 daytime restaurant seats (36 spaces) (staff denial). Mr. Briggs addressed questions of the Commission regarding parking and setbacks.

Planning Director Dori Stone addressed the need to deal with downtown parking and are in the process of doing a downtown parking strategy to look at City codes and the way parking functions that will be brought back to the Commission for recommendations.



NOTICE is hereby given that a public hearing will be held by the <u>City Commission on</u> <u>Monday, October 9, 2017 at 3:30 p.m.</u> in the Commission Chambers of City Hall at 401 S. Park Avenue, Winter Park, Florida 32789 to consider the following **PUBLIC HEARING**:

**REQUEST OF WINTER PARK ELDERLY SERVICES, LLC FOR:** CONDITIONAL USE APPROVAL TO BUILD A TWO STORY, 44 UNIT, 49 BED, MEMORY CARE RESIDENTIAL FACILITY BUILDING OF 29,801 SQUARE FEET IN SIZE, ON THE PROPERTY LOCATED AT 1298 HOWELL BRANCH ROAD, ZONED R-3.

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

**NOTE:** If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he 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 Planning Department at 407-599-3324 at least 48 hours in advance of the meeting.

/s/: Cynthia S. Bonham, MMC, City Clerk

PUBLISH: Sunday, September 24, 2017 Orlando Sentinel

From:	Linda Lindsey <ljlindsey@cfl.rr.com></ljlindsey@cfl.rr.com>
Sent:	Thursday, September 28, 2017 7:24 AM
То:	Mayor and Commissioners
Subject:	Villa Tuscany Memory Care Center

Dear Mayor and City Commissioners,

I am writing IN FAVOR of this project. I reside in the neighborhood near it.

It is a needed service for our population, it will generate little traffic, it is more desirable than other allowable uses of this property and will be less disruptive to surrounding neighborhoods than traditional multi family development.

Thank you, Linda Lindsey 2212 Venetian Way

Please excuse typos. Sent from my iPhone

From:Weeze Cullen <weeze\_cullen@hotmail.com>Sent:Sunday, October 1, 2017 11:36 AMTo:Mayor and CommissionersSubject:Villa Tuscany Memory Center

Dear Mayor and City Commissioners,

My name is Margaret Cullen and I live at 2462 Via Sienna. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods. Following Hurricane Irma, the lake which the proposed care center would be built on, has risen dramatically. I understand from the literature you sent us, they are asking for a 15 foot setback from the lake. This is incredibly irresponsible and would destroy the aesthetic component of the residents currently living around the lake. It is completely incompatible with the existing structures on the lake.

I do not believe that a variance should be granted because the project does not meet parking requirements. As I've written to you before, the piece of land they are proposing to build upon, just doesn't support the size of operation they want.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you, Margaret Cullen

From:	Wendy Curran < curranclan5@gmail.com>
Sent:	Friday, September 29, 2017 11:06 AM
То:	Mayor and Commissioners
Subject:	Opposition to construction of Villa Tuscany Memory Care Center

Dear Mayor and City Commissioners,

My name is Wendy Curran and I live at 1001 Via Tuscany Oaks Way in Winter Park. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Sincerely,

Wendy Curran

From: Sent: To: Subject: Weeze Cullen <weeze\_cullen@hotmail.com> Sunday, October 1, 2017 11:36 AM Mayor and Commissioners Villa Tuscany Memory Center

Dear Mayor and City Commissioners,

My name is Margaret Cullen and I live at 2462 Via Sienna. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods. Following Hurricane Irma, the lake which the proposed care center would be built on, has risen dramatically. I understand from the literature you sent us, they are asking for a 15 foot setback from the lake. This is incredibly irresponsible and would destroy the aesthetic component of the residents currently living around the lake. It is completely incompatible with the existing structures on the lake.

I do not believe that a variance should be granted because the project does not meet parking requirements. As I've written to you before, the piece of land they are proposing to build upon, just doesn't support the size of operation they want.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you, Margaret Cullen

From:	Barbara Diaz <twobteach3@gmail.com></twobteach3@gmail.com>
Sent:	Friday, September 29, 2017 7:28 AM
То:	Mayor and Commissioners
Subject:	Villa Tuscany Memory Care Facility

Dear Mayor and City Commissioners,

Our names are Manny and Barbara Diaz. We live at 1048 Tuscany Place. I am writing to you because we are opposed to the construction of the Villa Tuscany Memory Care Center at <u>1298 Howell Branch Rd. in Winter</u> Park.

We are opposed to this project because its **SIZE** and **SCALE** are incompatible and out of character with the surrounding neighborhoods.

We do not believe that a **VARIANCE** should be granted because the project does not meet parking requirements.

We do not want a **VARIANCE** issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

The only thing that would meet our approval is a memory care facility that is **IN SCALE** with our neighborhoods and that complies with **R3 zoning (a two-story building no more than 10,000 ft.<sup>2</sup>)** with **NO VARIANCES**.

These were the original restrictions set in place when the developers purchased this partial of land.

#### Please help us regarding this matter.

Thank you, Barbara Diaz Sent from my iPhone

From:	Steven Konold <stevenkonold@gmail.com></stevenkonold@gmail.com>
Sent:	Thursday, September 28, 2017 1:17 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany Memory Care Center

Dear Mayor and City Commissioners,

My name is Jodie and Steve Konold and I live at 1281 Woodmere Drive. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

Jodie and Steve Konold

From:	PJFravel <pjfravel@sbcglobal.net></pjfravel@sbcglobal.net>
Sent:	Thursday, September 28, 2017 12:46 PM
То:	Mayor and Commissioners
Subject:	Memory care facility

Dear Mayor and Commisioners:

My name is Patrick Fravel and I reside at 1000 Via Tuscany Oaks Way in Winter Park. I oppose the approval of zoning variances for the proposed memory care facility on Howell Branch Road. I frequently drive on Howell Branch and am very familiar with the intersection with Temple Drive. I have also viewed the architectural plans for the proposed facility, including the driveway entrance off of Howell Branch. Traveling eastbound on Howell Branch Road, the road curves around a bend as it approaches Temple, thus creating a blind spot. This blind spot is located exactly where the developers plan to locate the driveway entrance and exit off of Howell Branch. Hundreds (thousands?) of cars travel eastbound on Howell Branch daily, often times at speeds well in excess of the 40 m.p.h. speed limit. Allowing the developer to place a driveway entrance to a cramped parking lot at the proposed location presents an unacceptable and dangerous hazard to motorists.

I highly recommend you drive this path eastbound on Howell Branch Road to experience and see the blind spot for yourself. Then imagine that you and loved ones suddenly come upon stopped traffic or slowly exiting cars from this driveway. I'm quite confident there will be consequences.

The developer has already admitted that the parking lot is too small. Why else would they need to lease spaces across the street? There will be too many cars entering and exiting that lot looking for spaces to park. The plans for this facility, especially the parking lot, are flawed and do not warrant zoning variances.

Speaking of leased parking spaces, who's to say those leases will stay in place indefinitely? If the developer gets their zoning variance approvals, I don't see how we the citizens could ever properly monitor whether those leased spaces remain in place in perpetuity.

It is most unfortunate that the developer wants to build such a large facility on such a small plot in a mostly residential section of Winter Park. I've heard rumors that this developer also owns the retirement center near the intersection of Via Tuscany and Alabama and this whole plan is to relocate the current residents to this new location on Howell Branch so the property on Alabama can be developed with high end luxury residential properties. IF that is true, it is all the more reason why Winter Park should not grant zoning variance approvals so that the developers can make more money.

Thank you for your consideration.

Patrick Fravel

Sent from my iPhone

From:	Mike <mikec@csandl.com></mikec@csandl.com>
Sent:	Thursday, September 28, 2017 10:26 AM
То:	Mayor and Commissioners
Subject:	Villa Tuscany

Dear Mayor and City Commissioners,

My name is Michael Canavan and I live at 919 Poinciana Ln. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods!

I do not believe that a variance should be granted because the project does not meet parking requirements!

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands!

This case is a classic example why we have a zoning system in the first place. If we allow this obviously unsuitable project to move forward then there is no need to continue with the façade of a zoning system. Simply shut it down and save all of that time and money.

Thank you,

Mike Canavan Canavan Scenic & Light LLC 2440 Dinneen Ave. Orlando FL 32804 407 888-8002 www.CSandL.com CS&L Facebook

From:	David Greenberg <dsgreenberg63@gmail.com></dsgreenberg63@gmail.com>
Sent:	Thursday, September 28, 2017 10:04 AM
То:	Mayor and Commissioners
Subject:	The Elephant in our Neighborhood

Dear Mayor and City Commissioners,

Please don't let our beautiful low-density city be bullied by overly-aggressive developers!

My name is David Greenberg and I live at 2144 Venetian Way. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Winter Park has a unique history and aesthetic feel, and I fear that allowing a project such as this would set a terrible precedent toward the "Maitlandization" of our beautiful city. Please do not back down from your previous support of your constituents' position.

Thank you, David Greenberg

From: Sent: To: Subject: Suzanne dukes <ssaj2013@gmail.com> Wednesday, September 27, 2017 9:34 PM Mayor and Commissioners Villa Tuscany Memory Center

Dear Mayor and City Commissioners,

My name is Suzanne Dukes and I live at 1064 Tuscany Place. I am writing to you because I am still opposed to the construction of the Villa Tuscany Memory Care Center at <u>1298 Howell Branch Rd</u>. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you, Suzanne Dukes 1064 Tuscany Place Winter Park, Florida 32789

From:	pattie10@aol.com
Sent:	Wednesday, September 27, 2017 6:38 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany Memory Care Center

Dear Mayor and City Commissioners,

My name is Rochelle Cramer and I live at 2507 Mandan Trail, Winter Park, FL 32789. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at <u>1298</u> <u>Howell Branch Rd</u>. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

**Rochelle Cramer** 

From:	Richard Clarke <rjcrichard@gmail.com></rjcrichard@gmail.com>
Sent:	Wednesday, September 27, 2017 5:59 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany

Dear Mayor and City Commissioners,

My home is 1025 Tuscany Pl. in Northern Winter Park. My wife Yuki, four kids and I enjoy our lives in our wonderful community.

I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

Unfortunately, we keep having to discuss this same topic year after year.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

It is hard for me to understand why, after failing repeatedly, the latest proposal would be even closer to the wetlands, with an even larger footprint, and with the almost the same # of beds/etc. If this passes, then the people don't have much say in what happens. The vast majority of your neighbors hate this plan.

Thank you,

Rich, Yuki, Mackie, Philip, Cortland and James Clarke

From:	Max Viger <maxviger@gmail.com></maxviger@gmail.com>
Sent:	Wednesday, September 27, 2017 4:34 PM
То:	Mayor and Commissioners
Subject:	Memory care center

Dear Mayor and City Commissioners,

My name is Max Viger, and I live at 3056 Temple Trail. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

J. Max Viger

From:	D R <donnarender13@gmail.com></donnarender13@gmail.com>
Sent:	Wednesday, September 27, 2017 4:02 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany Memory Care

Dear Mayor and City Commissioners,

My name is Donna Render and I live at 2630 Via Tuscany. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at <u>1298 Howell Branch Rd</u>. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands. Right now the area they want an area on is under water since the hurricane.

Thank you,

Donna Render

From:	Jim Dowden <jdowden@cfl.rr.com></jdowden@cfl.rr.com>
Sent:	Wednesday, September 27, 2017 2:51 PM
To:	Mayor and Commissioners
Subject:	VillaTuscany Mempry Care

Dear Mayor and City Commissioners,

My name is James C. Dowden and I live at 1031 Via Merano in Winter Park, less than 100 yards from this proposed facitlity. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you

James C. Dowden

From:	Serena Larson <srschwarz@aol.com></srschwarz@aol.com>
Sent:	Wednesday, September 27, 2017 12:23 PM
То:	Mayor and Commissioners
Subject:	Memory care objection

Dear Mayor and City Commissioners,

My name is Randy Larson and I live at <u>1008 Tuscany Place</u>. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at <u>1298 Howell Branch Rd. in Winter Park</u>.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

Sent from my iPhone

From:	shrinkski@aol.com
Sent:	Wednesday, September 27, 2017 12:12 PM
То:	Mayor and Commissioners
Subject:	Proposed memory care facility in WP

My name is Barbara Anderson and my husband and I live at 1016 Tuscany Place. I am writing to you because we both are vehemently opposed to the construction of the Villa Tuscany Memory Care facility at 1298 Howell Branch Rd.

I am opposed to this project because of its size and scale which are incompatible and out of character with the surrounding neighborhoods. Furthermore, I do not believe that a variance should be granted because the project does not meet parking requirements. I do not want the variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands. The recent hurricane proved that the water level rises considerably during major storms.

I also bring to your attention the fact that a major senior care facility (Allegro) is being opened as we speak about a mile down the road along Howell Branch. Thank you for considering my input.

Barbara Anderson 407-619-5432 shrinkski@aol.com

From:	Thomas R Powell <tom@thepowellgroupllc.com></tom@thepowellgroupllc.com>
Sent:	Wednesday, September 27, 2017 11:25 AM
To:	Mayor and Commissioners
Subject:	NO TO - Villa Tuscany Memory Care Center

Dear Mayor and City Commissioners,

My name is Thomas R. Powell and I live at 1017 Tuscany Place Winter Park. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

Thomas R. and Kathleen Powell



Thomas R. Powell The Powell Group, LLC 222 South Pennsylvania, Winter Park, FL 32789 Email : <u>tom@thepowellgroupllc.com</u> Web: <u>www.thepowellgroupllc.com</u> Phone: (407) 770-6868

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From:	Paul Schmid <paulschmid@mindspring.com></paulschmid@mindspring.com>
Sent:	Tuesday, September 26, 2017 12:51 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany Memory Care Center Opposition

Dear Mayor and City Commissioners,

Our names are Dr. and Mrs. Paul E. Schmid. We have lived at 1000 Tuscany Place, Winter Park for the past 28 years are very proud of our neighborhood. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

We are opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

We do not believe that a variance should be granted because the project does not meet parking requirements.

We do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

A project of this size will irrevocably degrade the standard of living in the adjoining residential neighborhoods.

Thank you,

Dr. and Mrs. Paul E. Schmid

From:	David Krinker <david@krinkerfamily.com></david@krinkerfamily.com>
Sent:	Monday, September 25, 2017 6:36 AM
То:	Mayor and Commissioners
Subject:	Objection to Villa Tuscany Memory Care Center project

Dear Mayor and City Commissioners,

My name is David Krinker and I live at 1220 Via Salerno. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

David & Jodi Krinker

From:	Alan Wladis <wladisalan@gmail.com></wladisalan@gmail.com>
Sent:	Saturday, September 23, 2017 10:48 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany

Dear Mayor and City Commissioners,

My name is Alan Wladis. I live at 1051 Via Merano Court in Winter Park.

I am writing to left you know that I strongly oppose the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Road in Winter Park.

I am amazed at the number of variances that have been requested.

I do not believe that a variance should be issued which would allow the project to be built closer than 50 feet to the nearby wetlands. The recent Hurricane Irma shows us the importance of protecting wetlands. The City of Houston did not and they had major issues.

I do not believe that a variance should be granted because the project does not meet the requirement for parking. Look at the snarled traffic by the shopping center that houses Trader Joes.

I am opposed to the project because its size and scale are incompatible with and out of character with the surrounding neighborhoods. All we need to do is look at what the City of Maitland did along 17-92 by allowing the multiple variances. Not a single resident not directly involved in earnings form that project has looked at it as a positive. It has caused traffic issues and is an eyesore. Even the City of Maitland at a recent meeting said they should never have allowed these variances. Please do not make these same mistakes in the City of Winter Park.

Thank you for attention to this matter.

Alan Wladis

From:	Flynnlinks@aol.com
Sent:	Saturday, September 23, 2017 8:44 PM
То:	Mayor and Commissioners
Subject:	Votes coming soon

Mayor and Commissioners:

You have two extremely important issues to make a decision about in the next few meetings.

1) Please do not sell the land next to MLK Jr Park. Selling at this time would not be planning well for the future.

2) Please do not approve the new Memory Care Facility.

Sincerely, Sally Flynn

From:	Paul Curran <pablocurrano@gmail.com></pablocurrano@gmail.com>
Sent:	Saturday, September 23, 2017 3:29 PM
То:	Mayor and Commissioners
Subject:	Opposition to Memory Center on 1298 Howell Branch Road

Dear Mayor and City Commissioners,

My name is Paul Curran and I live at 1001 Via Tuscany Oaks Way in Winter Park.

I write to record my opposition to the proposed construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Road in Winter Park.

My opposition stems not from a cold heart to the mission of the Center itself but rather, the building's size, scale, and the inability of the group behind building it to adhere to the clearly established rules pertaining to the construction of new buildings in Winter Park.

In addition to countless violations in specific existing building codes (too few parking spots, too close to wetlands, etc), the proposed plans for the Memory Center are clearly incompatible and out of character with the surrounding neighborhoods and environmental ecosystems.

We have established building codes in Winter Park for a reason. Deviating from them will result in our picturesque community becoming a victim of the reckless construction we have seen with neighboring towns such as Maitland (one need only look at 1792 between Howell Branch Road and Morse for a tutorial on how not to build a community). Our current building codes are not intended to be amended or revised based on the "mission" of a building or the number of times a specific organization appeals prior commission rulings. If you and the commissioners allow this group to bully your decision making process and flout your prior rulings, you will be setting a dangerous precedent of arbitrary and inconsistent decision making on future buildings.

Please continue to serve the interests of the entire Winter Park community in your deliberations and not allow this group to make a mockery of long established procedures and rules for construction in Winter Park.

Thank you for your attention to this matter.

Sincerely,

Paul Curran 1001 Via Tuscany Oaks Way Winter Park, FL 32789

From: Sent: To: Subject: Suzanne Musashe <Suzanne@jandergroup.com> Saturday, September 23, 2017 3:02 PM Mayor and Commissioners Villa Tuscany Memory Care

I would just like to let you know my view on this building that was voted down. The commissioners. I feel it was the right decision for the city and its citizens. Please stand firm and do not be bullied by this commercial company. They have changed very little on the size or design and what wasn't needed before still is not needed in our city. We only have to look at what is happening to our neighbor, Maitland, on 17-92 and see how quickly the make up of a city and planning can change and then escalate.

Thank you

Suzanne Musashe

From:	Wendy Anderson <wra@wendyanderson.net></wra@wendyanderson.net>
Sent:	Saturday, September 23, 2017 12:05 PM
То:	Mayor and Commissioners
Subject:	Villa Tuscany

Dear Mayor and City Commissioners,

My name is Wendy Anderson and I live at 1600 Lasbury Avenue, Winter Park, FL. I am writing to you because I am opposed to the construction of the Villa Tuscany Memory Care Center at 1298 Howell Branch Rd. in Winter Park.

I am opposed to this project because its size and scale are incompatible and out of character with the surrounding neighborhoods.

I do not believe that a variance should be granted because the project does not meet parking requirements.

I do not want a variance issued which would allow the project to be built closer than 50 feet to the nearby wetlands.

Thank you,

Wendy Anderson Wendy Anderson, P.A. 1353 Palmetto Avenue, Suite 200 Winter Park, FL 32789 P.O. Box 2164 Winter Park, FL 32790 (407) 628-9081 ext. 111 phone (407) 628-9085 fax www.wendyandersonpa.com www.chieflegaladvisors.com

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From:	brender@cfl.rr.com
Sent:	Thursday, September 21, 2017 5:26 PM
То:	Mayor and Commissioners
Subject:	Memory Care Facility on Howell Branch

Dear Mayor and Commissioners,

I see that the memory care building is back on the October 9<sup>th</sup> agenda. We, the residents of Winter Park, look forward to presenting our ideas why this huge project continues to be totally unacceptable on many grounds—parking shortage/variance, setbacks from wetlands, incompatibility with our neighborhood. We will show photos of how the lake is already higher than ever and the building will be extremely close to the pond. We will ask that you again do not let our beautiful town's north side not look like Maitland's 17-92 corridor. Please help our Protect Winter Park movement.

Sincerely,

Barry

Ps. You may be interested in this guest editorial in Monday's Sentinel: http://www.orlandosentinel.com/opinion/os-ed-dear-amazon-please-pick-me-20170918-story.html

Barry Render, Ph.D. Harwood Professor of Operations Management Emeritus Rollins College Graduate School of Business Phones: 407-645-5498/5499 Fax: 407-645-1598

Operations Management Blog: www.heizerrenderom.wordpress.com

From:	Don Thompson <macdonnall@aol.com></macdonnall@aol.com>
Sent:	Saturday, August 12, 2017 2:58 PM
То:	Mayor and Commissioners; Mayor and Commissioners
Subject:	PURCHASING WET LANDS

PLEASE make the purchase of 55.6 acres of natural wetlands near Howell Branch. Years, in the future, citizens will thank you for preserving natural vegetation.

Also, this is my thoughts on the potential location of a memory center on Howell Branch. PLEASE LISTEN.

Construction of a "Memory Care Center", or any medical facility, at 1298 Howell Branch Road troubles me. That site has always been known as the location of a previous "sink-hole". To put fifty mentally troubled patients, unable to help themselves, over such seems inhumane and cruel. Sure, the chance of the sinkhole re-occurring is slim; but possible. Re-occurrence frequently happens across Central Florida. The reason you seldom hear of it is because it occurs in a pasture field or an everglade-type area. But it does happen.

# There are many more safer locations in Winter Park.

Government is intended to be "OF, BY, and FOR THE PEOPLE". Winter Park is highly populated by wise, well-educated, intellectuals. Of all cities, the local government should turn to the citizens for guidance. GOVERNMENT, PLEASE LISTEN.

I sincerely appreciate what you do and the sacrifices you make in governing a small city. I speak with experience; having served on council in a small up-north town for fifteen years.

Donald L. Thompson

1391 Oneco Avenue

Winter Park

Email: macdonnall@aol.com

From:	Charlotte Schmitt <bel.lapli.charlotte@gmail.com></bel.lapli.charlotte@gmail.com>
Sent:	Friday, August 4, 2017 11:17 AM
То:	Mayor and Commissioners
Subject:	Proposed building at 1228 Howell Branch Road

Dear Honorable Mayor and Commissioners:

Thank you for your former response to my letters regarding my opposition to the memory care center. To refresh your memory, I am a Winter Park home owner on Howell Branch Road, just 8 houses from the project. I have spoken at multiple events regarding this project. I have lived at the north most section of Winter Park for 18 years. I can tell you anything you want to know about Howell Branch Road and living here.

My house is currently on the market. My husband and I may walk away with no profit--despite \$250,000 of renovations. It is a handbuilt craftsman style house we upgraded from the original owner's architecture. We have a pinpoint location at the exact north entry point to the city of Winter Park. We are sad to sell. We are being forced to disclose the negotiations and problems regarding 1228 Howell Branch Road in our paperwork to a possible buyer (although there has not been one up to now--this is for various reasons--we understand that). Other recent sales in the area have had to do the same.

To assume that this controversy over land and a building does not affect real estate and property values in North Winter Park is a gross oversight. Ask any realtor trying to sell a house on Moss, Venetian, Poinciana, or even the famous Via Tuscany and most will tell you the project is making a definite negative impact.

Once again I would like to remind the City of Winter Park the sinkhole at 1228 Howell Branch Road and the wetlands have yet to have a survey made public. The owner would like to build 15 feet from a wetland. A variance is needed for this and I would encourage the mayor and commissioners to require this.

The project is still incompatible in size and scale with the character of the surrounding residential neighborhoods. At 30,000+ sq. ft. this building, which is larger than City Hall, will dwarf nearby homes and single story businesses.

The project still needs a conditional use permit because it is over 10,000 sq. ft. It also needs TWO VARIANCES: one for a setback to the wetlands and another for parking spaces.

The project is still too dense; we continue to have concerns about parking and staffing for 50 patients.

Finally, we believe this settlement presents a dangerous precedent for further development in our City: if a developer can overturn a decision made by the City Commission with a lawsuit, how are residents going to be protected? Our neighbors in Maitland are seeing first hand the results of growth that is out of proportion and unchecked.

Thank you again for listening to my concerns. I am sorry the project was forced into mediation and even sorrier it has returned to the forefront of development plans for the north entrance to Winter Park. I can only be thankful my house faces a retention pond which drains into Howell Branch Preserve and cannot be built upon.

Sincerely,

Charlotte and Scott Schmitt Owners 1124 Howell Branch Road (Property currently for sale)

From:	shrinkski@aol.com
Sent:	Friday, August 4, 2017 3:17 AM
То:	Mayor and Commissioners; nfreeman1954@gmail.com
Subject:	Tuscany Memory Care

As a resident of WP and, specifically, Tuscany Place, I strongly object to the plans for the memory care facility, as "adjusted" and proposed recently. The developer had introduced some minor cosmetic changes which still are not acceptable. Please consider the character of the facility, its size, density and its intrusion on the residential area. When running for office, most - if not all of you \_ have stressed your commitment to preserve WP residential areas and their traditional character - now is the time to show your actual commitment, not just words. Thank you. Barbara Anderson shrinkski@aol.com