



city commission agenda

November 25,
2019
3:30 PM
Commission
Chamber

mayor & commissioners

seat 1
Gregory Seidel

seat 2
Sarah Sprinkel

Mayor
Steve Leary

seat 3
Carolyn Cooper

seat 4
Todd Weaver

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 comment is allowed are limited to three (3) minutes. The yellow light indicator will remind you that you have one (1) minute left. Large groups are asked to name a spokesperson. 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.

agenda

*times are projected and
subject to change

1. Meeting Called to Order

2. Invocation

**George Wiggins, Director of Building and
Permitting Services**

1 minute

Pledge of Allegiance

3. Approval of Agenda

4. Mayor's Report

5. City Manager's Report

- a. **Schedule Work Session on Orange Avenue Overlay** 5 minutes
- b. **City Manager's Report** 5 minutes

6. City Attorney's Report

7. Non-Action Items

8. Citizen Comments | 5 p.m. or soon thereafter

(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting)
(Three (3) minutes are allowed for each speaker)

9. Consent Agenda

- a. **Approve the minutes of November 11, 2019** 1 minute
- b. **Approve termination of two water and sewer utility easements as requested by Vintage Winter Park, LLC** 1 minute
- c. **Approve Tourist Development Tax Grant Agreement with Orange County for Canopy Project**
- d. **Approve the following contract items:** 1 minute
 - 1. Audio-Visual Innovations; Infinity Corporation of Central Florida: Increase allowable spend under RFP-18-2019 – Design, Install, Configure & Maintain Audio Visual System Services; Not to exceed \$200,000 per vendor.
 - 2. Pike Engineering: Amendment to renew RFQ-15-2016 – Professional Distribution Engineering & Substation Consultant Services; Not to exceed \$100,000.
 - 3. A Budget Tree Service: Allowable FY20 spend under ITN-23-2018 – Vegetation Management Services; Not to exceed \$720,000.
 - 4. The Davey Tree Expert Co.: Amendment to renew ITN-23-2018 – Vegetation Management Services; Not to exceed \$900,000.
- e. **Approve the following interconnection agreement:** 1 minute
 - 1. Orlando Utilities Commission: Wholesale power distribution interconnection agreement.
- f. **Approve the following project participation agreement:** 1 minute
 - 1. Florida Municipal Power Agency: Solar II Power Project

10. Action Items Requiring Discussion

- a. **City Manager Annual Review** 5 minutes

11. Public Hearings

- a. **Ordinance - Amending Adopted FY19 Budget** 1 minute
Ordinance - Amending the adopted budget and accompanying five year Capital Improvement Plan for Fiscal Year 2018 – 2019 (2)
- b. **Ordinance - Authorizing Partial Assignment of Easement at Fairbanks Avenue and New York Ave** 1 minute
Ordinance - Authorizing the Partial Assignment of the City Owned easement located at the intersection of Fairbanks Avenue and New York Avenue to FDOT (2)
- c. **Charter Amendments** 20 minutes
Ordinance - Proposing amendments to the charter of the City of Winter Park Sections 1.01, 1.03, 2.03, 2.05, 2.06, 2.08, 2.11, 2.17, 3.01, 3.03, 3.04, 4.01, 4.05, 4.07, 5.05, 5.08, 5.10 and 6.04, the preamble, changing article and section names and creating gender neutral language; providing for a referendum vote by the electors of the City of Winter Park on the question of approval of the proposed charter amendments at the election to be held on March 17, 2020. (2)
- d. **Request of the Sydgan Corp. for:** 20 minutes
Conditional Use approval to add a third story onto the existing two-story garage and guest house building to the rear of the three-story building at 411 West New England Avenue, zoned C-2.
- e. **Request of Chez Vincent and Hannibal's and the City of Winter Park for:** 20 minutes
- An Ordinance amending Chapter 58 "Land Development Code" Article III, "Zoning" Section 58-84 to provide for the same hours of sale of alcoholic beverages that exist within the City at-large to be applied within the New England Avenue portion of the Hannibal Square Neighborhood Commercial district. (1)
 - An Ordinance amending Chapter 62, Division 2, Noise and Disturbance Control, providing for the same noise controls that exist within the Central Business District to be applied within the Hannibal Square Neighborhood

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."



city commission **agenda item**

item type	Invocation	meeting date	11/25/2019
prepared by	City Clerk	approved by	
board approval	final vote		
strategic objective			

subject

George Wiggins, Director of Building and Permitting Services

motion / recommendation

background

alternatives / other considerations

fiscal impact



city commission **agenda item**

item type	City Manager's Report	meeting date	11/25/2019
prepared by	City Manager	approved by	
board approval	final vote		
strategic objective			

subject

Schedule Work Session on Orange Avenue Overlay

motion / recommendation

background

alternatives / other considerations

fiscal impact



city commission **agenda item**

item type	City Manager's Report	meeting date	11/25/2019
prepared by	Assistant City Manager	approved by	
board approval	final vote		
strategic objective			

subject

City Manager's Report

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description

City Manager's Report

Upload Date

11/19/2019

Type

Backup Material



city commission city manager's report

item type	meeting date
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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.

11/25/19 meeting

issue	update
Quiet Zones	Railroad street crossing safety improvements construction is completed. Quiet Zones implementation is expected by end of 2019.
Seminole County Ditch Drainage Improvement	The hydraulic model has been updated. Seminole County is reviewing the improvement alternatives and will provide the City feedback regarding participation and phasing over a 5 year capital improvement plan.
Electric Undergrounding	<u>Miles of Undergrounding performed</u> Project G: 4.1 miles 82% complete. Project H: 2.5 miles 70% complete. Walnut/Chestnut at Phelps (for drainage), part of Project I: 0.1 miles 80% complete TOTAL for FY 2020: 0.6 miles
Fairbanks Transmission	End of March 2020 is the estimated completion date for the Fairbanks project from Duke transmission contractors. Poles are scheduled to be removed 30 days after the completion by transmission contractors.
Canopy Project	The Construction Drawings (CD's) have been received. Currently being reviewed by staff.
Orange Avenue Overlay Steering Committee	The Orange Avenue Overlay Steering Committee held their 12th and Final meeting on November 13, 2019. The Committee voted 8-2 to recommend approval of the Orange Avenue Overlay District draft with minor changes.
Greenway/Connectivity Plan	The Senior Transportation Planner position has been posted. Once the hiring process has finished, staff will put together anticipated dates and scopes for items such as this.
Old Library Site Task Force	Presentation was made to the City Commission with the determination to pause on any further action for the time being. Public input will still be gathered during this period and there was clear consensus that the site should be used to maximize public purpose.

Charter Amendments	Second Public hearing with revised ballot questions from first reading scheduled for November 25 th . (Ballot language in English and Spanish must be to the Supervisor of Elections Office by December 13 th .)
MLK Park Plan	Previously performed project scope of MLK Park is being reexamined by staff and will return with recommendations regarding different levels of potential improvements. CRA has ability to address some improvements at this site with potential funding as part of CRA CIP.
Drainage Plan for City	At the CRA Agency meeting in July, \$350k was approved to masterplan stormwater concerns in the CRA area. Staff has met internally to begin discussing approach and design project scope. This process will progress to the entire city as the CRA portion is completed.
Parks and Recreation Bike Path and Green Spaces Plan	Will be part of the overall Transportation Master Plan being performed by the Planning and Public Works Departments.
New Vehicle Purchase	Staff members at City Hall reviewed fully electric vehicles for the applicability of replacement of conventional gas powered vehicles. The Building Department is the most likely candidate for any type of conversion and is considering options for replacement.
Circulator Shuttle	Staff is looking at grant opportunities and possible use of County-led one cent sales tax increase. This project concept, along with others, will be part of the CRA Advisory Board's task to review.
Lakemont Avenue	Scope to be determined. Work to be tentatively performed by new transportation planner position in conjunction with the Public Works and Planning Departments.
17/92 Corridor Modeling	Staff is currently working with FDOT Arterial Team to assess needs and scope for model development and funding needs. CRA has reserved funds for this project. Staff met with FDOT on Sept 10th regarding the entire streetscape project and has asked for any updates regarding timing of this project. FDOT hopes to have 60% plans designed by Feb 2020. The city will work with FDOT on design and other associated improvements such as coordinating of utility undergrounding and water & sewer improvements, over the next couple months.
Lakes Health Analysis	Public Works to review and return with recommendations. Public works will provide data detailing historic and existing lake water quality.
Tree Preservation and Landscape Ordinance Revisions	Document is currently under final review by City staff and will be presented to both the Parks and Recreation Advisory Board (November) and Planning Advisory Board (December) before the end of the calendar year. Revised ordinance will be presented to the City Commission at the January 13th meeting.
Post Office Acquisition	Resolution supporting the purchase of the post office property approved by Commission on 10/18/19. Staff has forwarded the Resolution to the USPS representative in charge of real estate and asked for a meeting.

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.



city commission **agenda item**

item type	Consent Agenda	meeting date	11/25/2019
prepared by	Assistant City Manager	approved by	
board approval	final vote		
strategic objective			

subject

Approve the minutes of November 11, 2019

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description

Minutes of November 11, 2019

Upload Date

11/19/2019

Type

Backup Material



City Commission Regular Meeting Minutes

November 11, 2019 at 3:30 p.m.

City Hall, Commission Chambers
401 S. Park Avenue | Winter Park, Florida

Present

Mayor Steve Leary
Commissioner Greg Seidel
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper
Commissioner Todd Weaver

City Manager Randy Knight
City Attorney Kurt Ardaman
City Clerk Rene Cranis

1. Meeting called to order

Mayor Steve Leary called the meeting of the Winter Park City Commission to order at 3:30 p.m.

2. Invocation and Pledge of Allegiance

Pastor Ed Garvin, Calvary Assembly of God, provided the invocation, followed by the Pledge of Allegiance.

3. Approval of Agenda

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

4. Mayor's Report

Mayor Leary thanked veterans for their service and to city staff for coordinating the Veteran's Day celebration.

5. City Manager's Report

Orange Avenue Overlay District

Mr. Knight reviewed the request from Planning and Community Development Director Bronce Stephenson to schedule at least two Commission work sessions on the Orange Avenue Overlay District.

Commissioner Cooper stated she would like to have public information sessions prior to the work sessions as it is a large scale comprehensive plan amendment affecting use of properties.

In response to comments by Commissioner Seidel, Mr. Stephenson advised there has been public involvement for the past year and they continue to have public involvement. He advised that the draft overlay and other information is on the city's website. He suggested the first work session be held on December 9th prior to Commission meeting and a second work session in January. Commissioner Seidel suggested holding both work sessions after 5:00 p.m. to allow for public participation.

Mayor Leary spoke in favor of moving to the next steps as public input will be received during future meetings.

Commissioner Sprinkel commended staff on the videos on the website and suggested promoting these videos.

Commissioner Weaver expressed his appreciation for the work completed and suggested the work sessions be held following the Commission's regular meeting

After discussion, Mayor Leary asked that Mr. Stephenson work with the City Manager on coordinating dates.

Worksession on proposed Electric Vehicle Ordinance

Mr. Knight summarized the discussion at the work session and the consensus to move forward with multi-family and commercial aspects of the ordinance with no consensus on the single-family portion. Commissioner Seidel provided additional information and stated this would come back later for further discussion.

Noise complaints regarding Showalter Field

Commissioner Seidel asked for information on the noise complaints as a result of the on PA system at Showalter Field. Mr. Knight stated that of the 26 events held in the past 180 days, 14 events had full use of PA system and 12 used a portable PA, and none went beyond 10:00 p.m. Staff is looking at the purchase of a sound system that will reduce the noise. Parks and Recreation Director Jason Seeley advised that a contractor will look at systems and provide a solution around the holidays. Mayor Leary asked that this information provided to the neighbors.

Post Office

Commissioner Cooper asked that purchase of the post office be added to City Manager's Report.

Notice of Construction

Commissioner Weaver commented on complaints about the lack of public notice to residents regarding construction at Virginia and Lyman Avenues. Mr. Knight stated the city's practice is to notify residents but he will check into this complaint.

6. City Attorney's Report

Commissioner Cooper asked if staff has been able to verify that the City made a commitment to Chez Vincent restaurant regarding extended operating hours. Mr. Knight explained that this was addressed by the Commission after a one-year trial period and determined that it was working well but did not approved extended hours.

Commissioner Weaver stated that he recently learned that Park Avenue restaurants serving alcoholic beverages have the ability to stay open until 2:00 a.m. He expressed his concern about the impact to residential areas if hours are extended and suggested changing the areas covered by the ordinance to include Hannibal Square. He would support bringing the ordinance back to the Commission for reconsideration applying the same language that applies to Park Avenue. Mayor Leary and Commissioner Sprinkel agreed.

7. Non-Action Items

a. Old Library Site Reuse Task Force Report

Budget and Performance Measurement Manager Peter Moore thanked the members of the Task Force and staff for their work. He gave a presentation on the mission, process, and past studies on the cost, re-use and appraisal of the Library property. He stated that public comments support a civic use although other uses were discussed. He outlined site and building constraints and options for addressing these constraints. He reviewed the recommendations for re-use including City Hall for temporary relocation while renovating existing City Hall or moving some functions of City Hall to the Library with complimentary uses of remaining space.

Commissioner Cooper expressed her support for keeping the building and maximizing the purpose and use for community purposes. Commissioners Weaver and Sprinkel agreed. Commissioner Cooper spoke in favor of preserving the historical value of city hall in its current location and temporarily relocating city hall to the old library during renovations of city hall.

Commissioner Weaver agreed with Commissioner Cooper although he feels the west wing of city hall has no historical value. He supported expanding parking, mixed use and using Library as temporary space.

Commissioner Sprinkel spoke in favor of maintaining the existing Library building and maintaining some city functions at City Hall on Park Avenue. She suggested that discussions continue to work toward planning for future space. Commissioner Seidel agreed and expressed his appreciation for work of task force and public input.

Mayor Leary thanked city staff and task force members. He stated that there are other ongoing matters such as the purchase of the post office property and planned expansion of Alford Inn and feels that neighborhood impact must be considered before making final plans for the library property. He said he would like for this to move forward with continued work by the task force.

Commissioner Seidel stated that the task force has provided good information but suggested reconvening the task force after more information is known about the post office. Commissioners Sprinkel and Weaver agreed.

Commissioner Cooper commended the task force on the work they have done but suggested using the resources of the city's continuing services contracts to facilitate the next steps.

Commissioner Weaver commented on the building condition and asked if funding is available for repairs. Mr. Knight stated staff will provide the information.

Consensus was to provide direction in January after more information is obtained on the post office property and library.

b. Financial Report for September 30, 2019

Finance Director Wes Hamil presented the preliminary financial report for Fiscal Year ending September 30, 2019 outlining revenues, investment earnings and budgetary savings which contributed to reaching an unassigned fund balance of 29%. With the recent sale of the property at 2600 Lee Road in FY 2020, the 30% goal has been reached. He reviewed balances in the utility funds and explained the decreased cash balance is partly due to the outstanding reimbursement for restoring power after Hurricane Irma and the delayed reimbursement for the Fairbanks Avenue project which was received in October.

Mayor Leary asked for a summary of tennis center operations revenues and expenditures. Mr. Hamil stated that the city has only partial year data after resuming city operation mid fiscal year 2019 but staff expects a good year in FY 20.

8. Citizen Comments

Citizen Comments were heard after Public Hearing Item 11b.

9. Consent Agenda

- a. Approve the minutes of October 28, 2019 (**Removed by Commissioner Cooper**)
- b. Cancel the City Commission meeting on December 23, 2019
- c. Budget Amendment FY20 Budget
- d. Approve the following piggyback agreements: 1 minute
 1. KONE: OMNIA Partners contract #EV2516 - Elevator & Escalator Maintenance & Repair Services; not to exceed \$75,000 per year (initial contract term shall be valid through 11/30/2024).
 2. Tyco Integrated Security: Sourcewell contract #031517-TIS - Facility Security Equipment, Systems & Services with Related Equipment & Supplies; Not to exceed \$75,000 per year (initial contract term shall be valid through 6/29/2021).
 3. Danus Utilities: SSNOCWTA contract #2016-002 - Wastewater Pump Station Construction & Rehabilitation Continuing Services; not to exceed \$400,000.

Motion made by Commissioner Sprinkel to approve the Consent Agenda excluding Item 9a; seconded by Commissioner Cooper and carried unanimously with a 5-0 vote. There were no public comments.

Commissioner Cooper asked for an amendment to the minutes in the last paragraph on Page 15 to change "Sunshine Law" to "public records law" and on the motion Resolution 2224-19, change the first bullet to read "Delete the third Whereas paragraph which reads "Whereas, the New York Avenue corridor adjacent to the Property is prime for economic redevelopment, and" to clarify what was deleted."

Motion made by Commissioner Cooper to approve Consent Agenda Item 9a as amended; seconded by Commissioner Weaver and carried unanimously with a 5-0 vote. There were no public comments.

10. Action Items requiring Discussion

a. Harmon v City of Winter Park Proposed Settlement Agreement

Mr. Knight reviewed the background on the litigation regarding the abandonment of Champions Circle and the terms of the settlement agreement including setback variances to the park side. Staff is recommending approval subject to receipt of title insurance. City Attorney Ardaman explained the delays and need for a title policy on 22-foot wide property that the city will be receiving as part of the settlement agreement.

Mayor Leary expressed concern about the development of the park and expending city resources to maintain. Mr. Knight advised that the park will be low maintenance.

Motion made by Commissioner Cooper to approve the settlement agreement with the condition of receipt of title insurance; seconded by Commissioner Sprinkel. There were no public comments. **Upon a roll call vote, Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Mayor Leary voted no. Motion carried with a 4-1 vote.**

11. Public Hearings

a. Ordinance - Amending Adopted FY19 Budget - Amending the adopted budget and accompanying five year Capital Improvement Plan for Fiscal Year 2018 - 2019 (1)

Attorney Ardaman read the ordinance by title.

Motion made by Commissioner Sprinkel to approve the ordinance on first reading; seconded by Commissioner Cooper. There were no public comments made. **Upon a roll call vote Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.**

b. Partial Easement at Fairbanks Avenue and New York Ave

Ordinance - Authorizing the Partial Assignment of the City Owned easement located at the intersection of Fairbanks Avenue and New York Avenue to FDOT (1)

Attorney Ardaman read the ordinance by title.

Public Works Director Troy Attaway explained that this transfers easements to FDOT for the construction of the traffic signal mast arms at the corner of Fairbanks and New York Avenue.

Motion made by Commissioner Sprinkel to approve the ordinance on first reading; seconded by Commissioner Cooper. There were no public comments made. **Upon a roll call vote Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.**

8. Citizen Comments

Dory Larson, Southern Alliance for Clean Energy, provided information on the benefits of electric transportation such as emission reduction, lower fuel and maintenance costs, improved public health, and reduced impact of international supply, electricity usage, and need for offshore drilling. She stated a policy guide is available to aid in increasing use of electric vehicles.

Cynthia Wood, Interim Executive Director of Winter Park Public Library, thanked city staff and the commission for their support. She outlined the Library's accomplishments including new systems and policies, partnership with Rollins College to conduct a needs assessment, and development of a strategic plan including core values of learning, access, and inclusion.

Sabrina Bernat, Winter Park Public Library, provided details on new library services, partnerships and outreach programs.

Becky Gardner Eckbert, President and CEO of Winter Park Chamber of Commerce, stated she attended the World Travel Market in London where the Chamber has an outreach program to welcome British guests to Winter Park. She invited everyone to attend the Best of Winter Park event on November 13th from 5-8 p.m.

Martha Bryant Hall, 331 W. Lyman Avenue, stated that the road construction on Virginia and New England has impacted the residents and asked that residents be notified of construction. She commented on the noise level in the area of New England and Virginia and the difficulty she had in connecting with the Police Department's non-emergency number. Mayor Leary said staff will look into her concerns.

9. Public Hearings - continued

c. Charter Amendments

Ordinance - Proposing amendments to the charter of the City of Winter Park Sections 1.01, 1.03, 2.03, 2.05, 2.06, 2.08, 2.11, 2.17, 3.01, 3.03, 3.04, 4.01, 4.05, 4.07, 5.05, 5.08, 5.10 and 6.04, the preamble, changing article and section names and creating gender neutral language; providing for a referendum vote by the electors of the City of Winter Park on the question of approval of the proposed charter amendments at the election to be held on March 17, 2020. (1)

Attorney Ardaman read the ordinance by title only.

Mr. Knight stated the ballot questions in the ordinance were the result of consensus reached at the last meeting. Since that meeting, the Civil Service Board addressed modifications to the Civil Service Code, which is part of Ballot Question #11, and requested that more time be taken on this question with intent to place on the 2021 ballot. **Approved by consensus.**

Question #1 - Gender Neutral, Preamble, Title Changes and Sections 1.01 and 1.03

Shall the Winter Park City Charter be amended to provide for gender neutral language, modify the preamble to inspire a diverse and inclusive government, change the titles to Articles I and V and Sections 1.01 and 4.01 to better reflect the substance of provisions, delete obsolete language, amend Section 1.01 to provide for liberal interpretation of powers, and amend Section 2.08 to eliminate references to keeping a journal?

Motion made by Commissioner Cooper to approve Question #1 as presented; seconded by Commissioner Weaver.

Question #2 - Annual Base Salary of Mayor and City Commissioners

Shall Section 2.05 of the Winter Park City Charter be amended to provide for a minimum annual base salary of \$12,600 for City Commissioners and \$15,000 for the Mayor effective on October 1, 2020 and to provide for annual increases or decreases to base salaries based on the Consumer Price Index?

Motion made by Commissioner Sprinkel to deny Question #2; seconded by Mayor Leary.

Motion made by Commissioner Cooper to approve Question #2 as presented; seconded by Commissioner Weaver.

Question #3 - Form of Government

Shall a new Section 1.03 of the Winter Park City Charter be created to identify the City's form of government as the Commission - Manager form of government, which is consistent with how the City currently operates, and renumber the existing Section 1.03 to Section 5.10?

Attorney Ardaman recommended changing the word "identify to "clarify" and adding "and the existing charter" after the word "operates" to clarify that the operation of the government is not changing.

Motion made by Commissioner Weaver to approve Question #3 as recommended by the City Attorney; seconded by Commissioner Cooper.

Question #4 - Form of Ballot and Elections

Shall Section 3.03 and Section 3.04 of the Winter Park City Charter be amended to require that the conducting of city elections and form of ballots be consistent with state law, to delete the requirements for charter amendment ballots and to eliminate the subsection on poll workers to avoid potential conflicts with the Orange County Supervisor of Elections' poll worker operations?

Motion made by Commissioner Seidel to approve Question #4 as presented; seconded by Commissioner Cooper.

Question #5 - Citizen Referendum Petitions,

Shall Section 5.05 of the Winter Park City Charter be amended to change the deadline for citizen referendum petitions to reconsider an ordinance from 30 days to 45 days after the commission adopts an ordinance and to amend Section 5.08 of the City Charter to change the deadline for conducting a referendum on a citizen referendum petition from 60 days to 180 days from the date that the petition was deemed sufficient?

Motion made by Commissioner Cooper to approve Question #5 amending the deadline for conducting a referendum from 180 days to 90 days; seconded by Commissioner Weaver.

Motion made by Commissioner Sprinkel to approve Question #5 as presented; seconded by Mayor Leary.

Question #6 - Judge of Qualifications and Forfeiture of Office; Filling Vacancies.

Shall Section 2.03 of the Winter Park City Charter be amended to clarify that the Commission shall be the judge of the grounds of forfeiture of office for its own members and to provide that the Commission has authority to adopt procedures concerning judging qualifications for and grounds of forfeiture of office, and shall Section 2.07 be amended to give flexibility as to whether to fill Commissioner vacancies within 60 days of a general election?

Commissioner Sprinkel said she feels these should be two separate questions. Commissioner Weaver agreed.

Motion made by Commissioner Sprinkel to deny Question #6; seconded by Mayor Leary.

Mr. Knight clarified that the Commission removed the different violations. This clarifies that the Commission is judge of qualifications of office and forfeiture of office but does not include the list of violations in previous versions. Mayor Leary added that procedures would need to be adopted by ordinance.

Question #7 - Board Appointments

Shall Section 2.06 of the Winter Park City Charter be amended to clarify the timing of the election of the Vice Mayor and to delete the Mayor's lone board appointment authority and shall a new Section 2.19 of the City Charter be created establishing the size of city boards at seven members and providing for the Mayor to have three board member appointments and one appointment by each of the four City Commissioners?

Attorney Ardaman explained that there was a previous discussion to include task forces and ad hoc committees in Section 2.19. He stated that the language now reads "all boards and ad hoc committees" which is broader than task forces; however, for clarity he the Commission could include task forces. He added that he feels ad hoc committees includes task forces. He stated that Section 2.19(d) of the supporting language does not include a time limit for adoption of an ordinance for the transition to a new process; however, the Commission can add a deadline for adoption of an ordinance in the supporting language but it will not be included as part of the ballot question. He provided alternate language which he feels is clearer.

Shall Section 2.06 of the Winter Park City Charter be amended to clarify the timing of the election of the Vice Mayor and eliminate the Mayor's sole city board appointment authority and add Section 2.19 to establish city boards at seven members with each Commissioner appointing one member and the Mayor appointing three members to each city board?

Commissioner Cooper said she would like these questions separated. She said she feels the supporting language in Section 2.19 appears to complicate the issue. She stated that if these amendments are approved in March there is no time to adopt ordinance establishing the process for board appointments which occur annually in May.

Discussion followed on creating two questions and the challenge in adopting an ordinance prior to annual board appointments that occur in May.

Attorney Ardaman advised that if an ordinance is required, then the ordinance must be adopted prior to changing the process and suggested setting a deadline for adoption of the ordinance. He stated there are issues that need to be addressed prior to making appointments such as which Commissioner will appoint which board member.

Assistant City Manager Neuner stated that Chapter 2 of the Code of Ordinances will need to be modified in conjunction with any approved charter amendments and staff's intent is to bring the ordinance with the process to the Commission in April to meet the May board appointment deadline.

Discussion followed on options for delaying 2020 board appointments to allow for adoption of an ordinance for Commissioners to consider their appointments.

Motion made by Commissioner Sprinkel to deny Question #7; seconded by Mayor Leary. (withdrawn later in meeting.)

Question #8 - Quorum, voting and Video

Shall Section 2.08 and Section 2.11 of the Winter Park City Charter be amended to permit a quorum for voting purposes to be established by a majority of the City Commission being present in person or by way of video-conferencing and to restrict a Commission member's use of video-conferencing to not more than three times per year and by rules and procedures adopted by the City Commission?

Motion made by Commissioner Sprinkel to deny Question #8; seconded by Mayor Leary.

Motion made by Commissioner Weaver to approve Question #8 as presented; seconded by Commissioner Cooper.

Question #9 - Auditor Contract Term and Charter Amendments

Shall Section 2.17 of the Winter Park City Charter be amended change the contract term for the city's auditor from three years to five years, and shall the charter amendment provisions of Section 1.03 be renumbered to Section 5.10 and be amended to change the deadline from 60 days to 180 days to hold a vote on a proposed charter amendment after an elector petition is certified as sufficient?

Motion made by Commissioner Sprinkel to approve Question #9 as presented; seconded by Commissioner Seidel. (withdrawn)

Motion made by Commissioner Cooper; seconded by Commissioner Weaver to create two questions:

Shall Section 2.17 of the Winter Park City Charter be amended change the contract term for the city's auditor from three years to five years?

Shall the charter amendment provisions of Section 1.03 be renumbered to Section 5.10 and be amended to change the deadline from 60 days to 180 days to hold a vote on a proposed charter amendment after an elector petition is certified as sufficient?

Question #10 - Nonpartisan Elections

Shall Section 3.01 of the Winter Park City Charter be amended to prohibit candidates for mayor or commissioner to campaign as a member of any political party and from accepting campaign contributions from any political party, and to establish maximum civil fines for violations and giving the City Commission authority to adopt an ordinance to determine violations, provide due process and set fines concerning non-partisan requirements?

Attorney Ardaman advised that accepting political party contributions, per se, are not unconstitutional but can be problematic. He recommended deleting the prohibition of accepting campaign contributions from any political party.

Motion made by Commissioner Sprinkel to deny Question #10; seconded by Mayor Leary.

Motion made by Commissioner Cooper to approve Question #10 as presented; seconded by Commissioner Weaver.

Attorney Ardaman clarified that the City could limit the amount of political party contributions which is more defensible than a full prohibition of acceptance of campaign contributions from a political party. Discussion followed on prohibitions, enforcement and penalties.

Question #11 - City Manager Duties and Civil Service Code

Shall Sections 4.05 and 4.07 of the Winter Park City Charter be amended to provide for the adoption of a Civil Service Code by the electors and to establish minimum duties of the Civil Service Board, to amend the duties of the City Manager to permit the Civil Service Code to give the City Manager oversight of the Police Department and Fire Department, and further to clarify the duties of City Manager?

Mr. Knight stated that as a result of meetings with the Civil Service Board, this question will be postponed. The other change included in this question would require majority vote of the entire commission to confirm appointment of department heads and the city clerk.

Motion made by Mayor Leary to deny Question #11; seconded by Commissioner Sprinkel.

Commissioner Cooper suggested adding a question that would allow the Commission to determine whether certain matters should require a supermajority vote. Commissioner Seidel stated that everything in the proposed ordinance has been discussed through this process except supermajority vote and opposed adding an amendment was not vetted through the Charter Review Committee with public input. Commissioner Cooper accepted Commissioner Seidel's suggestion that this be considered in a later referendum.

Review of Supporting Language in Ordinance

Question #1 - Approved by consensus.

Question #2 - Commissioner Cooper said she would like to limit the salary increase to no more than the max increase provided to general employees approved with the annual budget. **Approved by consensus to add in the supporting language.**

Question #3 - Approved by consensus.

Question #4 - Approved by consensus.

Question #5 - Approved by consensus.

Question #6 - Mayor Leary stated that there is a motion to deny and consensus to separate the ballot questions.

Motion made by Commissioner Weaver to deny Section 2.03 and approve Section 2.07 as a separate question; seconded by Commissioner Cooper.

Question #7 - Mayor Leary said he does not see an issue with current process but would support changes given concerns of Commission regarding perception of the board appointment process. He stated the change will not address the perception of Commission interference of city board matters and developing preconceived notions on issues that may come before the Commission. He questioned whether there is an opportunity to add language in the charter stating communications between members of the Commission and board members will comply with the Sunshine Law.

Commissioner Seidel said he feels it is more a matter of getting a broader representation on boards and is a start to correcting perception. Commissioner Weaver agreed with Commissioner Seidel and added that he feels the process should be changed to increase future participation of under-represented residents.

Commissioner Cooper spoke in support of Section 2.06 as written and suggested changing 2.19(a) to state that the details on board appointments will be adopted by ordinance and delete Paragraphs (b), (c), and (d) which could then be placed in the ordinance.

Attorney Ardaman stated that the timing of appointments for 2020 could be delayed until after adoption of the ordinance establishing the appointment process. Discussion followed on establishing the process for board appointment and timing for 2020 board appointments.

Commissioner Sprinkel questioned whether this is an attempt to fix a problem that does not exist and whether the solution would be worse than the current process, which is why she made a motion to deny. She stressed the importance of continuity on city boards and expressed her concern that board appointments may be perceived as a being a commissioner's board member.

Motion made by Commissioner Seidel to approve as presented; seconded by Mayor Leary.

Motion made by Commissioner Cooper to split the question on 2.06 from 2.19 and in Section 2.06 strike the sentence “He shall annually appoint members of the city boards subject to the approval of the commission”; seconded by Commissioner Weaver.

Motion made by Commissioner Cooper to delete Paragraphs 2.19 (b), (c) and (d) from the supporting language and the City Attorney write a one-sentence explanation that the process would be implemented by ordinance; seconded by Commissioner Weaver.

Question #8 - Approved by consensus.

Question #9 - Approved by consensus.

Question #10 - Approved by consensus.

Question #11 - Motion pending to deny.

A recess was taken from 6:42 - 6:54.

Mayor Leary opened the hearing for public comment.

Michael Perelman, 1010 Greentree Drive, commented on Section 4.05, Powers and Duties, stating that consistency is needed between Paragraphs (e) and (f). He spoke in support of all Commission members making board appointments but board members should not serve at the pleasure of the appointing Commission member. He said he feels board members should be a resident but do not need to be a registered voter.

Sally Flynn, 1400 Highland Road, spoke in favor increasing the Commission’s salary. She stated that she never felt that the Mayor exerted any pressure or that there was lack of transparency but feels there will be more diversity on city boards if different commissioners make appointments.

Beth Hall, 516 Sylvan Drive, supported the proposed pay increase, clarifying the type of government, 90-day time frame for holding a referendum, and changing the board appointment process. She expressed her concern that voters may not vote on a question if they do not understand and suggested that the questions and information are clear.

Ruth Heine, 2358 Summerfield Road, expressed her support of a pay increase, the 90-day time frame for holding a referendum and splitting Question #9 into two questions. She said she does not feel there has been undue influence by the Commission but it is a matter changing the process.

Vote on motions:

Question #1 - Gender Neutral, Preamble, Title Changes and Sections 1.01 and 1.03

Upon a roll call vote on the motion to approve Question #1 as presented, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Question #2 - Annual Base Salary of Mayor and City Commissioners

Mayor Leary stated no changes were proposed to the ballot question, however the supporting language will be revised to reflect that the increase shall not be more than the max increase provided to general employees as approved with the annual budget.

Upon a roll call vote of the motion to deny Question #2, Mayor Leary and Commissioner Sprinkel voted yes. Commissioners Seidel, Cooper and Weaver voted no. Motion failed with a 2-3 vote.

Upon a roll call vote on the motion to approve Question #2 with the amendment to the supporting language limiting the salary increase to no more than the maximum annual raise provided to general employees, Commissioners Seidel, Cooper and Weaver voted yes. Mayor Leary and Commissioner Sprinkel voted no. Motion carried with a 3-2 vote.

Question #3 - Form of Government -

Attorney Ardaman read the revised question.

Shall a new Section 1.03 of the Winter Park City Charter be created to clarify the City's form of government as the Commission - Manager form of government, which is consistent with how the City currently operates and the existing charter, and renumber the existing Section 1.03 to Section 5.10?

Upon a roll call vote on the motion to approve Question #3 as revised and presented by the City Attorney, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Question #4 - Form of Ballot and Elections

Upon a roll call vote on the motion to approve Question #4 as presented, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Question #5 - Citizen Referendum Petitions

Shall Section 5.05 of the Winter Park City Charter be amended to change the deadline for citizen referendum petitions to reconsider an ordinance from 30 days to 45 days after the commission adopts an ordinance and to amend Section 5.08 of the City Charter to change the deadline for conducting a referendum on a citizen referendum petition from 60 days to 180 days from the date that the petition was deemed sufficient?

Upon a roll call vote to approve Question #5 amending deadline for conducting a referendum from 180 days to 90 days, Commissioners Seidel, Cooper and Weaver voted yes and Mayor Leary and Commissioner Sprinkel voted yes. Motion carried with a 3-2 vote.

No vote was taken on the motion to approve as written given the passing of the above motion to approve with amendment.

Question #6 - Judge of Qualifications and Forfeiture of Office; Filling Vacancies.

Upon a roll call vote to deny Section 2.03 and approve Section 2.07 as a separate question, Mayor Leary and Commissioners Sprinkel, Cooper and Weaver voted yes and Commissioner Seidel voted no. Motion carried with a 4-1 vote.

No vote was taken on the motion to deny given the passing of the above motion.

Mayor Leary pointed at that with this change, the title of Question #6 will change to Filling Vacancies.

Question #7 - Board Appointments

Commissioner Sprinkel withdrew her motion to deny, accepted by Mayor Leary as second.

Upon a roll call vote to delete Paragraphs 2.19 (b), (c) and (d) from the supporting language and add language stating that the process would be implemented by ordinance, Commissioners Cooper and Weaver voted yes and Mayor Leary and Commissioners Seidel and Sprinkel voted no. Motion failed with a 2-3 vote.

Upon a roll call vote to separate the question on 2.06 from 2.19, and in Section 2.06 strike the sentence "He shall annually appoint members of the city boards subject to the approval of the commission." Commissioner Cooper and Commissioner Weaver voted yes and Mayor Leary, Commissioners Seidel and Sprinkel voted no. Motion failed with a 2-3 vote.

Upon a roll call vote to approve Question #7 as presented, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Question #8 - Quorum, voting and Video

Upon a roll call vote to deny Question #8, Mayor Leary and Commissioner Sprinkel voted yes and Commissioners Seidel, Cooper and Weaver voted no. Motion failed with a 2-3 vote.

Upon a roll call vote to approve Question #8 as presented, Commissioners Seidel, Cooper and Weaver voted yes and Mayor Leary and Commissioner Sprinkel voted no. Motion carried with a 3-2 vote.

Question #9 - Auditor Contract Term and Charter Amendments

Motion was made and seconded to split into two questions.

Shall Section 2.17 of the Winter Park City Charter be amended change the contract term for the city's auditor from three years to five years?

Upon a roll call vote to approve this question, Mayor Leary, Commissioners Seidel, Sprinkel and Weaver voted yes and Commissioner Cooper voted no. Motion carried with a 4-1 vote.

Shall the charter amendment provisions of Section 1.03 be renumbered to Section 5.10 and be amended to change the deadline from 60 days to 180 days to hold a vote on a proposed charter amendment after an elector petition is certified as sufficient?

Upon a roll call vote to approve this question, Mayor Leary, Commissioners Seidel, Sprinkel and Weaver voted yes and Commissioner Cooper voted no. Motion carried with a 4-1 vote.

Question #10 - Nonpartisan Elections

Upon a roll call vote to deny Question #10, Mayor Leary and Commissioner Sprinkel voted yes and Commissioners Seidel, Cooper and Weaver voted no. Motion failed with a 2-3 vote.

Upon a roll call vote to approve Question #10 as presented, Commissioners Seidel, Cooper and Weaver voted yes and Mayor Leary and Commissioner Sprinkel voted no. Motion carried with a 3-2 vote.

Question #11 - City Manager Duties and Civil Service Code

Upon a roll call vote to deny Question #11, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

Motion made by Commissioner Seidel to approve the ordinance as amended; seconded by Commissioner Weaver. Upon a roll call vote, Mayor Leary and Commissioners Seidel, Cooper and Weaver voted yes and Commissioner Sprinkel voted no. Motion carried with a 4-1 vote.

12. City Commission Reports:

Commissioner Seidel

- Pointed out that the Commission meeting on December 23rd has been cancelled.
- Said he attended Cows and Chandeliers event which raised over \$1M for youth in the Orlando area.

Commissioner Sprinkel

- Gave an update on the youth swimming program which should be in place soon and thanked staff for their help in developing this program.
- Spoke on Orlando's upcoming vote regarding restrictions of motorized scooters.
- Spoke in favor of a noise ordinance in light of recent complaints.
- Asked staff to check on the rules regarding monuments place on rights-of-ways and can obstruct driver's view.

Commissioner Cooper

- Thanked veterans for their service and commended city staff on the Veterans Day event.
- Advised that the Orange Avenue Task Force meeting is Wednesday at Mead Gardens clubhouse at 5:30.
- Announced that the Florida League of Cities Conference starts Wednesday.

Commissioner Weaver

- Thanked Kris Stenger and Vanessa Balta Cook for the lakes cleanup on Saturday and their work on the electric vehicle ordinance and thanked Starling Chevrolet for bringing the Volt to test drive.

Mayor Leary

- Thanked Reverend Williams for his contributions to the city.
- Suggested that board member qualifications should be reviewed, including residency requirements as there may be others outside the community with the expertise to contribute to a city board.
- Asked that members of the Commission encourage residents to submit applications.

- Expressed his concern regarding maintaining transparency between the Commission and city boards. He feels board member should be left to serve their role and purpose with no commission input before a board's recommendations are presented to the Commission for action. He suggested further discussion on the Commission's interaction with staff and board members.

The meeting adjourned at 7:41 p.m.

Mayor Steve Leary

ATTEST:

City Clerk Rene Cranis, CMC



city commission **agenda item**

item type	Consent Agenda	meeting date	11/25/2019
prepared by	Water and Waste Water Utilities	approved by	
board approval	final vote		
strategic objective	Intelligent Growth and Development		

subject

Approve termination of two water and sewer utility easements as requested by Vintage Winter Park, LLC

motion / recommendation

Motion to approve the termination of two utility easements as requested by Vintage Winter Park, LLC and authorize the execution and recording of the termination of utility easement instruments.

background

The Water and Wastewater Utilities Department received a permit application for revisions to the water and wastewater service at 4460 North Goldenrod Road (Orange County Parcel #02-22-30-0000-00-037). The property was already developed and provided with water service; sewer service was not provided but the buildings were serviced with a septic tank and drainfield. The application was for a proposed apartment complex in which the existing buildings and infrastructure were to be demolished. During the application review process, two City of Winter Park water and sewer utilities easements were identified. The easements were granted to the City through recorded instruments. These easements along with the existing water piping within the easements were not sufficient to use for the new development. As part of the application permit conditions, the easement instruments were to be terminated and the City point of service changed to the Goldenrod right-of-way.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description

Existing Easements and Easement Terminations

Upload Date

11/6/2019

Type

Exhibit

2359100 ORANGE
CO., FL

AUG 2 8 33 AM '85

C.R. 3671 PG 1403

900
JH

UTILITY EASEMENT

THIS ENDENTURE, made this 27 th day of February,
85, between Joseph D. Vaughan, Grantor, and the CITY OF
WINTER PARK, a Florida municipal corporation, Grantee:

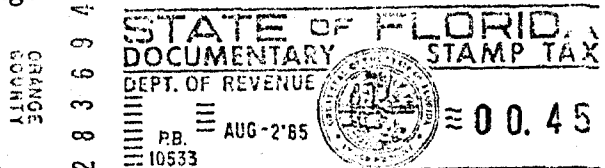
WITNESSETH

That the Grantor, in consideration of the sum of ten dollars,
(\$10.00) paid by the Grantee, the receipt whereof is hereby ac-
knowledged, does hereby give and grant unto the Grantee and its
assigns a utility easement fifteen feet in width, with full
authority to enter upon, construct and maintain sanitary sewer
and water mains and services up to and including seven and one-
half feet either side of the following described centerline;

45

Utility Easement lying in the N.E. 1/4 of the S.W. 1/4 of Section
2, Township 22 South, Range 30 East, Orange County, Florida, said
Easement being more particularly described as follows:

Commence at the N.E. corner of the S.W. 1/4 of said Section 2,
thence South 247.65 feet along the East line of the S.W. 1/4 of
said Section 2; thence continue South 208.80 feet along said East
line; thence leaving said East line run N 89° 49' 30" W, 50.00 feet
to the West Right-of-Way of State Road No. 15-A; thence continue
N 89° 49' 30" W, 210.17 feet for a Point of Beginning; thence con-
tinue N 89° 49' 30" W, 48.63 feet; thence North 13.50 feet parallel
with and 308.80 feet West of the East line of the S.W. 1/4 of
said Section 2; thence N 40° 37' 20" W, 30.00 feet; thence N 89° 49' 30"
W, 391.60 feet; thence S 00° 10' 30" W, 15.00 feet; thence S 89° 49' 30"
E, 384.73 feet; thence S 40° 37' 20" E, 30.28 feet; thence N 88° 24' 15"
E, 55.38 feet to the Point of Beginning.



ALL covenants, terms provisions and conditions herein con-
tained shall inure and extend to and be obligatory upon the suc-
cessors, lessees and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the said Grantor has hereunto set its
hand and seal the day and year first above written.

Signed, sealed and delivered
in the presence of:

X Cindy Ruff
X Kathy Brooks

Joseph D. Vaughan
JOSEPH D. VAUGHAN
As to Grantor

CORPORATE SEAL

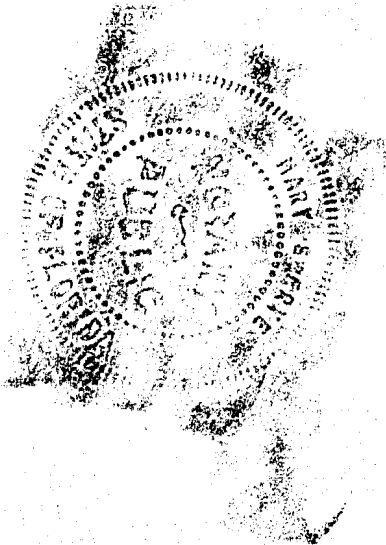
STATE OF Florida
COUNTY OF Orange

The foregoing Utility Easement was acknowledged before me
this 27 day of February 1985, by J.D. VAUGHAN aka
as to Guarantor. Joseph D. Vaughan

Larry S. Ivey
Notary Public
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUG 14 1985
BONDED THRU GENERAL INS. UNDERWRITERS

NOTARY SEAL



THIS INSTRUMENT PREPARED BY
MR. RICHARD D. HARRY
SENIOR UTILITY ENGINEERING TECHNICIAN
CITY OF WINTER PARK
401 PARK AVE. S. WINTER PARK, FL 32789

RECORDED & RECORD VERIFIED

Thomas H. Laker
County Comptroller, Orange Co., FL

2359102 ORANGE
CC., FL

AUG 2 8 33 AM '85

C.R. 3671 PG 1407

UTILITY EASEMENT

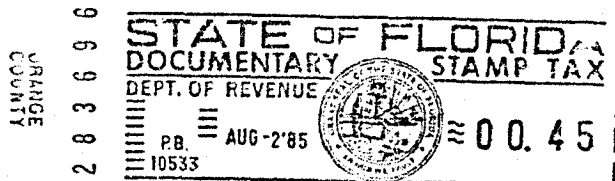
THIS INDENTURE, made this 1st day of March,
American Legion #112
85, between Frank D. Murphy, Grantor, and the CITY OF
WINTER PARK, a Florida municipal corporation, Grantee:

WITNESSETH

45
That the Grantor, in consideration of the sum of ten dollars, (\$10.00) paid by the Grantee, the receipt whereof is hereby acknowledged, does hereby give and grant unto the Grantee and its assigns a utility easement fifteen feet in width, with full authority to enter upon, construct and maintain sanitary sewer and water mains and services up to and including seven and one-half feet either side of the following described centerline:

Utility Easement lying in the N.E. 1/4 of the S.W. 1/4 of Section 2, Township 22 South, Range 30 East, Orange County, Florida, said Easement being more particularly described as follows:

Commence at the N.E. corner of the S.W. 1/4 of said Section 2, thence South 247.65 feet along the East line of the S.W. 1/4 of said Section 2; thence continue South 208.80 feet along said East line; thence leaving said East line run N89° 49' 30" W, 50.00 feet to the West Right-of-Way of State Road No. 15-A; thence continue N 89° 49' 30" W, 210.17 feet for a Point of Beginning; thence continue N 89° 49' 30" W, 48.63 feet; thence North 13.50 feet along a line parallel with and 308.80 feet West of the East line of the S.W. 1/4 of said Section 2; thence N 88° 24' 15" E, 258.90 feet to the West Right-of-Way line of said State Road No. 15-A; thence South, 15.00 feet along said West Right-of-Way; thence S 88° 24' 15" W, 210.25 feet to the Point of Beginning.



ALL covenants, terms, provisions and conditions herein contained shall inure and extend to and be obligatory upon the successors, lessees and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and seal the day and year above written.

Signed, sealed and delivered
in the presence of:

Cindy Ruff

Kathy Brooks

American Legion
Post 112

Frank D. Murphy
As to Grantor
Frank D. Murphy, Commander

CORPORATE SEAL

STATE OF Florida

COUNTY OF Orange

The foregoing Utility Easement was acknowledged before me
this 1st day of March, 1985, by Frank D. Murphy
as to Guarantor.

Ray S. Inge
Notary Public
My Commission Expires:

NOTARY SEAL

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUG 14 1985
BONDED THRU GENERAL INS. UNDERWRITERS

THIS INSTRUMENT PREPARED BY
MR. RICHARD D. HARRY
SENIOR UTILITY ENGINEERING TECHNICIAN
CITY OF WINTER PARK
401 PARK AVE. S. WINTER PARK, FL 32789

RECORDED & RECORD VERIFIED

Thomas H. Fisher
County Comptroller, Orange Co., Fla.

Return to:
Water & Wastewater Department
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

Portion of Orange County Tax Parcel Id # 02-22-30-0000-00-037

TERMINATION OF UTILITY EASEMENT

THIS TERMINATION OF UTILITY EASEMENT (this "Termination") is made and entered into this ____ day of _____, 2019, by **VINTAGE WINTER PARK, LLC**, whose mailing address is 1610 S Church St., Suite 300, Murfreesboro, TN 37130-5520 (the "Successor Grantor"), and the **CITY OF WINTER PARK, a Florida municipal corporation** (the "Grantee").

WHEREAS, Successor Grantor's previous successor in interest (Joseph D. Vaughan) granted Grantee that certain Utility Easement dated February 27, 1985 recorded at Official Records Book 3671, Page 1403-1404, Public Records of Orange County, Florida ("Utility Easement"); and

WHEREAS, the Successor Grantor and Grantee desire to terminate the Utility Easement.

NOW THEREFORE, in and for good and proper consideration that is hereby acknowledged, the Grantor and Grantee hereby terminate and render null and void the Utility Easement. The Utility Easement shall no longer encumber the Successor Grantor's real property described therein.

IN WITNESS WHEREOF, the Successor Grantor and Grantee hereto have executed this Termination as of the day and year first above written.

WITNESSES

VINTAGE WINTER PARK, LLC
a Tennessee limited liability company

Brandi Kennedy
(Signature)
Brandi Kennedy
(Print Name)

Rachel Barnes
(Signature)
Rachel Barnes
(Print Name)

Timothy G. Keach
By: Timothy G. Keach, Chief Manager
Print: Timothy G. Keach
Title: Chief Manager

STATE OF Tennessee
COUNTY OF Rutherford

THE FOREGOING INSTRUMENT was acknowledged before me this 5 day of November, 2019 by Timothy G. Keach as Chief Manager for Vintage Winter Park, LLC, who is known by me _____ or have produced the following identification _____.



Heather E. Adams
(Signature of Notary Public - State of ~~Florida~~ Tennessee)
Heather E. Adams
(Print, Type, or Stamp Commissioned Name of Notary Public)

WITNESSES

GRANTEE:

City of Winter Park, a Florida municipal corporation

(Signature)

Steve Leary, Mayor

(Print Name)

(Signature)

(Print Name)

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING INSTRUMENT was acknowledged before me this _____ day of _____, 2019 by Steve Leary as Mayor of the City of Winter Park, who is known by me _____ or has produced the following identification _____.

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Return to:
Water & Wastewater Department
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

Portion of Orange County Tax Parcel Id # 02-22-30-0000-00-037

TERMINATION OF UTILITY EASEMENT

THIS TERMINATION OF UTILITY EASEMENT (this "Termination") is made and entered into this ____ day of _____, 2019, by **VINTAGE WINTER PARK, LLC**, whose mailing address is 1610 S Church St., Suite 300, Murfreesboro, TN 37130-5520 (the "Successor Grantor"), and the **CITY OF WINTER PARK, a Florida municipal corporation** (the "Grantee").

WHEREAS, Successor Grantor's previous successor in interest (Frank D. Murphy) granted Grantee that certain Utility Easement dated March 1, 1985 recorded at Official Records Book 3671, Page 1407-1408, Public Records of Orange County, Florida ("Utility Easement"); and

WHEREAS, the Successor Grantor and Grantee desire to terminate the Utility Easement.

NOW THEREFORE, in and for good and proper consideration that is hereby acknowledged, the Grantor and Grantee hereby terminate and render null and void the Utility Easement. The Utility Easement shall no longer encumber the Successor Grantor's real property described therein.

IN WITNESS WHEREOF, the Successor Grantor and Grantee hereto have executed this Termination as of the day and year first above written.

WITNESSES

VINTAGE WINTER PARK, LLC
a Tennessee limited liability company

Brandi Kennedy
(Signature)
Brandi Kennedy
(Print Name)

Rachel Barnes
(Signature)
Rachel Barnes
(Print Name)

Timothy G. Keach
By: Timothy G. Keach, Chief Manager
Print: Timothy G. Keach
Title: Chief Manager

STATE OF Tennessee
COUNTY OF Putnam

THE FOREGOING INSTRUMENT was acknowledged before me this 5 day of November, 2019 by Timothy G. Keach as Chief Manager for Vintage Winter Park, LLC, who is known by me, _____ or have produced the following identification _____.



Heather E. Adams
(Signature of Notary Public - State of ~~Florida~~ Tennessee)
Heather E. Adams
(Print, Type, or Stamp Commissioned Name of Notary Public)

WITNESSES

GRANTEE:

City of Winter Park, a Florida municipal corporation

(Signature)

(Print Name)

(Signature)

(Print Name)

Steve Leary, Mayor

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING INSTRUMENT was acknowledged before me this ____ day of _____, 2019 by Steve Leary as Mayor of the City of Winter Park, who is known by me ____ or has produced the following identification _____.

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)



city commission agenda item

item type	Consent Agenda	meeting date	11/25/2019
prepared by	City Manager	approved by	City Manager, City Attorney
board approval	N/A final vote		
strategic objective	Exceptional Quality of Life, Investment in Public Assets and Infrastructure, Fiscal Stewardship		

subject

Approve Tourist Development Tax Grant Agreement with Orange County for Canopy Project

motion / recommendation

Approve the attached TDT Funding Agreement with Orange County.

background

The City applied for and were granted \$6 million in Tourist Development Tax (TDT) funding from Orange County to support the events center and auditorium components of the Canopy project. Attached is the funding agreement. It calls for County to provide \$3 million in TDT funds in FY 2022 and another \$3 million in FY 2024. The city will front the money until the TDT funds become available to reimburse us.

alternatives / other considerations

N/A

fiscal impact

Provides \$6 million in funding towards the project. The city will have to front the money and be reimbursed in accordance with the agreement.

ATTACHMENTS:

Description

TDT Funding Agreement

Upload Date

11/18/2019

Type

Cover Memo

AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
CITY OF WINTER PARK, FLORIDA

THE WINTER PARK CANOPY
(1050 West Morse Blvd., Winter Park, Florida 32789)

THIS AGREEMENT, made and entered into as of the date of last execution below, by and between ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (“County”), and CITY OF WINTER PARK, a Florida municipal corporation (“City”).

WITNESSETH:

WHEREAS, the County currently collects the tourist development taxes authorized by Section 125.0104(3)(c), (d), and (m), Florida Statutes (“Tourist Development Tax” or “TDT”) and authorized uses of such Tourist Development Tax include the construction of publicly owned and operated auditoriums within the boundaries of the county in which such tax is levied; and

WHEREAS, on November 29, 2016, the Orange County Board of County Commissioners (“Board”) adopted Ordinance No. 2016-30 (“Ordinance”), which amended the Tourist Development Plan to authorize funding from legally available unallocated TDT revenue for legally authorized capital projects and events pursuant to a grant application process set forth in Section 25-147 of the Orange County Code (“Code”); and

WHEREAS, the City applied for TDT capital funding for the construction of the event center/auditorium component of the Winter Park Canopy, the City’s new library and events center (“the Canopy”), an authorized expenditure pursuant to the Local Option Tourist Development Act, § 125.0104, Florida Statutes (2019); and

WHEREAS, on March 15, 2019, the County’s TDT Application Review Committee (“ARC”), evaluated the City’s application and recommended approval to the Tourist Development Council (“TDC”); and

WHEREAS, on March 27, 2019, the TDC recommended approval of the City’s application.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the County and the City agree as follows:

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

2. County Contribution. Subject to all terms and conditions set forth in this Agreement, the County agrees to contribute a total aggregate amount not to exceed Six Million Dollars (\$6,000,000.00) (“County Contribution”) from Excess TDT Revenue pursuant to the installment schedule set forth in Section 5 herein. For purposes of this Agreement, “Excess TDT Revenue” shall mean those TDT revenues appropriated by the Board in 2018 in the amount of \$8,000,000.00 per year beginning in Fiscal Year 2017-18 through Fiscal Year 2022-23 for capital projects that apply for funding to the ARC pursuant to Section 25-147 of the Code.

3. Restrictions on Use of County Contribution. The City shall use the County Contribution only to pay for capital costs associated with the construction of the event center/auditorium component of the Canopy in accordance with Section 125.0104(5)(a)1.a., Florida Statutes, as described in the City’s “Orange County Tourist Development Tax Grant Application” dated November, 2018 (“Grant Application”). Capital costs shall include: construction and furnishings, fixtures and equipment for the event center/auditorium component of the Canopy. The County Contribution shall not be used for construction cost overruns; operating costs; or maintenance costs of any type whatsoever in connection with the construction or operation of the Canopy; and shall not be used for any other aspect of the Canopy construction not directly related to the events center/auditorium component. Furthermore, the County Contribution shall not be used or pledged to secure any debt whatsoever.

4. Limitations on County's Obligation. The County's obligation to make the County Contribution shall not constitute a lien on Tourist Development Taxes and will not be on parity with any existing or future debt of the County. The obligations of the County under this Agreement are limited solely to Excess TDT Revenue and no general fund revenues or other funds whatsoever of the County are obligated. Nothing provided herein shall obligate or require the County to levy any ad valorem taxes, fees or assessments whatsoever. This Agreement and any payments provided for in this Agreement are contingent upon the availability of Excess TDT Revenues derived from the tax levied under Section 25-136 of the Code and made available under Section 25-147 of the Code to make the payments hereunder. The County shall not cause such Excess TDT Revenues to be unavailable as a result of dilution of the funds made available through the application process set forth in Section 25-147 of the Code through funding other projects through such process.

5. Disbursement of County Contribution. The County Contribution shall be disbursed according to the schedule set forth below after the City submits to the County cost requisition(s) supported by proof of valid construction costs with certification from the contractor that work invoiced has been satisfactorily performed. Any such requisition shall be signed by an authorized representative of the City and accompanied by invoices or receipts evidencing completion of work. Cost requisitions shall be substantially similar to the form attached hereto as **EXHIBIT “A.”** All requisitions shall be submitted to the County Administrator or designee with a copy to the Orange County Comptroller (“Comptroller”) at the notice address set forth in Section 8 herein. After review and approval of each requisition, the County Administrator or designee shall instruct the Comptroller to make payment to the City within 15 business days thereafter.

Upon approval of requisition(s) by the County Administrator or designee, the Comptroller is authorized to disburse the County Contribution to the City according to the following installment schedule:

- (a) Not to exceed \$3,000,000.00 on or after October 1, 2021;
- (b) Not to exceed \$6,000,000.00 in the aggregate on or after October 1, 2023.

No later than 45 days following a disbursement for unpaid invoices, the City shall provide the County with evidence of payment demonstrating that any such invoice was paid.

6. Commemorative Plaque. Upon completion of the construction of the Canopy, the City agrees that a plaque shall be prominently displayed on the Canopy property acknowledging the names of the Orange County Mayor and Board of County Commissioners and their contribution to the construction of the Canopy.

7. Audit. The County and the Comptroller (or designee) shall have the right to audit from time to time for compliance with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement, the use of the County Contribution for the construction of the Canopy. Such right shall extend for a period of five (5) years after completion of the Canopy. The City agrees to provide reasonable assistance in providing documents, materials, data, information and records to the County and the Comptroller or designee in the performance of these audits as requested by the Comptroller or County during the course of this contract and for a period of five (5) years after the final payment hereunder. In those situations where records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), the Comptroller's representatives shall be provided with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats. Such activity shall be conducted during normal business hours.

8. Notices. Any notices required or allowed hereunder shall be in writing and given by certified mail with return receipt requested, to the addresses below, or in person with proof of delivery to the addresses below, or such other address as either party shall have specified by written notice to the other party delivered in accordance herewith:

County:	Orange County Administrator 201 S. Rosalind Avenue, 5 th Floor Orlando, Florida 32801
The City:	City of Winter Park 401 Park Avenue South Winter Park, FL 32789 Attention: Randy Knight, City Manager
Comptroller:	Orange County Comptroller Director of Finance & Accounting 201 S. Rosalind Avenue, 4 th Floor Orlando, Florida 32801

9. Indemnification. To the extent permitted by law, each party agrees to defend, indemnify and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party. This provision shall survive termination of this Agreement.

10. Recordkeeping; Accounting. The City will utilize accounting procedures and practices in the maintenance of the records of receipts and disbursements of the funds contributed by the County, as well as all its receipts and disbursement of funds, and such procedures and practices shall be in accordance with generally accepted accounting principles. The County and the County Comptroller or their designees shall have access to all books, records, subcontract(s), financial operations, and documents of the City, its lessee(s), contractors, and its subcontractors, as required to comply with this paragraph, for the purpose of inspection or audit anytime during normal business hours during the term hereof, and for a period of five (5) years after completion of the construction of the Canopy or the termination of this Agreement, whichever shall occur later. Any cost incurred by the City as a result of a County audit shall be the sole responsibility of and shall be borne by the City. This provision shall survive termination of this Agreement.

11. Term; Termination. This Agreement shall become effective upon execution by both parties hereto and shall continue for a period of five years following completion of the Canopy. This Agreement may be amended, modified or terminated at any time during the term of this Agreement by the mutual written agreement of the Parties.

12. Default by the City. The occurrence of any of the following constitutes an Event of Default by the City:

- (a) The City's failure to complete construction of the Canopy within three years from the date of this Agreement;
- (b) Any material representation made by the City in any communication submitted to the County in an effort to induce the disbursement of Excess TDT Revenues is determined by the County to be materially false, misleading, or incorrect;
- (c) The City's default in the performance of any material term or covenant of this Agreement not otherwise provided for in this section for a period of more than 30 days after its receipt of a notice of default provided however that if the nature of the default is such that it cannot reasonably be cured within such 30-day period then the City shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure; and
- (d) The City's vacating or abandoning the Canopy.

In the event of a default by the City, the County, may, at its option, exercise any one or more of the following remedies: (i) declare this Agreement terminated or (ii) exercise any and all remedies available at law and in equity.

13. Default by the County. The following shall constitute a default by the County: the County's continued default in the performance of a material term of this Agreement including but not limited to its obligations for disbursement of the County Contribution in accordance with the requirements of this Agreement for a period of more than 30 days from its receipt of written notice of such default from the City. In the event of a default by the County, then the City, at its option, may exercise any one or more of the following remedies: (i) declare this Agreement terminated; or exercise the remedy of mandamus to require the County's performance under the terms and conditions of this Agreement and/or an action for specific performance. The City hereby acknowledges and agrees that the only remedies available to the City other than termination are those of mandamus and specific performance and the County shall bear no liability for direct, indirect or consequential damages.

14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. No other agreement whether verbal or written, with regard to the subject matter hereof shall be deemed to exist.

15. No Assignment. The City may not assign its rights hereunder, without the prior written consent of the County. Failure to comply with this section may result in immediate termination of this Agreement.

16. No waiver. Continued performance by either party hereto, pursuant to the terms of this Agreement, after a default of any of the terms, covenants or conditions herein shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

17. Severability. The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

18. Governing Law; Venue. Any litigation occurring as a result of this Agreement shall be held in the courts of Orange County, Florida. This Agreement shall be governed by the laws of the State of Florida.

19. Headings. The headings or captions of sections or paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

20. Counterparts. This Agreement may be executed in separate counterparts, all of which taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor

Date: _____

ATTEST:

Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

(SEAL)

CITY OF WINTER PARK, FLORIDA

By: _____

Its: _____

Date: _____

ATTEST:

, City Clerk

EXHIBIT “A”

**FORM CONSTRUCTION COST REQUISITION
THE CANOPY**

Date: _____

TO: Orange County Administrator
Orange County Comptroller

The City of Winter Park hereby requests, pursuant to the Agreement between Orange County, Florida and the City of Winter Park, regarding the construction of the Canopy, dated _____, 2019 (the “Agreement”), disbursement of the following amounts:

Name of Vendor	Nature of Disbursement	Vendor Invoice No.	Amount
----------------	------------------------	--------------------	--------

The undersigned does hereby certify to the County that as of the date hereof: 1) there is no existing breach of the Agreement; 2) the above listed items are properly included as authorized construction costs of the Canopy as set forth in the Agreement; 3) attached hereto are invoices for the costs requested hereby 4) that the inspecting architect or engineer has made an inspection of and approved the work completed as represented in this requisition; 5) all work being constructed is in accordance with land use restriction agreements, covenants, restrictions, codes or ordinances affecting the site of the Canopy; 6) the work for which payment is being requested above has been performed and there has been no previous request and disbursement from TDT Revenues for payment of the work.

By: _____
City of Winter Park
Authorized Representative



city commission agenda item

item type	Consent Agenda	meeting date	11/25/2019
prepared by	Purchasing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

subject

Approve the following contract items:

1. Audio-Visual Innovations; Infinity Corporation of Central Florida: Increase allowable spend under RFP-18-2019 – Design, Install, Configure & Maintain Audio Visual System Services; Not to exceed \$200,000 per vendor.
2. Pike Engineering: Amendment to renew RFQ-15-2016 – Professional Distribution Engineering & Substation Consultant Services; Not to exceed \$100,000.
3. A Budget Tree Service: Allowable FY20 spend under ITN-23-2018 – Vegetation Management Services; Not to exceed \$720,000.
4. The Davey Tree Expert Co.: Amendment to renew ITN-23-2018 – Vegetation Management Services; Not to exceed \$900,000.

motion / recommendation

Commission approve items as presented.

background

Formal solicitations were issued to award these contracts.

alternatives / other considerations

N/A

fiscal impact

Item 1: Total expenditure not to exceed \$200,000 per vendor under the contract term.

Item 2: Total expenditure not to exceed \$100,000 under the renewal term.

Item 3: Total expenditure not to exceed \$720,000 during FY20 or approved budgeted amount.

Item 4: Total expenditure not to exceed \$900,000 during FY20 or approved budgeted amount.

ATTACHMENTS:

Description

Upload Date

Type



city commission agenda item

item type	Contracts	meeting date	November 25, 2019
prepared by department division	Procurement Division	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

Contracts

	vendor(s)	item background	fiscal impact	motion recommendation
1.	Audio-Visual Innovations; Infinity Corporation of Central Florida	Increase allowable spend under RFP-18-2019 – Design, Install, Configure & Maintain Audio Visual System Services	Total expenditure not to exceed \$200,000 per vendor under the contract term.	Commission approve the increase.
2.	Pike Engineering	Amendment to renew RFQ-15-2016 – Professional Distribution Engineering & Substation Consultant Services	Total expenditure not to exceed \$100,000 under the renewal term.	Commission approve the amendment and authorize the Mayor to execute.
3.	A Budget Tree Service	Allowable FY20 spend under ITN-23-2018 – Vegetation Management Services	Total expenditure not to exceed \$720,000 during FY20 or approved budgeted amount.	Commission approve the allowable spend.
Contract still under the initial 3-year term.				
4.	The Davey Tree Expert Co.	Amendment to renew ITN-23-2018 – Vegetation Management Services	Total expenditure not to exceed \$900,000 during FY20 or approved budgeted amount.	Commission approve the amendment and authorize the Mayor to execute.



city commission agenda item

item type	Consent Agenda	meeting date	11/25/2019
prepared by	Purchasing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

subject

Approve the following interconnection agreement:

1. Orlando Utilities Commission: Wholesale power distribution interconnection agreement.

motion / recommendation

Commission approve item as presented.

background

The OUC wholesale power is the only wholesale power purchase that Winter Park makes that is made at the distribution voltage level, i.e. 12,470 volts. This avoids having to wheel the purchase through Duke Energy's high voltage transmission system for delivery to Winter Park's substation delivery points and saves the City over \$450,000 per year.

The power purchase pricing in the new contract is applicable to the current distribution configuration and will apply to an additional (3rd) distribution interconnection.

The proposed agreement with OUC extends the current distribution purchase for seven years through December 31, 2026.

- a. Pricing under the new contract offers significant savings compared to the previous contract.
- b. The table below shows actual Power costs for the 12 months ending September 30, 2019 under the expiring contract compared to power cost that are expected under the new contract for year 2020.
- c. Fuel Cost savings will be passed on to the customers through lower fuel adjustment charges. Other savings result in lower costs to the Electric Department's operating budget. Savings for the non-fuel portion of the OUC purchase were anticipated and have been included in the FY 2020 budget approved by the City Commission.

OUC has offered a valuable fuel pricing option in the contract. One is based on natural gas prices at a highly efficient combined cycle heat rate. The other option is OUC system average fuel cost which includes coal. The system average approach is the pricing mechanism used by the current contract. The City of Winter Park is permitted in the new contract to annually select the desired fuel cost pricing mechanism. With current low natural gas prices, the natural gas pricing option is the best option. The fuel cost savings in the table above assume the natural gas pricing option. If market changes increase natural gas prices compared to coal, the City can elect to switch back to the system average approach.

alternatives / other considerations

N/A

fiscal impact

This interconnection agreement affords the city the potential for approximately 40% savings in FY20 as it relates to the purchase of wholesale distribution (estimate based on the FY19 actuals).

ATTACHMENTS:

Description	Upload Date	Type
OUC Interconnection	11/19/2019	Cover Memo



city commission agenda item

item type	OUC Interconnection Agreement	meeting date	November 25, 2019
prepared by department division	Procurement Division	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A		
		final vote	

subject

Orlando Utilities Commission – Interconnection Agreement

motion | recommendation

Commission approve the negotiated contract and authorize the Mayor to execute agreement.

background

The OUC wholesale power is the only wholesale power purchase that Winter Park makes that is made at the distribution voltage level, i.e. 12,470 volts. This avoids having to wheel the purchase through Duke Energy's high voltage transmission system for delivery to Winter Park's substation delivery points and saves the City over \$450,000 per year.

The power purchase pricing in the new contract is applicable to the current distribution configuration and will apply to an additional (3rd) distribution interconnection.

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- Pricing under the new contract offers significant savings compared to the previous contract.
- The table below shows actual Power costs for the 12 months ending September 30, 2019 under the expiring contract compared to power cost that are expected under the new contract for year 2020.
- Fuel Cost savings will be passed on to the customers through lower fuel adjustment charges. Other savings result in lower costs to the Electric Department's operating budget. Savings for the non-fuel portion of the OUC purchase were anticipated and have been included in the FY 2020 budget approved by the City Commission.

OUC has offered a valuable fuel pricing option in the contract. One is based on natural gas prices at a highly efficient combined cycle heat rate. The other option is OUC system average fuel cost which includes coal. The system average approach is the pricing mechanism used by the current contract. The City of Winter Park is permitted in the new contract to annually select the desired fuel cost pricing mechanism. With current low natural gas prices, the natural gas pricing option is the best option. The fuel cost savings in the table above assume the natural gas pricing option. If market changes increase natural gas prices compared to coal, the City can elect to switch back to the system average approach.

Category	Actual Cost for 12 Months Ending 9/30/19	Estimated Costs for 2020 (assumes purchase of same MW and MWh)	Savings (\$)	Savings (%)
Fuel Cost	\$2,161,219	\$1,328,128	\$833,091	38.5%
Other (Demand Charges, transmission, & Non-Fuel Energy)	\$1,789,996	\$1,063,085	\$726,911	40.6%
Total	\$3,951,215	\$2,391,213	\$1,560,002	39.5%



city commission agenda item

item type	Consent Agenda	meeting date	11/25/2019
prepared by	Purchasing	approved by	
board approval	final vote		
strategic objective	Fiscal Stewardship		

subject

Approve the following project participation agreement:

1. Florida Municipal Power Agency: Solar II Power Project

motion / recommendation

Commission approve item as presented.

background

The Florida Municipal Power Agency is a joint action agency comprised of 31 cities that own their own electric utilities. The City of Winter Park joined FMPA in August of 2012 to access future FMPA power projects determined to be beneficial to the City of Winter Park. Currently the City has two contracts with FMPA for the purchase of power:

- Participation in 10 MW of the FMPA Solar I project, approved by the City Commission March 12, 2018. At the time of City Commission approval, energy from Solar I was expected in late 2020 to early 2021. Due to delays in the Duke Energy transmission interconnection and system impact studies, commercial operation is now expected in early 2023.
- Purchase of 10 MW 24x7 block of power replacing a similar purchase from Gainesville Regional Utilities that expired December 31, 2018 and the purchase of partial requirements/load following services to replace a similar purchase from Florida Power & Light Company that expires December 31, 2019. The City Commission approved the contract for both purchases at its August 13, 2018 meeting.

As a result of a competitive solicitation process and negotiations with various solar developers, FMPA is offering participation in a second solar project, Solar II. Solar Project II will provide approximately 150 MW of output from two facilities that will be located in North Central Florida. Commercial operation of Solar II is expected by the end of 2023. Staff is requesting the City Commission's authorization to participate in up to 10 MW of the project.

As in Solar I, project agreement specifics (between FMPA and Origis Energy, the solar developer) are confidential and have therefore not been made public. Staff and our consultants have reviewed "key terms" of the agreements. Importantly, as in

Solar I, participation in the project would not require any upfront payments by the City of Winter Park. The City would be obligated to take energy from its share of the project and pay a price for that energy that is expected to be considerably below 2.8 cents per kWh beginning at commercial operation. Thereafter, energy prices from the project will escalate per the contract at 2% per year over the 20-year term. In recent years the cost of solar panels has decreased significantly.

Taken together with federal tax incentives offered to solar developers, solar energy is currently available at very attractive prices. To put prices below 2.8 cents into perspective, the City currently pays 6.5 cents per kWh for the Clean Footprint solar project installed at the Central Public Works compound and the price for the Solar I project approved last year came in at under 4 cents per kWh.

Staff and our consultants have identified 4 likely benefits of participating in the FMPA Solar II project:

- Potential savings in energy costs;
 - Potential savings in demand charges;
 - Defined contract energy price provides a hedge against volatility in fossil fuel prices for a portion of the City's power supply portfolio; and
 - Incorporates additional renewable resources into the City's power supply portfolio.
- With the addition of Solar II, approximately 12% of the City's power supply (on an energy basis) will be provided by solar energy. Including the 10 MW 24x7 of waste to energy purchase from Covanta, nearly 33% of the City's power supply will come from non-fossil fuel-fired resources. This does not include renewable sources of energy included in FMPA's and OUC's generation mix from which the City purchases power.

Energy prices from the solar project are expected to be well below 2.8 cents per kWh. The current cost of energy from the City's power suppliers ranges from approximately 2.0 cents/kWh to 3.5 cents/kWh. Output from solar participation will offset the need for purchasing power supply with demand charges. An hourly load analysis including solar output predicts savings in wholesale demand charges of \$17,000 to \$44,000 per year.

alternatives / other considerations

N/A

fiscal impact

Staff evaluated 10 MW vs 15 MW of participation in Solar II at expected energy prices inflated per the contract. When compared to alternative power supply sources, savings are expected from reduction in demand costs from other purchases as well as some energy cost. Based on the various analyses, including minimum load considerations, staff recommends that the City commit to 10 MW from the FMPA Solar Project II.

With reasonable inflation rates assumed for market energy prices, FMPA Solar Project II produces net present value savings ranging from \$509,000 to \$543,000 over the 20-year life of the project. Although there are risks with every power supply project, the City's cost responsibility is to purchase the output of its share of the

project at predefined energy prices. It should be noted that total evaluated savings are a very small part of the system's expected 20-year net present value of power supply costs (i.e. less than 0.2%).

ATTACHMENTS:

Description

FMPA Solar II Participation

Upload Date

11/19/2019

Type

Cover Memo



city commission agenda item

item type	Project Participation Agreement	meeting date	November 25, 2019
prepared by department division	Procurement Division	approved by	<input checked="" type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> N/A
board approval	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> N/A final vote		

subject

City participation in Florida Municipal Power Agency (FMPA) Solar Project II

motion | recommendation

Commission approve the participation agreement and authorize the Mayor to execute.

background

The Florida Municipal Power Agency is a joint action agency comprised of 31 cities that own their own electric utilities. The City of Winter Park joined FMPA in August of 2012 to access future FMPA power projects determined to be beneficial to the City of Winter Park. Currently the City has two contracts with FMPA for the purchase of power:

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As in Solar I, project agreement specifics (between FMPA and Origis Energy, the solar developer) are confidential and have therefore not been made public. Staff and our consultants have reviewed "key terms" of the agreements. Importantly, as in Solar I, participation in the project would not require any upfront payments by the City of Winter Park. The City would be obligated to take energy from its share of the project and pay a price for that energy that is expected to be considerably below 2.8 cents per kWh beginning at commercial operation. Thereafter, energy prices from the project will escalate per the contract at 2% per year over the 20-year term. In recent years the cost of solar panels has decreased significantly.

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fiscal impact

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city commission **agenda item**

item type	Action Items Requiring Discussion	meeting date	11/25/2019
prepared by	City Manager	approved by	
board approval	N/A final vote		
strategic objective			

subject

City Manager Annual Review

motion / recommendation

Approve the amount, if any, of the merit increase or bonus for the City Manager.

background

In accordance with the adopted FY 2020 budget the City manager is eligible for up to a 3.5% merit increase or bonus.

alternatives / other considerations

fiscal impact



city commission agenda item

item type	Public Hearings	meeting date	11/25/2019
prepared by	City Clerk	approved by	City Manager, City Attorney
board approval	N/A final vote		
strategic objective	Fiscal Stewardship		

subject

Ordinance - Amending Adopted FY19 Budget

Ordinance - Amending the adopted budget and accompanying five year Capital Improvement Plan for Fiscal Year 2018 – 2019 (2)

motion / recommendation

Approve the ordinance adopting amendments made to the FY19 budget over the course of last fiscal year (2018-2019).

background

The City Commission is required by Statute to approve any budget adjustments that alter the total amount budgeted in any fund or when funds are transferred between different fund types. The City has adopted the practice of bringing budget amendments to the City Commission as they arise and then bringing a year-end ordinance adopting all the amendments formally to comply with Statute.

Through the receipt of grants or due to a need to revise original revenue estimates the city periodically needs to make changes to stated account revenues and expenditures. This is primarily a housekeeping process and it properly provides departments and divisions with an accurate picture of the funds available to undertake programs and projects. The following attachment highlights the budget amendments (Exhibit A of the Ordinance) that have already been approved by the Commission at prior meetings and now need to be formally adopted through public hearing.

In addition to those previously adopted, two additional amendments have been brought for approval:

- 1) Grant received from Winter Park Health Foundation towards the Ward Park/Loch Lomond Project.
- 2) Reimbursement received from Maitland for quiet zone work performed by our crews on their behalf.

Both of these additional amendments are revenue neutral and will properly update project balances in the accounting system.

alternatives / other considerations

Not approving this would require staff to remove the amendments in the accounting system.

fiscal impact

None. All the amendments have been previously approved by the Commission or are revenue neutral.

ATTACHMENTS:

Description	Upload Date	Type
Budget Amendment Ordinance	10/28/2019	Cover Memo
Yr End Budget Amendments - Exhibit A	10/31/2019	Cover Memo

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE ADOPTED BUDGET AND ACCOMPANYING FIVE YEAR CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 2018 – 2019 BY PROVIDING FOR CHANGES IDENTIFIED IN EXHIBIT A; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 3087-17, the City of Winter Park, Florida has adopted the Budget and Capital Improvement Program for the fiscal year 2018 – 2019; and

WHEREAS, the City of Winter Park, Florida desires to amend the Budget and Capital Improvement Program for supplemental appropriations in the amounts identified in Exhibit A; and

WHEREAS, Section 166.241(4)(c) Florida Statutes require such a budget amendment be adopted in the same manner as the original budget.

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

SECTION 1. The Budget and Capital Improvement Program for fiscal year 2018 – 2019 is hereby amended by providing for changes identified in Exhibit A.

SECTION 2. If any section, subsection, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3. In the event of any conflict between the provisions of this Ordinance and any other ordinance, resolution, or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4. The provisions of this Ordinance shall become effective immediately upon passage.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, held in City Hall, Winter Park, Florida this 25th day of November, 2019.

Steve Leary, Mayor

Attest:

Rene S. Cranis, City Clerk

Exhibit A

Budget Amendments Requiring Commission Approval

Fiscal Year 2018 - 2019

Item	Amount	Source Account	Source Acct. Name	Exp. Account	Exp. Acct. Name	Note	Approval Date
IT Core Computing Hardware & Software Replacement	\$ 300,000	0010383 - 383211 4030383 - 383100	Restricted Building Reserves Water & Sewer Fund Balance	3011301 - 565300	IT Infrastructure Fund	This \$934k project will replace the city's core computing, storage, and networking infrastructure that has reached the end of useful life and will no longer be supported.	6/24/2019
Allocation of Parks Donation Funding (Roar Fundraising and Whiting Family Phelps Playground)	\$20,000 \$15,000	3010369 - 369901	Capital Fund: Other Misc. Revenue	3016101 - 565316	Parks Major Maintenance Fund	Acknowledge receipt of donations made to Showalter Field and Phelps Playground.	7/12/2019
Building AS400 Server	\$ 25,000	0010383 - 383211	Restricted Building Reserves	0012401 - 564050	Capital Maintenance - Machinery and Equipment	Pays for the Building Department portion of the server and software associated with maintaining the AS400 (legacy ERP) historical data.	7/12/2019
Solid Waste Services	\$ 70,000	0010343 - 343415, 416, 417	Compactor Revenue, Commercial Garbage, Environmental Revenue Share	0013109 - 534096, 099	Compactor Center St, Garbage Collection	Adjusts for higher costs and higher revenues associated with the city's solid waste contract with Waste Pro	7/12/2019
Golf Course Cost of Goods Sold	\$ 15,000	0010347 - 347234, 235	Golf Pro Shop Merchandise Golf Pro Shop Food & Bev	0016301 - 552012, 015, 016	Op Supplies - Merch, Food & Bev, Alcohol Sales	Higher sales of COGS with \$7k in merchandise and \$4k in food and beverages and \$4k in alcohol sales.	7/12/2019
Community Center Programs	\$ 20,000	0010347 - 347292, 347210	Flag football Revenue Parks Program Fees	0016205 - 534040	Contractual Services	Greater program participation at the Community Center has resulted in higher costs, however that is more than offset by higher revenues.	7/12/2019
Pansy Ave. Street Bricking	\$ 25,259	0010325 - 325104	Special Assessment Revenue	0013115 - 553040	Road Materials and Supplies	Reallocation of soft costs (labor) related to the special assessment bricking of Pansy Ave.	7/12/2019
Ward/Loch Lomond Project	\$ 38,300	3010369 - 369901	Capital Fund: Other Misc. Revenue	3016101 - 565333	Ward/Loch Lomond Project	Grant from Winter Park Health Foundation towards the Ward Park/Loch Lomond Project	Pending
Maitland Quiet Zones Reimbursement	\$ 9,834	3010369 - 369901	Capital Fund: Other Misc. Revenue	3013101 - 565303	CIP - Quiet Zones Project	Reimbursement for labor performed on quiet zones in Maitland.	Pending



city commission agenda item

item type	Public Hearings	meeting date	11/25/2019
prepared by	City Clerk	approved by	
board approval	N/A final vote		
strategic objective	Investment in Public Assets and Infrastructure		

subject

Ordinance - Authorizing Partial Assignment of Easement at Fairbanks Avenue and New York Ave

Ordinance - Authorizing the Partial Assignment of the City Owned easement located at the intersection of Fairbanks Avenue and New York Avenue to FDOT (2)

motion / recommendation

Staff is recommending approval

background

The New York Avenue Improvements is a CRA funded project which includes curb and sidewalk, pedestrian crossing, turning radius, and mast arm signalization improvements at the intersections of Fairbanks Avenue. The turning radius and mast arm pole locations required easement dedications at the northwest and southwest corners of the intersection. The easement documents dedicating the two corners to the City of Winter Park were prepared by the City Attorney, signed by Rollins College and recorded on April 12, 2019.

As required by the State of Florida Department of Transportation a Partial Assignment of Easement was prepared by the City Attorney.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	10/31/2019	Cover Memo
Partial Assignment	10/31/2019	Cover Memo
Rollins Easements	10/31/2019	Cover Memo
Site and Signage Plan	11/1/2019	Cover Memo

PARCEL No. 800.1
SECTION 7504-106
F.P. NO.
STATE RD 426
COUNTY ORANGE

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK,
FLORIDA, AUTHORIZING THE PARTIAL ASSIGNMENT
OF THE CITY OWNED EASEMENT LOCATED NEAR THE
INTERSECTION OF FAIRBANKS AVENUE AND NEW
YORK AVENUE; PROVIDING FOR CONFLICTS AND AN
EFFECTIVE DATE.**

WHEREAS, Section 2.11 of the Charter of the City of Winter Park, Florida, authorizes the City Commission, by ordinance to convey or authorize by administrative action the conveyance of any lands of the City of Winter Park (“City”); and

WHEREAS, the City is the owner of that certain Permanent Right-of-Way Easement recorded in Document #20190224671, Public Records of Orange County, Florida, (hereinafter the “Easement”); and

WHEREAS, the Florida Department of Transportation (hereinafter “FDOT”) has requested that the City partially assign to FDOT the non-exclusive right to maintain the sidewalks, mast arms and curbs located within the easement area; and

WHEREAS, the City has determined that the assignment of such non-exclusive rights will not adversely interfere with the City’s use of the Easement and therefore may be assigned to FDOT.

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

SECTION 1. RECITALS. The above recitals are incorporated herein by reference and are made a part of this Ordinance.

SECTION 2. APPROVAL. The City Commission of the City of Winter Park hereby approves the partial assignment of said non-exclusive rights in the Easement to FDOT.

SECTION 3. ASSIGNMENT. This Ordinance shall constitute the authorization by the City Commission pursuant to Section 2.11 of the Charter of the City of Winter Park, Florida, to partially assign such non-exclusive rights in the Easement to FDOT and for the Mayor or the City Manager to execute the partial assignment on behalf of the City along with any other documents that may be necessary to effectuate the intent of this Ordinance.

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

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this ____ day _____, 2019.

Mayor Steven Leary

ATTEST:

City Clerk, Cynthia S. Bonham

S:\AKA\CLIENTS\Winter Park\Public Works Department W600-26039\FDOT Signal Pole Easements (Fairbanks & New York)\Ordinance Authorizing Partial Assignment To FDOT 9.26.19.Docx

September 24, 2019
This instrument prepared by
Suzette K. Hicks
Under the direction of
DANIEL L. McDERMOTT, ATTORNEY
Department of Transportation
719 South Woodland Boulevard
DeLand, Florida 32720-6834

PARCEL NO. 800.1
SECTION 7504-106
F.P. NO.
STATE ROAD 426
COUNTY ORANGE

PARTIAL ASSIGNMENT OF EASEMENT

THIS PARTIAL ASSIGNMENT OF EASEMENT made this _____ day of _____, _____, by CITY OF WINTER PARK, a municipality of the State of Florida, hereinafter called Assignor, to the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, its successors and assigns, hereinafter called Assignee.

ASSIGNOR hereby partially assigns to Assignee its rights, title and interest in and to that certain Permanent Public Right-of-Way Easement recorded in Document #20190224671, Public Records of Orange County, Florida, for the purpose of providing Assignee with the non-exclusive right to maintain the sidewalks, mast arms and curbs located within the easement area.

WHEREAS, Assignor and Assignee hereby to enter into this assignment to affect such assignment to provide notice to third parties of same by recording this Assignment in the Public Records of Orange County, Florida.

IT IS EXPRESSLY understood and agreed, except for the limited purpose set forth herein, that this partial assignment in no way and to no extent whatsoever shall affect the assignor's interest in Easement.

TO HAVE AND TO HOLD the same unto said Assignee, its successors and assigns forever.

PARCEL NO. 800.1
SECTION 7504-106
F.P. NO.
PAGE 2

IN WITNESS WHEREOF, the said Assignor has caused these presents to be executed in its name by its Mayor, and its seal to be hereto affixed, attested by its City Clerk, the date first above written.

Signed, sealed and delivered in
the presence of: Two witnesses
required by Florida Law

CITY OF WINTER PARK, FLORIDA

SIGNATURE LINE
PRINT/TYPE NAME: _____

By: _____

Its Mayor

SIGNATURE LINE
PRINT/TYPE NAME: _____

ATTEST: _____

Its City Clerk
ADDRESS OF GRANTOR:

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____,
_____, by _____, Mayor, who is personally known to me or who has
produced _____ as identification.

PRINT/TYPE NAME: _____
Notary Public in and for the
County and State last aforesaid.
My Commission expires: _____
Serial No., if any: _____

Return to:
Public Works Department
City of Winter Park
401 Park Avenue South
Winter Park, FL 32789

DOC# 20190224671
04/12/2019 09:50:27 AM Page 1 of 6
Rec Fee: \$52.50
Deed Doc Tax: \$0.00
DOR Admin Fee: \$0.00
Intangible Tax: \$0.00
Mortgage Stamp: \$0.00
Phil Diamond, Comptroller
Orange County, FL
MB - Ret To: CITY OF WINTER PARK - PUB

Portions of Orange County Tax Parcel Id: 05-22-30-9400-89-011

PERMANENT PUBLIC RIGHT-OF-WAY EASEMENT

THIS PERMANENT PUBLIC RIGHT-OF-WAY EASEMENT, made this 9th day of April, 2018, by HOLT PROPERTIES, LLC, a Florida limited liability company, whose address is 1000 Holt Ave 2715, Winter Park, Florida 32789 ("Grantor") in favor of the CITY OF WINTER PARK, a Florida municipal corporation, with its permanent address at 401 Park Avenue South, Winter Park, Florida 32789 (herein the "City"). The City is sometimes herein called "Grantee").

WITNESSETH:

That the Grantor, for and in consideration of the sum of ONE DOLLAR AND NO CENTS (\$1.00) and the benefits to Grantor's property across which this easement is granted and certain other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, hereby grants and conveys unto the City, its successors and assigns a perpetual public right-of-way (the "City Easement") for construction, installation, repair, replacement, reconstruction, maintenance, control, regulation, operation, use, and modification of: (i) a public right-of-way, including without limitation, roads, lanes, pavement, shoulders, swales, signs, sidewalks, drainage improvements, curbs, curb cuts, striping, parking, mast arms, traffic control devices and other right-of-way improvements; and (ii) public and private franchise utilities and facilities, including but not limited to, potable water, sanitary sewer, electric utilities, gas, cable television lines, telecommunications lines, fiber optic cables and other public utilities and facilities of every type and appurtenances thereto, including without limitation, water and sewer mains, pipes, lift station, valves, locating wires, structures, lines, boxes, landscaping, manholes, and similar appurtenances (herein collectively the "City Improvements"). The City Easement shall be over, under, through, and across the real property described in Exhibit "A", a copy of which is attached hereto and incorporated herein by this reference (herein the "Easement Area").

The rights granted to the City hereunder include City's right of access over, under, upon and through the Easement Area to carry out the intended purposes of the Easement, the right of vehicular and pedestrian access by the public over and across the Easement Area subject to the City's superior right of regulation, control and operation of the Easement and the improvements thereon, and the City's right to regulate and control the Easement Area as a public right-of-way, including the right to grant to others permits for the installation, maintenance and use of utilities and driveway cuts within the Easement Area. City's rights over, under, through and across the Easement Area are superior to all others. The rights granted to City by Grantor specifically include the right of ingress and egress through the Easement Area for the purposes of the easements granted herein and for ingress and egress through the Easement Area to adjacent public rights-of-way and other lands owned and/or

controlled by the City (the "Benefitted Properties"), and such easements granted herein shall be for the benefit of the Benefitted Properties and for the City's roadway and utility system.

The City shall only be responsible for the maintenance and repair of City Improvements within the Easement that City constructs or accepts responsibility for maintenance.

TO HAVE AND TO HOLD, this Easement unto the Grantee and its respective successors and assigns forever.

The City and its successors and assigns shall have the right to clear and keep all trees, undergrowth, landscaping and other obstructions that may interfere with the normal use, operation or maintenance of the Easement and the utilities and facilities therein, out of and away from the Easement Area. The Grantor, its heirs, successors and assigns, shall not build, construct or create, nor permit others to build, construct or create any buildings or other structures within the Easement Area and Grantor shall not construct or create, nor permit others to construct or create any other improvement or obstruction that may interfere with City's normal operation, use or maintenance of the easements and the utilities, improvements and facilities therein, and Grantor shall not interfere with the improvements, utilities and facilities within the Easement Area. The Grantor warrants that Grantor is the fee simple owner of the Easement Area and has the authority to grant the Easement herein.

Wherever used herein, the terms "Grantor" and "Grantee" include their respective heirs, legal representatives, successors and assigns of individuals, and the successors and assigns of corporations.

IN WITNESS WHEREOF, Grantor has executed this Easement by the day and year first written above.

Signed, sealed and delivered in the presence of:

Grantor: Holt Properties, LLC, a Florida limited liability company

By: its Managing Member: Rollins College, a Florida not for profit corporation

K.M. Currie
(Signature)

Edward A. Kania
(Signature)

K.M. Currie
(Print Name)

Edward A. Kania
Vice President & Treasurer

Kathryn Nichols
(Signature)

Kathryn Nichols
(Print Name)

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this

9th day of April, 20 19

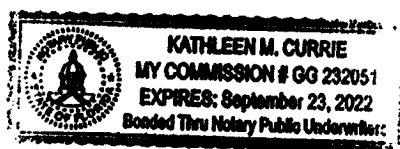
, by Edward A. Kania

who is V.P. Business Finance & Treasurer

of Rollins College

, who is personally known to me ☒ or who has produced identification ☐ of the following type(s):

NOTARY STAMP



NOTARY PUBLIC

Kathleen M. Currie
(Signature)

Kathleen M. Currie
(Print Name)

EXHIBIT “A”

THE “EASEMENT AREA”

**CONSISTING OF THE FOLLOWING TWO (2) SKETCH AND DESCRIPTIONS PREPARED BY
GAI CONSULTANTS DATED SEPTEMBER 6, 2018 AND REVISED DECEMBER 7, 2018 (AS TO
EASEMENT 1) AND REVISED DECEMBER 5, 2018 (AS TO EASEMENT 2)**

**DEPICTING 2 EASEMENTS COLLECTIVELY REFERENCED AS THE “EASEMENT AREA”
IN THE FOREGOING**

“PERMANENT PUBLIC RIGHT-OF-WAY EASEMENT”

**MADE BY HOLT PROPERTIES, LLC AS GRANTOR
TO THE CITY OF WINTER PARK, FLORIDA AS GRANTEE**

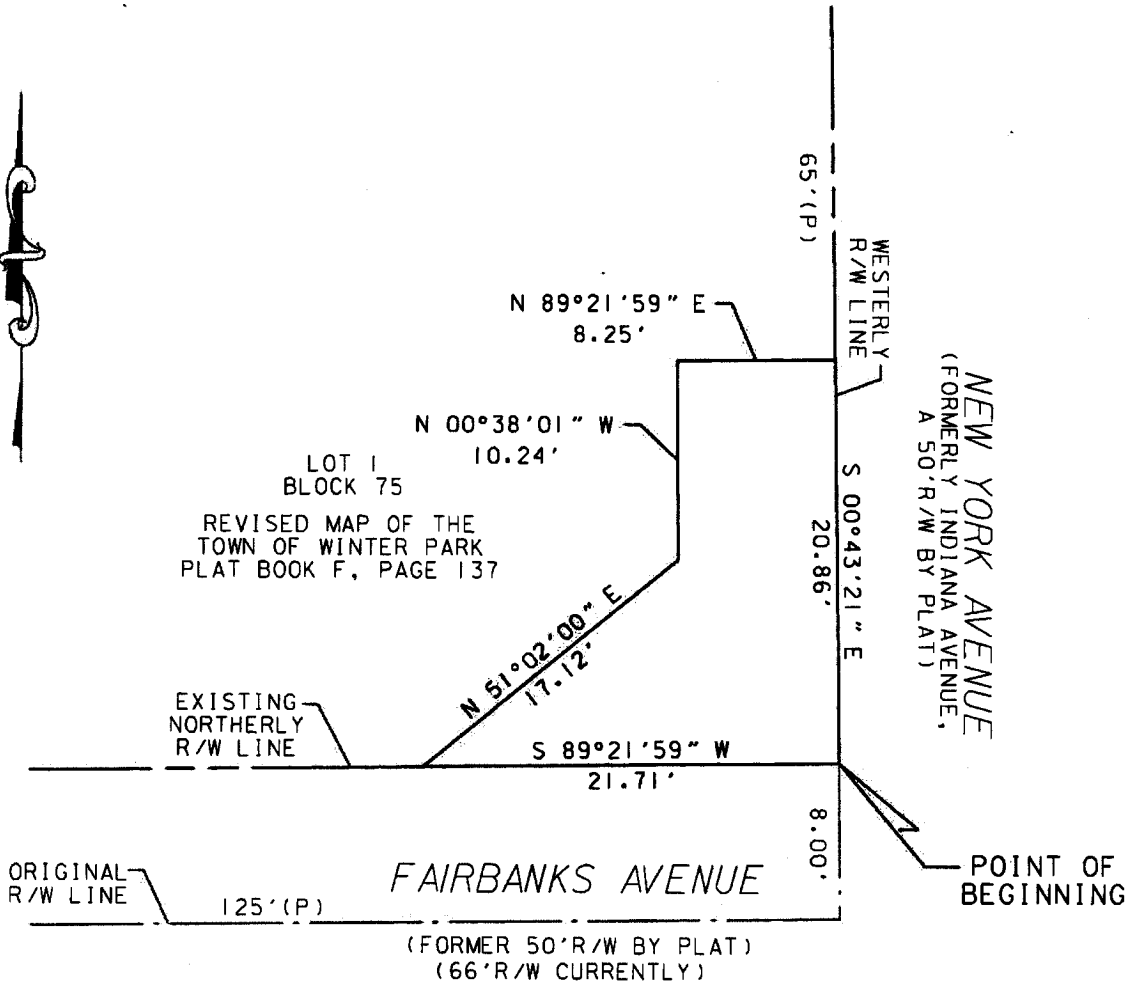
EXHIBIT "A" EASEMENT 1 OF 2 EASEMENTS

MAP OF:

NORTHWEST CORNER PERMANENT RIGHT-OF-WAY EASEMENT

A PART OF LOT 1, BLOCK 75, THE REVISED MAP OF THE TOWN OF WINTER PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK F, PAGE 137, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE EXISTING NORTHERLY RIGHT-OF-WAY LINE OF FAIRBANKS AVENUE (A 66 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE WESTERLY RIGHT-OF-WAY LINE OF NEW YORK AVENUE (FORMERLY INDIANA AVENUE, A 50 FOOT RIGHT-OF-WAY BY SAID PLAT); THENCE SOUTH 89°21'59" WEST ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 21.71 FEET; THENCE NORTH 51°02'00" EAST LEAVING SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 17.12 FEET; THENCE NORTH 00°38'01" WEST, A DISTANCE OF 10.24 FEET; THENCE NORTH 89°21'59" EAST, A DISTANCE OF 8.25 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE OF NEW YORK AVENUE; THENCE SOUTH 00°43'21" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 20.86 FEET TO THE POINT OF BEGINNING.


CONTAINING 244 SQUARE FEET, MORE OR LESS.



NOTES:

- 1. BEARINGS SHOWN HEREON BASED ON FLORIDA STATE PLANE COORDINATES, EAST ZONE, WITH A BEARING OF SOUTH 89°21'59" WEST, ON THE NORTHERLY RIGHT OF WAY LINE OF FAIRBANKS AVENUE.
- 2. (P) DENOTES PLAT.
- 3. R/W DENOTES RIGHT-OF-WAY,

THIS IS A MAP ONLY AND DOES NOT PURPORT TO BE A SURVEY

 gai consultants 1301 Riverchase Boulevard, Suite 900 Jacksonville, Florida 32207 904-984-1110 904-383-1115 www.gaicconsultants.com	LEGEND: 1. REVISE SCRIVENER'S ERROR 12/07/18	SCALE 1" = 10'
	I HEREBY CERTIFY THAT THIS MAP MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 472.007 OF THE FLORIDA STATUTES AND 6J17 OF THE FLORIDA ADMINISTRATIVE CODE.	
CERT. NO. LB 3604 •ENGINEERING •PLANNING •SURVEYING •CEI SERVICES •	DATE SEPTEMBER 6, 2018	JOSEPH K. LEE, II FLA. P.S.M. CERT. NO. LS 6016

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

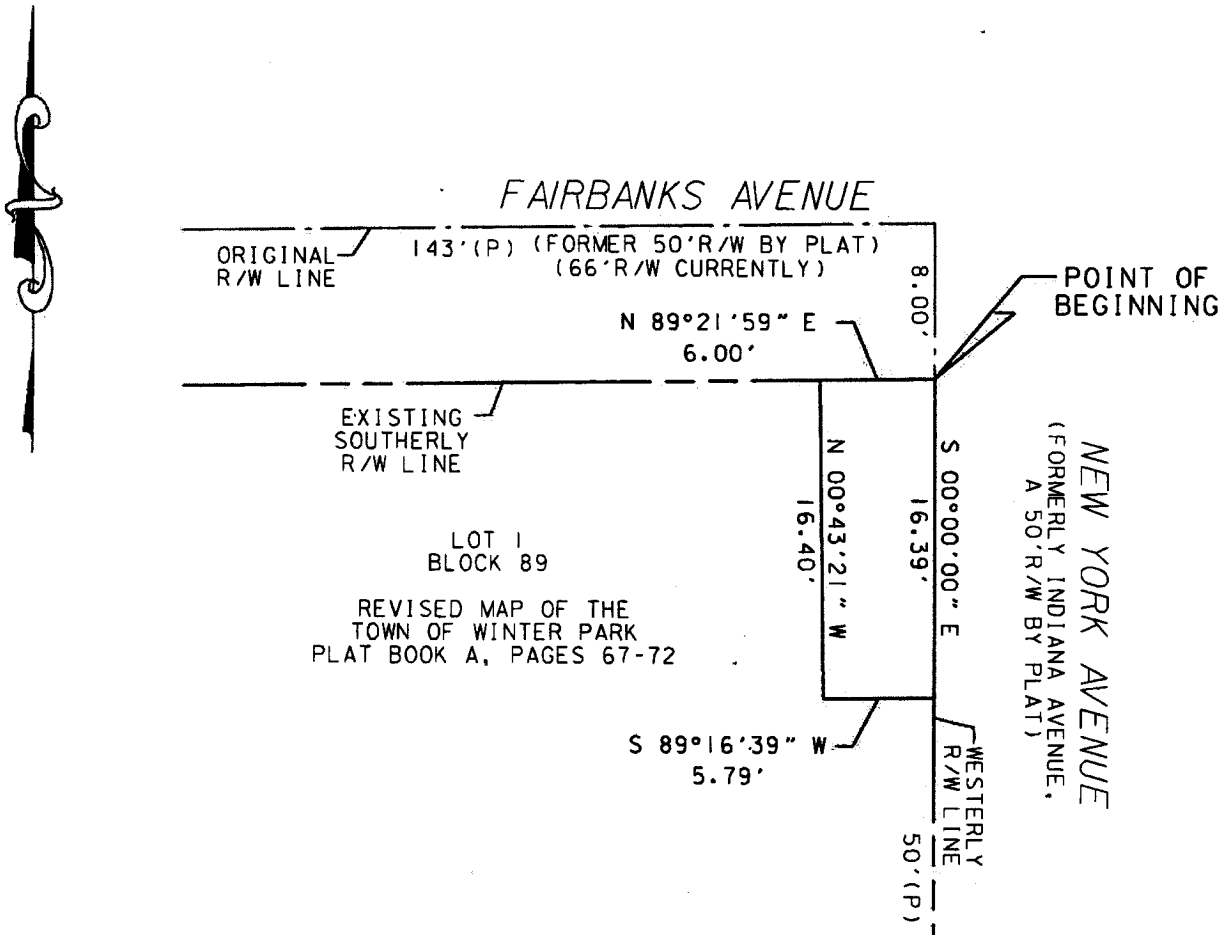
EXHIBIT "A" EASEMENT 2 OF 2 EASEMENTS

MAP OF:

SOUTHWEST CORNER PERMANENT RIGHT-OF-WAY EASEMENT



A PART OF LOT 1, BLOCK 89, THE REVISED MAP OF THE TOWN OF WINTER PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK A, PAGES 67 THROUGH 72, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE EXISTING SOUTHERLY RIGHT-OF-WAY LINE OF FAIRBANKS AVENUE (A 66 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE WESTERLY RIGHT-OF-WAY LINE OF NEW YORK AVENUE (FORMERLY INDIANA AVENUE, A 50 FOOT RIGHT-OF-WAY BY SAID PLAT); THENCE SOUTH 00°00'00" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 16.39 FEET; THENCE SOUTH 89°16'39" WEST LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 5.79 FEET; THENCE NORTH 00°43'21" WEST, A DISTANCE OF 16.40 FEET TO A POINT ON SAID EXISTING SOUTHERLY RIGHT-OF-WAY LINE OF FAIRBANKS AVENUE; THENCE NORTH 89°21'59" EAST ALONG SAID EXISTING SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 97 SQUARE FEET, MORE OR LESS.



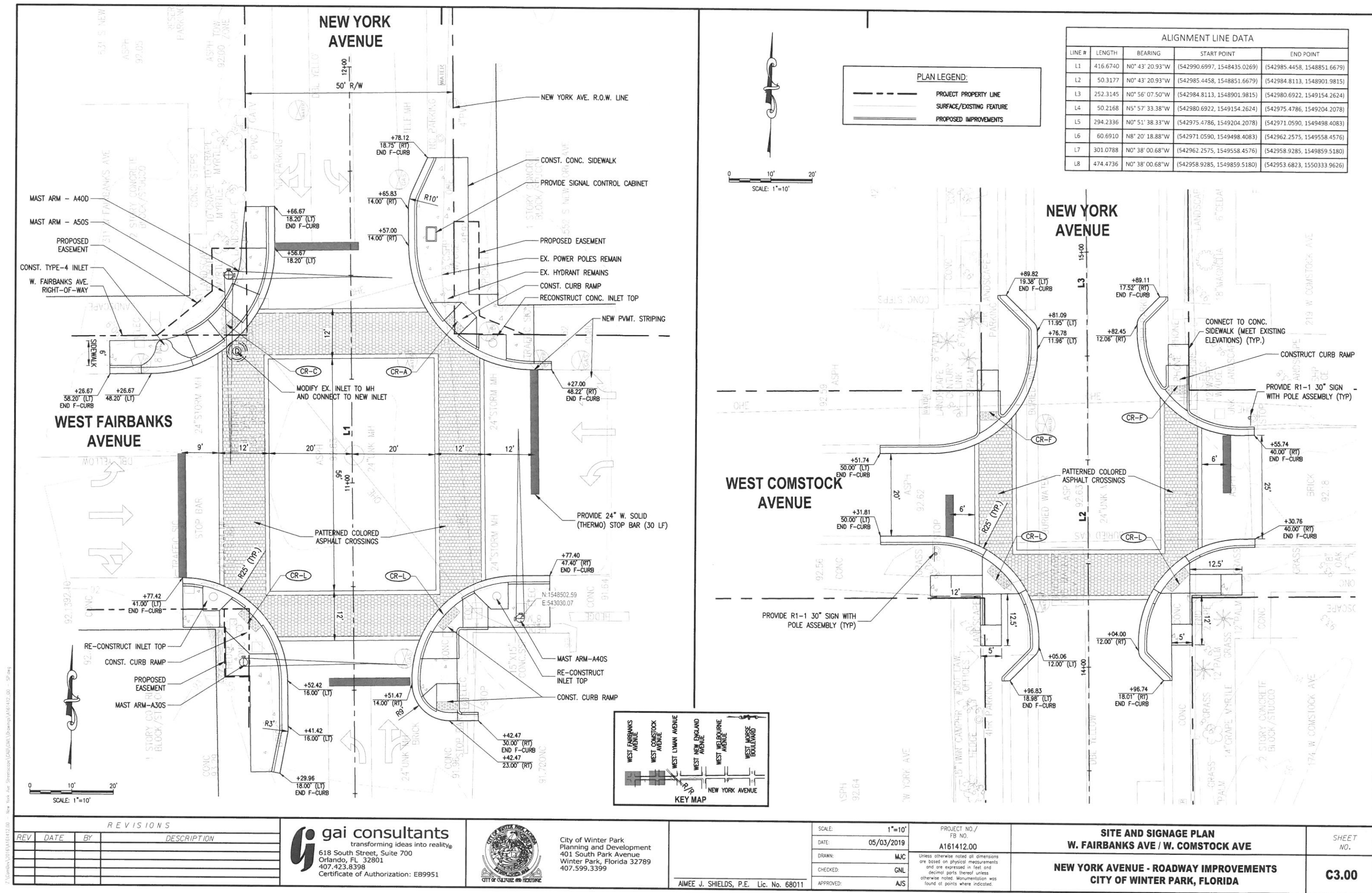
- NOTES:
- 1. BEARINGS SHOWN HEREON BASED ON FLORIDA STATE PLANE COORDINATES, EAST ZONE, WITH A BEARING OF NORTH 89°21'59" EAST, ON THE SOUTHERLY RIGHT OF WAY LINE OF FAIRBANKS AVENUE.
 - 2. (P) DENOTES PLAT.
 - 3. R/W DENOTES RIGHT-OF-WAY,

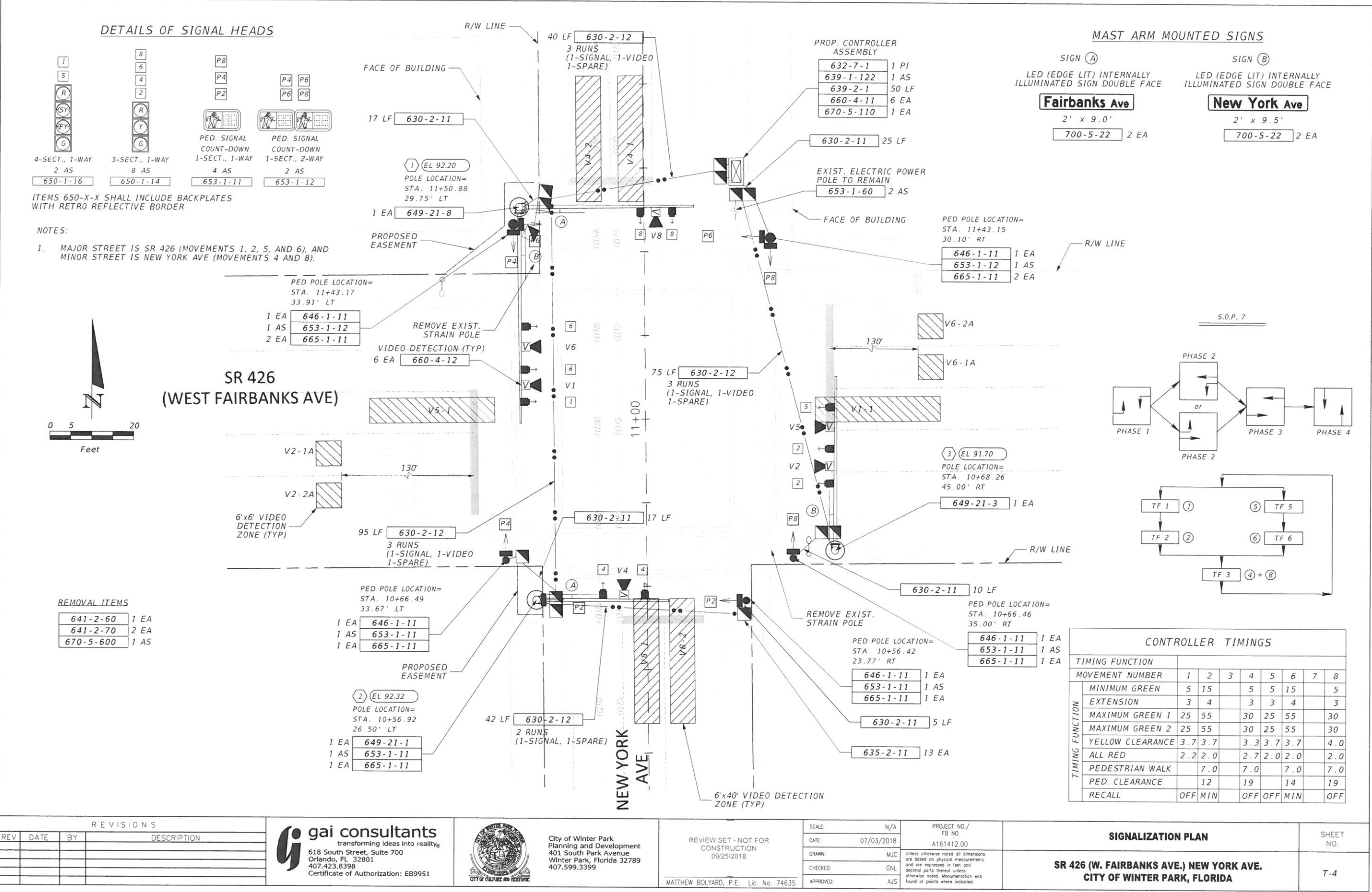
THIS IS A MAP ONLY AND DOES NOT PURPORT TO BE A SURVEY

 gai consultants 1301 Riverplace Boulevard, Suite 900 Jacksonville, Florida 32207 904-363-1110 904-363-1115 www.gaiconsultants.com	REVISION: SCALE 1" = 10' 1. REVISE SCRIVENER'S ERROR 12/05/18	I HEREBY CERTIFY THAT THIS MAP MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 475, OF THE FLORIDA STATUTES AND 63J17 OF THE FLORIDA ADMINISTRATIVE CODE.  JOSEPH K. LBR FLA. P.S.M. CERT. NO. LS 6016
	DATE SEPTEMBER 6, 2018	

CERT. NO. LS 3804 •ENGINEERING •PLANNING •SURVEYING •CEI SERVICES •

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







city commission agenda item

item type	Public Hearings	meeting date	11/25/2019
prepared by	Assistant City Manager	approved by	City Manager, City Attorney
board approval	final vote		
strategic objective			

subject

Charter Amendments

Ordinance - Proposing amendments to the charter of the City of Winter Park Sections 1.01, 1.03, 2.03, 2.05, 2.06, 2.08, 2.11, 2.17, 3.01, 3.03, 3.04, 4.01, 4.05, 4.07, 5.05, 5.08, 5.10 and 6.04, the preamble, changing article and section names and creating gender neutral language; providing for a referendum vote by the electors of the City of Winter Park on the question of approval of the proposed charter amendments at the election to be held on March 17, 2020. (2)

motion / recommendation

Move to approve the ordinance as presented

background

The City Commission established a charter review committee to review the City Charter and provide recommendations. At the City Commission meeting on October 28th, the City Commission, by consensus, provided direction to the City Attorney and staff regarding development of questions for the March 2020 ballot. The first reading of this ordinance was heard on November 11, 2019.

In order to meet the Orange County Supervisor of Election's deadline for the March 2020 ballot, the ordinance must be adopted prior to December 13, 2019.

alternatives / other considerations

The questions may be put forward as presented, deleted, or in another election cycle.

fiscal impact

ATTACHMENTS:

Description

Revised Ordinance

Upload Date

11/18/2019

Type

Cover Memo

ORDINANCE _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROPOSING AMENDMENTS TO THE CHARTER OF THE CITY OF WINTER PARK SECTIONS 1.01, 1.03, 2.03, 2.05, 2.06, 2.08, 2.11, 2.17, 3.01, 3.03, 3.04, 4.01, 4.05, 4.07, 5.05, 5.08, 5.10 AND 6.04, THE PREAMBLE, CHANGING ARTICLE AND SECTION NAMES AND CREATING GENDER NEUTRAL LANGUAGE; PROVIDING FOR A REFERENDUM VOTE BY THE ELECTORS OF THE CITY OF WINTER PARK ON THE QUESTION OF APPROVAL OF THE PROPOSED CHARTER AMENDMENTS AT THE ELECTION TO BE HELD ON MARCH 17, 2020; PROVIDING FORM OF BALLOT; PROVIDING FOR FILING REVISED CHARTER WITH THE FLORIDA DEPARTMENT OF STATE, AND OTHER DIRECTIONS TO CITY STAFF; PROVIDING FOR AN EFFECTIVE DATE OF THE ORDINANCE AND CHARTER AMENDMENTS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS.

WHEREAS, the City Commission established a Charter Review Advisory Committee to review the City Charter and make recommendations for amendments thereto in accordance with Section 1.03(c) of the City Charter; and

WHEREAS, on September 20, 2019, the Charter Review Advisory Committee submitted its final report and recommendations to the City Commission; and

WHEREAS, the City Commission of the City of Winter Park, Florida pursuant to Chapter 166, Florida Statutes, and Section 1.03, Charter of the City of Winter Park, Florida, may submit to the electors of the City proposed amendments to the City Charter; and

WHEREAS, for numbering and organization purposes, the proposed amendment of Section 2.06 concerning amending the Mayor's board appointment duties to have shared board appointment responsibilities by the Mayor and City Commissioners is resulting in proposed Section 2.19 and a single ballot question concerning such matters; and

WHEREAS, during the first reading of this Ordinance, the City Commission decided not to move forward with proposed charter amendments relating to Sections 2.03, 4.05, and 4.07 referenced in the title above and the Charter; and

WHEREAS, the City Commission finds it in the best interests of the City and its residents to propose and submit to the electors of the City of Winter Park for referendum vote the City Charter amendments provided for herein, at the election to be held on March 17, 2020.

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

Section 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

Section 2. Charter Amendment #1. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and sentences not included are not being amended; stars *** indicate separations between sections and do not represent Charter amendments):

[The language below are instructions for amendments to the Charter to make the Charter gender neutral and is not intended to be a provision placed in the City Charter]

Whenever in the Charter of the City of Winter Park, Florida, the gender specific language of “he” or “his” is used when referencing the Mayor, a City Commissioner, City Manager or other official, the title of the official is to be substituted for such gender specific words and other grammatical changes to the same sentence as may be needed to make the sentence grammatically correct and gender neutral. The City Clerk is given liberal authority to effectuate the intent of this charter amendment to make the charter gender neutral and to avoid use of “he” or “his” when referencing City officials.

PREAMBLE

We the people of the City of Winter Park, Florida, under the authority of the constitution and laws of the State of Florida, adopt this Charter to define the powers and structure of this City and to secure the benefits of home rule. This action also affirms the values of a representative democracy, professional management, strong political leadership, high ethical standards, citizen participation, and regional cooperation. We desire for Winter Park to be the best place to live, work, and play in central Florida by creating an open, diverse, inclusive, and responsive government and preserving a superior quality of life for the current residents and future generations.

ARTICLE I. ~~GENERALLY~~ POWERS AND FORM OF GOVERNMENT

Sec. 1.01. ~~Creation and powers~~ Creation, Powers, and Construction.

The City of Winter Park is created which shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as

otherwise provided by law. The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

Sec. 2.08. - Procedure.

(b) ~~Rules and journal.~~ The commission shall determine its own rules and order of business. A ~~journal shall be kept in which shall be maintained a written record of all official acts of the commission.~~ Minutes shall be kept of all commission proceedings.

(c) ~~Voting.~~ Voting on ordinances and resolutions shall be by roll call vote of the Commissioners and the Mayor and shall be recorded in the ~~journal~~ minutes. The affirmative vote of three (3) members of the City Commission who are physically present at the meeting shall be necessary to adopt any ordinance or resolution. No other action of the commission except as provided in sections 2.07 and in 2.08(d) shall be valid or binding unless adopted by the affirmative vote of a majority of a quorum present.

Sec. 4.01. - ~~Generally.~~ City Manager.

There shall be a city manager who shall be the administrative head of the city. The city manager shall be responsible to the city commission for the administration of all city affairs placed in ~~his~~ the city manager's charge by or under this Charter or by direction of the city commission. The manager must take up residence in the City of Winter Park within one (1) year after the appointment unless otherwise waived by the unanimous approval of the city commission.

ARTICLE V. – INITIATIVE, REFERENDUM, ~~AND RECALL~~ AND CHARTER AMENDMENTS.

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Sec. 6.04. - ~~Schedule.~~ Reserved.

(a) ~~Elections.~~ ~~Members of the city commission holding office under the former charter at the time this Charter becomes effective shall continue in office until the expiration of the terms to which they were elected. At an election to be held on the first Tuesday after the first Monday in November, 1984, there shall be elected a mayor to serve for a period of three (3) years. At an election to be held on the first Tuesday after the first Monday in November, 1985, there shall be elected two (2) commissioners for Seats Nos. 3 and 4 to serve for a period of three (3) years. At an election to be held on the first Tuesday after the first Monday in November, 1986, there shall be elected two (2) commissioners for Seats Nos. 1 and 2 to serve for a period of three (3) years. Henceforth, such elections shall continue in the same order.~~

(b) ~~Time of taking full effect.~~ This Charter shall be in full effect for all purposes on or after November 22, 1983.

~~(c) First commission meeting. On the 22nd day of November, 1983, the city commission shall meet at 4:30 p.m. at Winter Park City Hall and shall organize in accordance with the provisions of Article II of this Charter.~~

~~(d) Transition ordinances. The city commission shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted under this Charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures in Article II, except that transition ordinances shall be effective for up to ninety (90) days after enactment. Thereafter, such ordinances may be readopted, renewed or otherwise continued only in the manner prescribed for normal ordinances in Article~~

Section 3. Amendment #1 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 2 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

Question #1:

Gender Neutral, Preamble, Title Changes and Sections 1.01 and 1.03

Shall the Winter Park City Charter be amended to provide for gender neutral language, modify the preamble to inspire a diverse and inclusive government, change the titles to Articles I and V and Sections 1.01 and 4.01 to better reflect the substance of provisions, delete obsolete language, amend Section 1.01 to provide for liberal interpretation of powers, and amend Section 2.08 to eliminate references to keeping a journal?

Yes _____

No _____

Section 4. Charter Amendment #2. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 2.05. - Compensation.

~~The Commission may determine the annual salary of the Mayor and Commissioners by ordinance, but no ordinance increasing the salary shall have an effective date prior to March 10, 2011.~~ Effective on October 1, 2020, the base annual salary of City Commissioners shall be \$12,600 and the base annual salary of the Mayor shall be \$15,000. Thereafter, the base annual salaries of the City Commissioners and Mayor shall increase or decrease annually based on the change in the Consumer Price Index (all Urban Consumers CPI), not to exceed the maximum percentage pay increase adopted in the annual budget for general city employees. All CPI increases or decreases to base salaries will be effective on October 1st of each year. The percentage of change will be based on the CPI change from April to April. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 5. Amendment #2 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 4 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

**Question #2:
Annual Base Salary of Mayor and City Commissioners**

Shall Section 2.05 of the Winter Park City Charter be amended to provide for a minimum annual base salary of \$12,600 for City Commissioners and \$15,000 for the Mayor effective on October 1, 2020 and to provide for annual increases or decreases to base salaries based on the Consumer Price Index?

Yes _____

No _____

Section 6. Charter Amendment #3. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 1.03. – Form of Government.

The City of Winter Park is a municipal corporation with a Commission-Manager form of government.

Section 7. Amendment #3 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 6 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

**Question #3:
Form of Government**

Shall a new Section 1.03 of the Winter Park City Charter be created to clarify the City’s form of government as the Commission - Manager form of government, which is consistent with how the

City currently operates and the existing Charter, and renumber the existing Section 1.03 to Section 5.10?

Yes _____

No _____

Section 8. Charter Amendment #4. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 3.03. - Form of ballots.

City elections shall be conducted in accordance with the applicable provisions of general election laws of the State of Florida, Chapters 97-106, Florida Statutes, as amended and ordinances adopted by the city that are not inconsistent with applicable general election laws. The Orange County ~~s~~Supervisor of ~~e~~Elections may control the form of the ballot including the method of listing candidates for city commissioner and mayor elections and any other city election. If such form is not prescribed by the supervisor of elections, then the city commission by ordinance shall prescribe the form of the ballot. ~~A charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but a ballot title shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear language which will enable a voter of reasonable intelligence to vote for or against the proposed measure. A sample ballot and verbatim text of any amendment or measure to be voted upon shall be available for free distribution at city hall at least seven (7) working days before the election day and also available for review at the polling place. A sample ballot shall be published in a newspaper of general circulation prior to the day of the election, but no more than ten (10) days prior to the election. This provision shall be deemed complied with if the state causes a publication of a sample ballot prior to a city election. Such publication shall be conspicuous and not be included within the routine legal notices and advertisements.~~

Sec. 3.04. - Elections.

- (a) *General city election.* If more than one person qualifies as candidate for the office of city commissioner for any designated seat of the city commission to be filled or for the office of mayor, there shall be a general election which shall be held on the second Tuesday in March. If any candidate in the general election receives a majority of the votes cast for a designated seat, such candidate shall be declared elected and shall assume office in accordance with Section 2.04 of this Charter. If no candidate receives a majority of votes cast for a designated seat, the two (2) persons receiving the highest number of votes cast shall be declared candidates for a run-off election to be held in accordance with subparagraph (c) of this Section, and the person then holding such seat shall continue to serve on a temporary basis until the seat is filled via the run-off election.

- (b) *Unopposed candidates.* In the event not more than one person qualifies as a candidate for a designated city commissioner seat or for mayor, such candidate shall be declared elected without the necessity of being voted upon in the general city election and shall assume office at the same time and in the same manner as those elected in the general city election.
- (c) *Run-off election.* If no candidate receives a majority of votes cast for a designated seat in the general city election, the two (2) persons receiving the highest number of votes cast for such seat shall be declared candidates in a run-off election to be held on the second Tuesday in April. The candidate who receives the majority of the votes cast in the run-off election shall be declared elected and shall assume office on the date of the first City Commission meeting following certification of the run-off election results. The term of office for such prevailing candidate shall run until the date on which such term would have expired if the prevailing candidate had been elected in the general election.
- (d) ~~*Poll workers.* At each polling place, there shall be a sufficient number of poll workers to handle the anticipated number of voters. The supervisor of elections may determine the necessary number of poll workers for any election. If the supervisor of elections fails to determine such number of poll workers, then the city clerk shall determine the appropriate number of poll workers. The supervisor of elections (or the city clerk, as applicable) shall report the number of poll workers together with the names of the poll workers to the city commission prior to the date of the election. The supervisor of elections shall appoint the poll workers when a city election is held in conjunction with a state election conducted by the supervisor of elections. The supervisor of elections may also elect to appoint the poll workers for any other City election. If the supervisor of elections has not elected to appoint the poll workers for any city election that is not held in conjunction with a state election, then the city commission shall appoint the poll workers for such city election. At a city election not held in conjunction with a state election, a deputy sheriff need not be appointed for each polling place.~~
- (e) *Canvassing board.* For any city election, the city commission shall appoint three (3) of its members to be the canvassing board. No commissioner or mayor shall participate in the canvassing of the returns of an election for which said commissioner or mayor is a candidate or subject to recall. For any disqualified city commissioner or mayor, the city clerk shall act as the alternate canvassing board member.

Section 9. Amendment #4 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 8 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

**Question #4:
Form of Ballot and Elections**

Shall Section 3.03 and Section 3.04 of the Winter Park City Charter be amended to require that the conducting of city elections and form of ballots be consistent with state law, to delete the requirements for charter amendment ballots and to eliminate the subsection on poll workers to

avoid potential conflicts with the Orange County Supervisor of Elections' poll worker operations?

Yes _____

No _____

Section 10. Charter Amendment #5. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 5.05. - Petitions.

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least ten (10) percent of the total number of qualified voters registered to vote at the last regular city election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (d) *Time for filing referendum petitions.* Referendum petitions must be filed within ~~thirty (30)~~ forty-five (45) days after adoption by the commission of the ordinance sought to be reconsidered.

Sec. 5.08. - Action on petitions.

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

- (b) *Submission to voters.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than ~~sixty (60)~~ ninety (90) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the commission shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election; otherwise, the vote shall be held at the same time as such regular election, except that the commission may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available for inspection at the office of the city clerk or other designated official not less than five (5) days prior to the election and at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the date scheduled for a vote of the city by filing with the clerk or other official designated by the commission a request for withdrawal signed by at least four-fifths (4/5) of the members of the petitioners' committee. Upon the filing of such request the petition shall have not further force or effect and all proceedings thereon shall be terminated.

Section 11. Amendment #5 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 10 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

**Question #5:
Citizen Referendum Petitions**

Shall Section 5.05 of the Winter Park City Charter be amended to change the deadline for citizen referendum petitions to reconsider an ordinance from 30 days to 45 days after the commission adopts an ordinance and to amend Section 5.08 of the City Charter to change the deadline for conducting a referendum on a citizen referendum petition from 60 days to 90 days from the date that the petition was deemed sufficient?

Yes _____

No _____

Section 12. Charter Amendment #6. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 2.07. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of a commissioner or the mayor shall become vacant upon his the death, resignation, removal from office in any manner authorized by law or forfeiture

of his ~~the~~ office, such forfeiture to be declared by the remaining members of the commission.

(b) *Forfeiture of office.* A commissioner or the mayor shall forfeit his office if he lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law.

(c) *Filling vacancies.* If a vacancy occurs in the seat of a Commissioner sixty (60) days or less before the next general election, the remaining Members of the Commission shall may appoint, by majority vote, a qualified person to fill the vacancy until the next general election. If the vacancy occurs more than sixty (60) days before the next general election, the remaining members of the Commission shall appoint, by majority vote, a qualified person to fill the vacancy until the next general election at which time a successor will be elected to serve the remainder of the unexpired term. In the event the remaining Members are deadlocked and unable to choose a successor by a majority vote, then the remaining Commissioners, excluding the Mayor, shall each submit the name of a proposed successor, and the Mayor shall appoint the successor from those names submitted. Notwithstanding any quorum requirements established herein, if at any time the membership of the Commission is reduced to less than a quorum, the remaining Members of the commission may by majority vote, appoint additional Members.

(d) *Extraordinary vacancies.* In the event that all members of the commission are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim commission that shall serve until the next general city election, at which time such vacancies shall be filled for the balance of the unexpired terms.

Section 13. Amendment #6 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 12 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

**Question #6:
Filling of Commissioner Vacancies**

Shall Section 2.07 of the Winter Park City Charter be amended to give flexibility as to whether to fill a Commissioner vacancy through appointment by the remaining members of the City Commission for vacancies in office occurring within 60 days of a general election?

Yes _____

No _____

Section 14. Charter Amendment #7. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of

Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 2.06. - Functions of mayor; vice mayor.

The mayor shall be a voting member of the commission. At the first regular commission meeting after certification of all city election results in years when there is a city election or in April in a year when there is no city election, the commission shall elect one of its members as vice mayor. The mayor shall preside at meetings of the commission, shall be recognized as head of city government for all ceremonial purposes, by the governor for purposes of military laws, for execution of contracts, deeds and other documents and as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities. ~~He shall annually appoint members of the city boards subject to the approval of the commission. He~~ The mayor shall have no other administrative duties except as required to carry out the responsibilities herein. The vice mayor shall act as mayor during the absence or disability of the mayor. In case of the death, resignation, or removal of the mayor, the vice mayor shall vacate the office of vice mayor and serve as mayor until the next general city election when the office of mayor shall be filled for the balance of any unexpired term. If the vice mayor does not qualify as a candidate for the vacant office of mayor at the next general city election, then upon the newly elected mayor assuming office, the vice mayor shall reassume ~~his~~ the prior office of commissioner and serve for the balance of ~~his~~ the unexpired term as commissioner. If the vice mayor does qualify as a candidate for the vacant office of mayor, then ~~his~~ that commission seat shall become vacant to be filled in the manner hereinafter provided.

2.19. – Board Appointments.

(a) *Size and Appointments.* Except as allowed by this charter or otherwise provided by the Civil Service Code or by law, all boards and ad hoc committees of the city shall have seven (7) members and with appointment of such members being made consistent with this subsection. Three (3) of the seven (7) members of the board or committee shall be appointed by the Mayor and such members shall serve at the Mayor's pleasure. Each of the four (4) City Commissioners shall appoint one (1) of the seven (7) members of the board or committee and such members shall serve at the pleasure of the City Commissioner holding the Commission seat that appointed the member. Generally, initial appointments to boards and ad hoc committees by the Mayor and individual City Commissioners are to be made at the second regular City Commission meeting occurring after the Mayor or City Commissioner is sworn in for a new term of office; however, this provision does not prevent the Mayor or City Commissioner from delaying a decision on such appointments.

(b) *Alternate members.* Alternate member positions to boards and committees may be established and alternate members appointed and removed in the manner provided by ordinance.

(c) *Exceptions.* The City Commission, by ordinance, may establish exceptions to the provisions of subsection (a) for certain boards or committees of an ad hoc nature or those having members of specialized knowledge, vocation, or an ex officio position.

(d) *Implementation.* The City Commission shall adopt an ordinance to implement this section and to establish rules and procedures governing boards and committees and appointments thereto. In order to ensure a non-disruptive transition of the membership of existing boards and ad hoc committees, the effectiveness of this section shall be delayed until the City Commission adopts an ordinance implementing this section.

Section 15. Amendment #7 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 14 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

Question #7:

Board Appointments and Election of Vice Mayor

Shall Section 2.06 of the Winter Park City Charter be amended to clarify the timing of the election of the Vice Mayor and to delete the Mayor’s lone board appointment authority and shall a new Section 2.19 of the City Charter be created establishing the size of city boards at seven members and providing for the Mayor to have three board member appointments and one appointment by each of the four City Commissioners?

Yes _____

No _____

Section 16. Charter Amendment #8. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and subsections not included are not being amended; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 2.08. - Procedure.

(c) *Voting.* Voting on ordinances and resolutions shall be by roll call vote of the Commissioners and the Mayor and shall be recorded in the journal. The affirmative vote of three (3) members of the City Commission who are ~~physically~~ present at the meeting, either in person or through the use of video-conferencing, shall be necessary to adopt any ordinance or resolution. The use of video-conferencing by an individual member of the City Commission shall be limited to not more than three (3) times per calendar year and shall be subject to approval pursuant to and governed by rules and procedures adopted by the City Commission. No other action of the commission except as provided in sections 2.07 and in 2.08(d) shall be valid or binding unless adopted by the affirmative vote of a majority of a quorum present.

Sec. 2.11. - Ordinances in general.

As used in this section, "ordinance" means an official legislative action of the commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

- (a) *Procedures for adoption.* Ordinances shall be adopted in accordance with the procedures and notice requirements provided by general law, provided further that a proposed ordinance shall be adopted when it has been read, by title or in full, and has received the affirmative vote of a majority of the city commission ~~physically present~~ on at least two (2) separate days at either regular or special meetings of the commission. If there is a change in substance in the text, then the reading at the time of change will be deemed the first reading.

Section 17. Amendment #8 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 16 of this Ordinance shall be as set forth below, and shall be followed by the words "yes" and "no":

**Question #8:
Quorum, Voting and Video-Conferencing**

Shall Section 2.08 and Section 2.11 of the Winter Park City Charter be amended to permit a quorum for voting purposes to be established by a majority of the City Commission being present in person or by way of video-conferencing and to restrict a Commission member's use of video-conferencing to not more than three times per year and by rules and procedures adopted by the City Commission?

Yes _____

No _____

Section 18. Charter Amendment #9. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of

Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and subsections not included are not being amended; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 2.17. - Annual financial audit.

In accordance with the general laws of the state, there shall be an annual financial audit to be completed, within six (6) months after the end of the fiscal year, by an independent certified public accountant. The city commission shall institute a competitive selection process and to this end shall establish an auditor selection board consisting of five (5) members. One (1) member of this board shall be a city commissioner appointed by the commission. The remaining four (4) members shall be residents of the city who have the qualifications of electors therein and are not city employees. This board shall be charged with the responsibility to solicit proposals and to screen and evaluate the proposals received. The auditor selection board shall submit its recommendations to the city commission which shall then select an auditor and award a contract for a term not to exceed ~~three (3)~~ five (5) years.

Section 19. Amendment #9 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 18 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

Question #9
Auditor Contract Term

Shall Section 2.17 of the Winter Park City Charter be amended to change the contract term for the city’s auditor from three years to five years?

Yes _____

No _____

Section 20. Charter Amendment #10. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and subsections not included are not being amended; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 3.01. - Nonpartisan elections.

(a) All qualifications and elections for the office of city commissioner or mayor shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation. Upon qualifying for office through the election, a candidate for the office of city commissioner or mayor shall not:

- (1) Campaign and/or publicly represent or advertise herself or himself as a member of any political party; or
- (2) Accept campaign contributions from any political party.

(b) A candidate for commissioner or mayor who violates a provision of this section shall be liable for a civil fine of up to \$1,000 per violation. The City Commission shall adopt an ordinance describing the procedure to determine violations, provide due process, and set fines.

Section 21. Amendment #10 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 20 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

Question #10
Nonpartisan Elections

Shall Section 3.01 of the Winter Park City Charter be amended to prohibit candidates for mayor or commissioner to campaign as a member of any political party and from accepting campaign contributions from any political party, and to establish maximum civil fines for violations and giving the City Commission authority to adopt an ordinance to determine violations, provide due process and set fines concerning non-partisan requirements?

Yes _____

No _____

Section 22. Charter Amendment #11. The City hereby proposes the amendment(s) to the City Charter described below, which amendment(s) shall be submitted to the qualified electors of the City of Winter Park (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and subsections not included are not being amended; stars *** indicate separations between sections and do not represent Charter amendments):

Sec. 5.10. - Charter Amendments.

- (a) *Initiation by ordinance.* The Commission may by ordinance propose amendments to any part or all of this Charter, except Section 1.02 prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote of

the electors at the next general election held within the city or at a special election called for such purpose. Amendment of Section 1.02, resulting from annexation done in accordance with general law, shall be by ordinance of the commission and shall not be subject to a vote of the electors except as provided by general law.

- (b) *Initiation by petition.* The electors of the city may propose amendments to this Charter by petition signed by at least ten (10) percent of the total number of qualified voters registered to vote in the last regular city election.
- (1) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed charter amendment. The clerk or other official designated by the commission may, at an elector's request, issue the appropriate petition blanks to the elector at the elector's expense.
- (2) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed charter amendment.
- (3) *Certification of petition.* Upon certification of the sufficiency of the petition by the clerk or other official designated by the commission, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular city election, the commission shall place the proposed amendment to a vote of the electors not less than thirty (30) days and not later than one hundred eighty (180) days after certification. If no regular election is to be held within the period prescribed by this subsection, the commission shall provide a special election called for such purpose.
- (c) *Charter Review.* The City Commission shall appoint a Citizens' Charter Review Advisory Committee to review this charter a minimum of every ten (10) years to make recommendations, if any, to the City Commission for possible submission to the voters.

Section 23. Amendment #11 Ballot Question. The ballot title and summary for the City Charter amendment(s) described in Section 22 of this Ordinance shall be as set forth below, and shall be followed by the words “yes” and “no”:

Question #11
Charter Amendment Process

Shall the charter amendment provisions of Section 1.03 of the Winter Park City Charter be renumbered to Section 5.10 and be amended to change the deadline from 60 days to 180 days to hold a vote on a proposed charter amendment after an elector petition is certified as sufficient?

Yes _____

No _____

Section 24. Referendum. The forgoing proposed amendments to the Charter of the City of Winter Park and their accompanying ballot questions shall be individually placed on the City ballot and submitted to the qualified electors of the City of Winter Park at the election held on **March 17, 2020**. The qualified voters shall have an opportunity to vote on the proposed amendments to the Charter. The City Clerk is hereby authorized and directed to advertise the referendum election authorized herein in accordance with the applicable provisions of the City Charter, City Code, Florida Statutes, Florida Administrative Code, and federal law. In the event it becomes necessary, as determined by the City Commission, to make modifications to any ballot question, ballot summary or to remove a proposed charter amendment from the ballot contained herein after adoption of this Ordinance, the City Commission may make such modification by resolution. In the event it becomes necessary, as determined by the City Commission, to reschedule the referendum on the proposed amendments to the City Charter set forth herein, the City Commission may make such modification by resolution.

Section 25. Codification & Corrections. Any City Charter amendment provided for in this Ordinance, which receives affirmative votes from the majority of the votes cast shall be incorporated into the City Charter of the City of Winter Park. Any section, paragraph number, cross references, letter and/or any heading, may be changed or modified in the existing Charter and the charter amendments proposed herein adopted as necessary to effectuate the foregoing, including for consistency with other charter amendments adopted. Grammatical, typographical and similar like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance or the City Charter may be freely made.

Section 26. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 27. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other Ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

Section 28. Directions to City Staff. City Staff under the direction of the City Manager are directed and authorized to take such actions as are necessary and advisable to effect and carry out this Ordinance and the City Charter amendments and referendum provided for herein. If the City Charter is

amended, a copy of the revised City Charter shall be filed with the Department of State in accordance with Section 166.031(2), Florida Statutes.

Section 29. Effective Dates. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida. Any City Charter amendment provided for herein shall become effective immediately upon approval by the certified voters of the City of Winter Park and certification by the Orange County Supervisor of Elections or other appropriate officer or entity.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2019.

Mayor Steve Leary

ATTEST:

Rene Cranis, City Clerk



city commission agenda item

item type	Public Hearings	meeting date	11/25/2019
prepared by	Planning	approved by	City Manager, City Attorney
board approval	yes final vote		
strategic objective	Exceptional Quality of Life, Intelligent Growth and Development		

subject

Request of the Sydgan Corp. for:

Conditional Use approval to add a third story onto the existing two-story garage and guest house building to the rear of the three-story building at 411 West New England Avenue, zoned C-2.

motion / recommendation

Recommendation by staff and the P&Z Board for approval of the Conditional Use request.

background

This is a Conditional Use request that seeks to add a third story onto the existing two-story garage and guest house building to the rear of the three-story building located at 411 West New England Avenue, which is zoned C-2.

Project Description

The 411 West New England Avenue property measures 6,500 square feet in size. The property's current C-2 zoning allows for a 200% Floor Area Ratio (FAR). The existing square footage of the three and two story buildings on the property measures 9,072 square feet (FAR of 139%), and with the 616 square foot third-story addition, brings the total square footage of property to 9,688 square feet (FAR of 149%). The addition creates no new parking impact as it is part of the residence on the third floor of the 411 Building.

Compatibility with the Surroundings

There are several other three story buildings in this immediate vicinity including the 411 Building out front and others at 425 West New England, 444 West New England and 433 West New England Avenue. In this location behind the 411 building, this addition will not be visible from the street.

Summary

This third floor addition meets the Zoning Code setbacks and FAR. It creates no new impervious surface or parking impact. It is compatible with other three story buildings in the immediate proximity.

Minutes from the November 5, 2019 P&Z Board Meeting:

- **CU #19-11 Request of The Sydgan Corp. For: Conditional Use Approval to add a third-story onto the existing two-story garage and guest house building to the rear of the three-story building at 411 West New England Avenue, Zoned C-2.**

Senior Planner Allison McGillis read the staff report and explained that the item was a Conditional Use request to add a third story onto the existing two-story garage and guesthouse building in the rear of 411 West New England Avenue, which is, zoned C-2. She stated that all third stories whether an addition or new building in the Hannibal Square district require a Condition Use.

Mrs. McGillis stated that the addition measured 616 square feet in size and provided a map indicating where the addition would be located. She explained that the addition would be internal to the block and only visible from the eastern side of S. Virginia Avenue. She noted the entire property measures 6,500 square feet in size and its C-2 zoning allows for a 200% Floor Area Ratio (FAR). The existing buildings on the property currently have a Floor Area Ratio of 139% and with the 616 square foot addition; the total FAR would increase to 149%, which is still in the maximum allowable by code.

Mrs. McGillis provided exhibits of the floorplans of each of the stories in the back of the building outlining the third-story addition. She stated that the addition would be a den for the existing residence on the third story of the building and provided slides of existing views of the property and elevations of the proposed addition.

Mrs. McGillis summarized by stating that overall the request meets all of the code requirements, no variances were requested and no additional parking is needed for the addition since it was added on square footage for the third-story addition.

Staff recommendation was for approval.

There were no questions for Staff.

Applicant Dan Bellows, 411 West New England Avenue, Winter Park, FL addressed the Board explaining that the he is the property owner and the third floor of the building was his primary residence. Mr. Bellows stated that his family was expanding which was the reason for building the addition to his home. He noted one of the tenants (Dr. Trevisani) who rents the second floor of the building was present at the hearing who had expressed concerns with issues related to roofing construction previously done on the property. Mr. Bellows stated that he and the tenant (Dr. Trevisani) spoke prior to the hearing and he agreed, for the record, that they had negotiated days and times (Tuesdays, Thursdays and Saturdays) when Mr. Bellows could work on the construction of the addition and not impede Dr. Trevisani's business. Lastly, Mr. Bellows noted that he appreciated Dr. Trevisani's comments and he would work around the doctor's schedule.

Mr. Bellows then answered questions from the Board regarding views of neighbors and timeline for construction of the addition.

The Board heard public comment from:

Thomas Trevisani 1320 Bridgeport Drive, Winter Park FL addressed the Board. Dr. Trevisani thanked the Planning and Zoning Board for their service to the community and explained that he enjoyed having his practice located at the applicant's building. He recounted his experience during the roof repair and explained how it affected his practice. He explained that he had come to the hearing to get direction from the Board, but after speaking with Mr. Bellows, believed that the construction of the addition would have minimal impact on his practice. He explained his concerns with needing unobstructed parking and access to the front door for his patients and stated

that as long as he and Mr. Bellows agreed to a construction schedule, everything should be ok.

John Skolfield, 358 Vitoria Avenue, Winter Park, FL addressed the Board. He commended Mr. Bellows for his contributions to the development of New England Avenue and stated that he was in support of the request.

No one else from the public wished to speak. The public hearing was closed.

Mr. Bellows answered questions from the Board regarding ADA access during the construction on the addition. Mr. Bellows stated there would be no obstructions that would impede ADA accessibility during construction.

In addition, the Board asked Mr. Bellows if there would be a development agreement between himself and Dr. Trevisani. Mr. Bellows stated that Dr. Trevisani would be writing a letter to Mr. Bellows with his conditions and Mr. Bellows would then agree and sign the letter. The Board advised that a letter of agreement would protect both parties.

The Board agreed with Staff's recommendation.

Motion made by Christian Swann, seconded by Laura Turner, for Conditional Use approval to add a third-story onto the existing two-story garage and guest house building to the rear of the three-story building at 411 West New England Avenue, Zoned C-2.

The motion carried unanimously with a 7-0 vote.

[alternatives / other considerations](#)

N/A

[fiscal impact](#)

N/A

ATTACHMENTS:

Description

Backup Materials

Upload Date

11/13/2019

Type

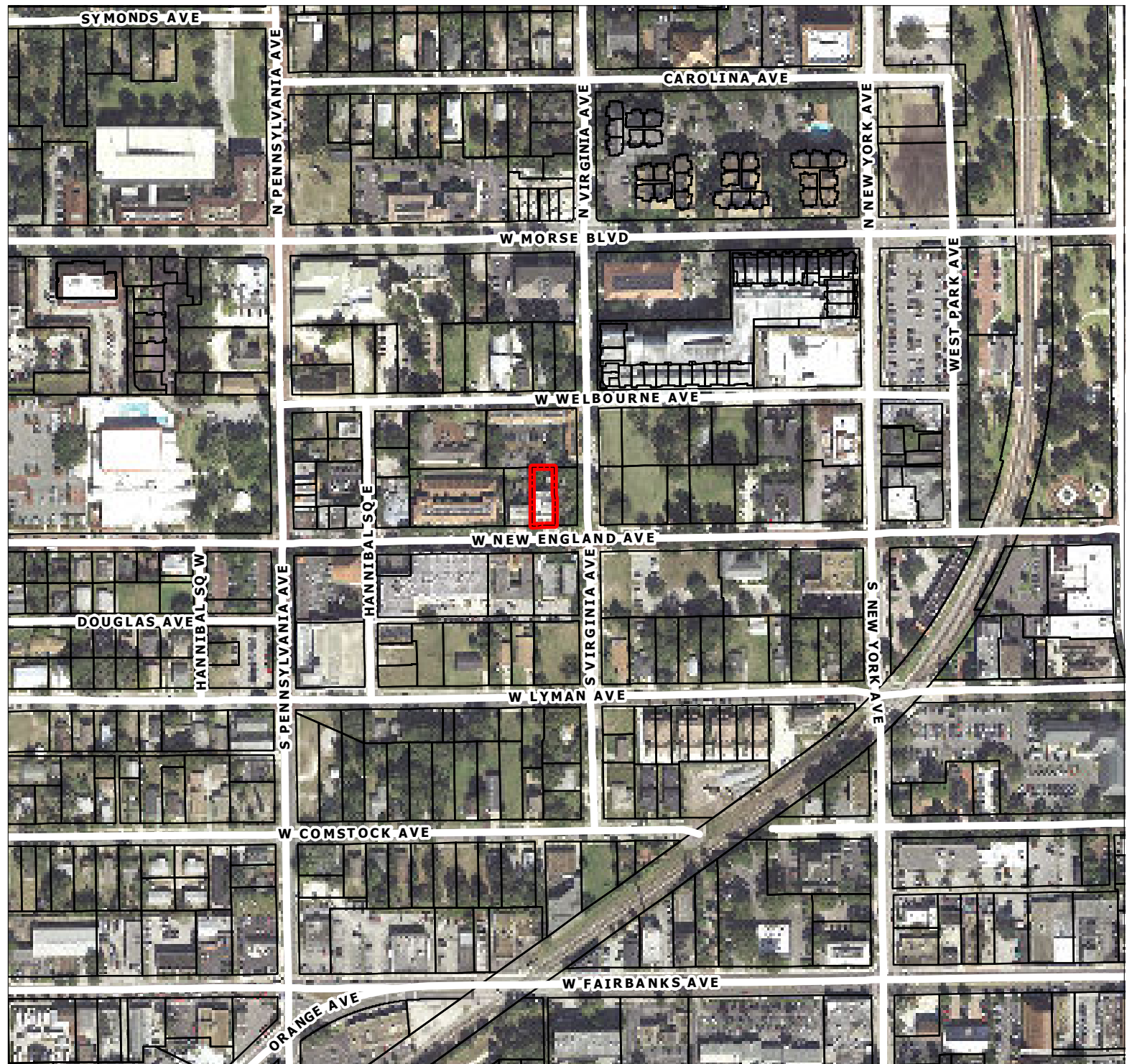
Backup Material



LOCATION MAP

411 W New England Ave

City of Winter Park
Florida



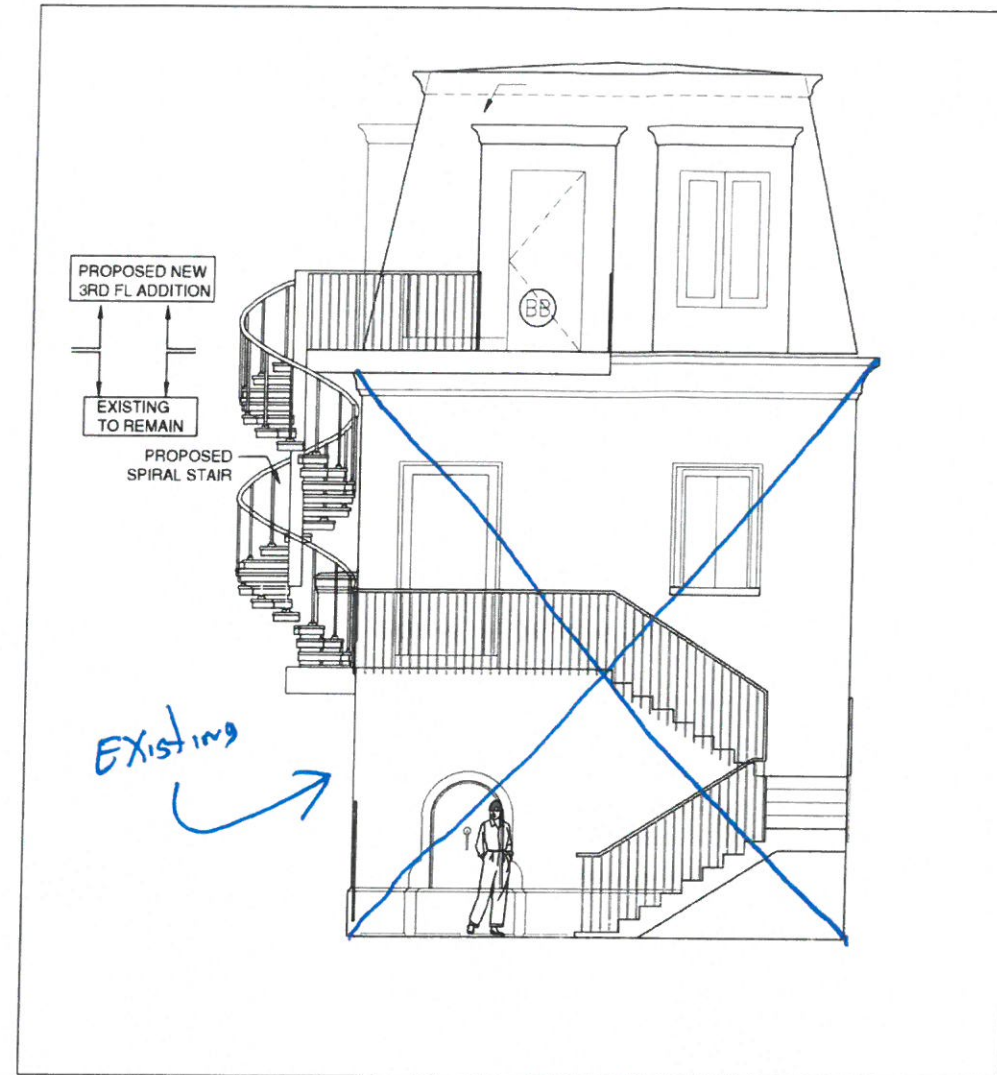


LOCATION MAP

411 W New England Ave

City of Winter Park
Florida





JOB: 411 W. New England Ave., GUESTHOUSE
Winter Park, Fla 32789

RE: 3RD FL Den Addition

OWNER
Winter Park Redevelopment Agency, Ltd - PO
Box 350
Winter Park, Fla 32790
407-644-3151

GENERAL CONTRACTOR
Sydgan Corporation - PO Box 350
Winter Park, Fla 32790
407-644-3151
CGC1522161

CONTACT:
Daniel B. Bellows
Sydgan Corporation
PO Box 350
Winter Park, Fla 32790
407-644-3151

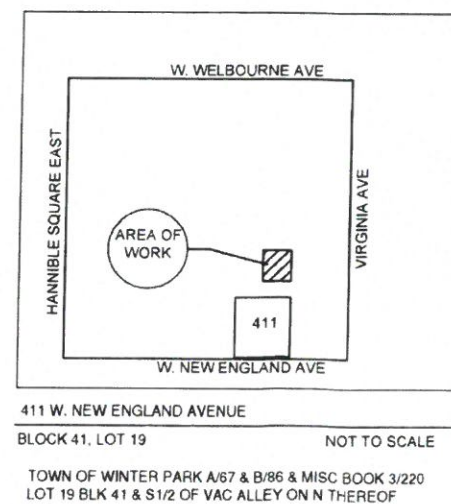
STRUCTURAL ENGINEER
BISHOP ENGINEERING
4776 NEW BROAD ST, SUITE 150
ORLANDO, FL 32814

T/ 407-622-2477
F/ 407-622-2479

FAR SCHEDULE:

LOT SIZE: 50' X 130' = 6500 SF
ZONING : C-2
ALLOWABLE FAR: 200% / 13,000 SF
EXISTING FAR: 9072 SF
PROPOSED ROOM ADDITION: 616 SF
TOTAL NEW FAR: 9688 SF

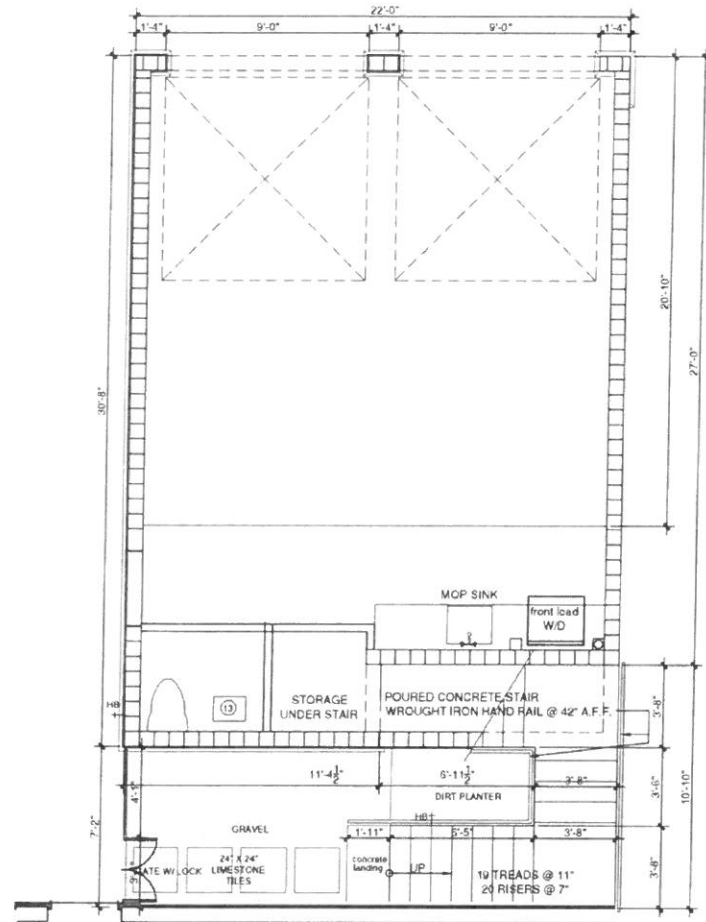
PARKING: NO INCREASE



411 GUESTHOUSE WEST NEW ENGLAND
REVISED 3RD FLOOR
WINTER PARK, FL 32790

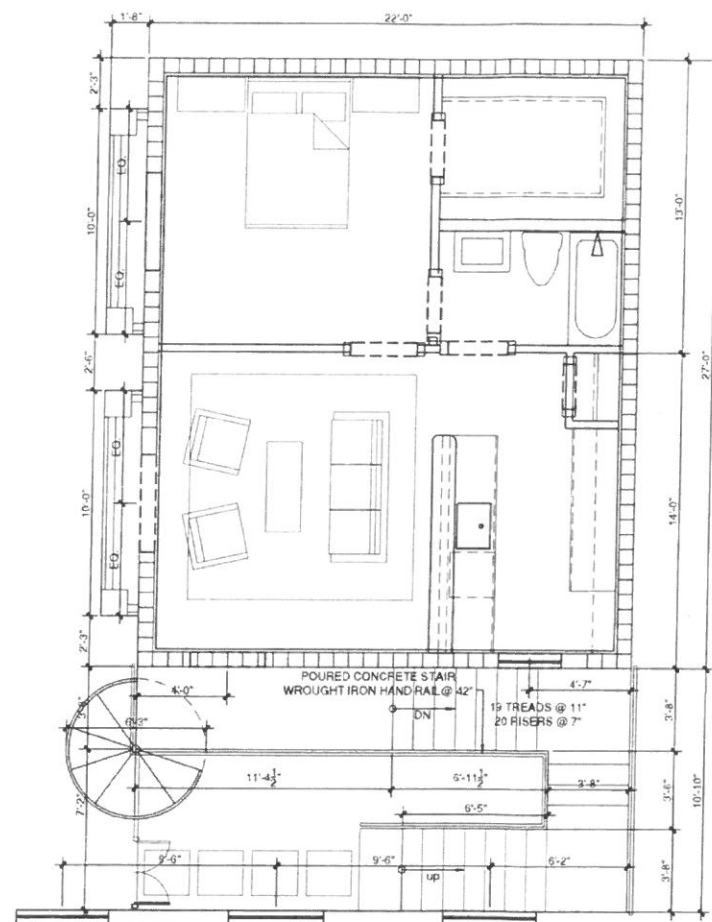
PRELIMINARY
NOT FOR
CONSTRUCTION

MOD	T/ 407.740.5585	MO@MODinc.us	NO	REVISIONS
DWG NO.	SCALE: N/A	DATE: 08-15-19	DATE	
CS				



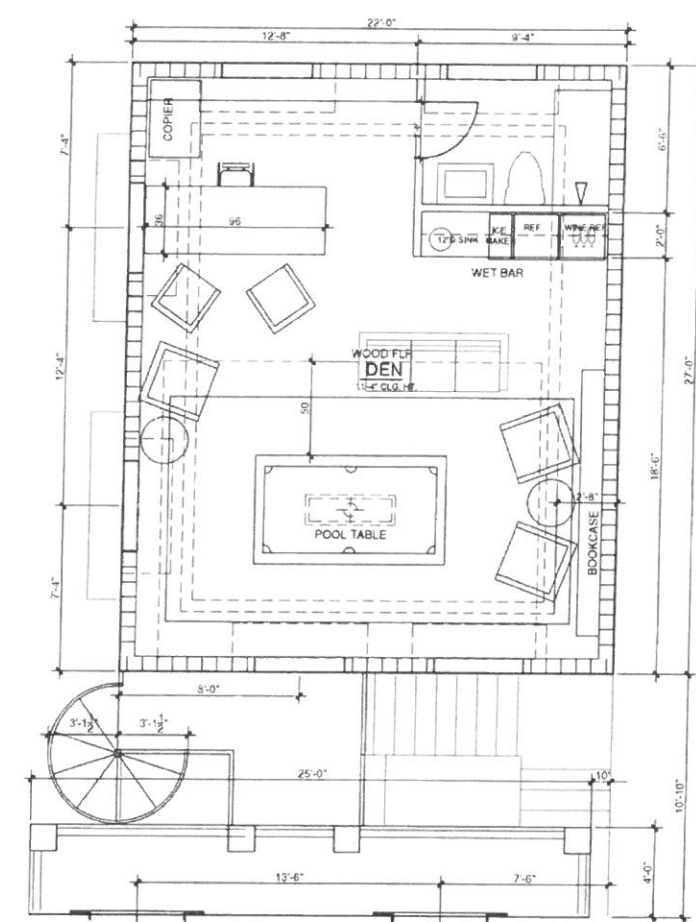
GROUND LEVEL PLAN EXISTING
1/8" = 1'-0"

1
A-1



2ND LEVEL PLAN EXISTING
1/8" = 1'-0"

1
A-1



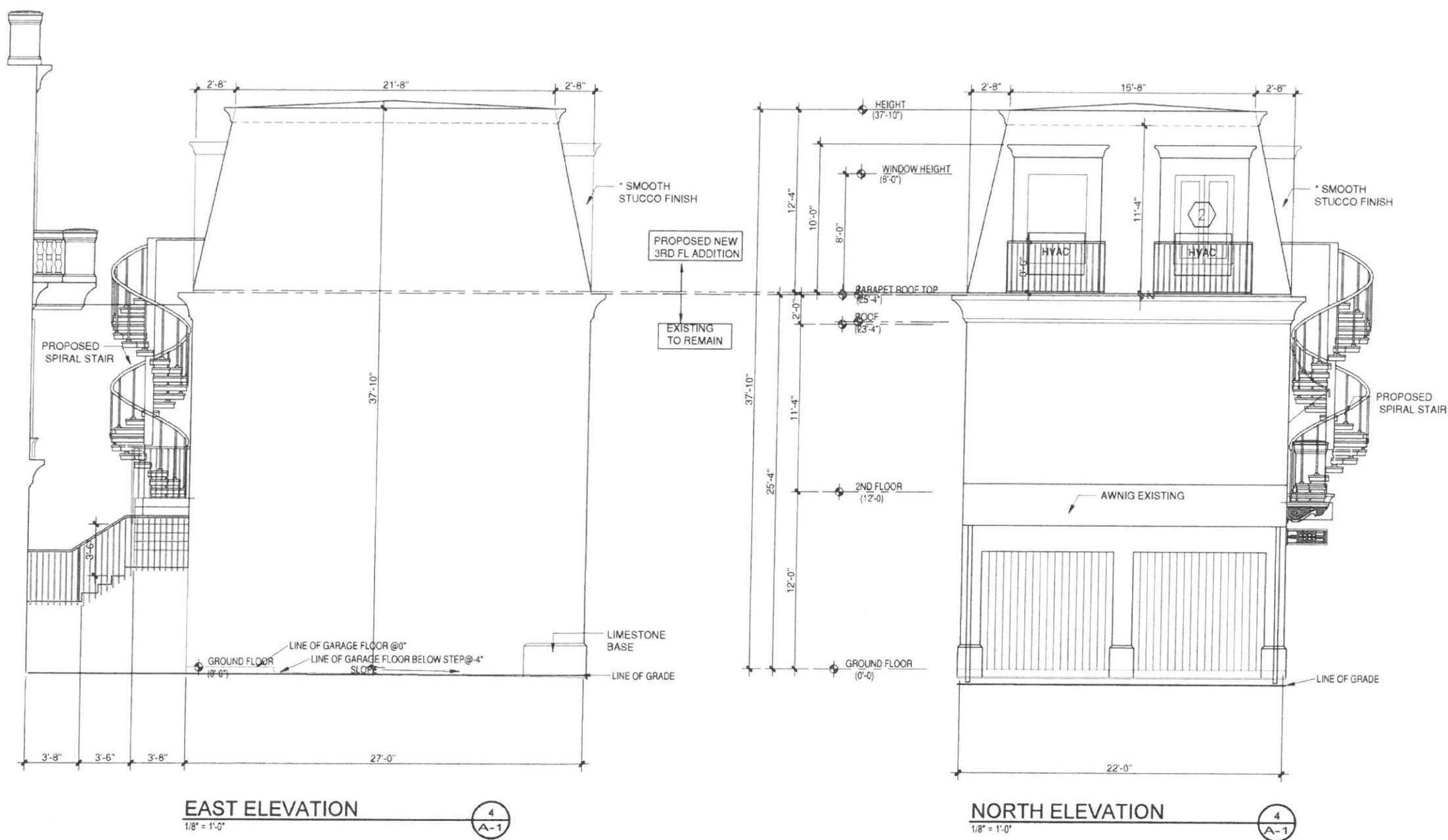
3RD LEVEL PLAN PROPOSED
1/8" = 1'-0"

1
A-1

411 GUESTHOUSE WEST NEW ENGLAND
REVISED 3RD FLOOR
WINTER PARK, FL 32790

PRELIMINARY
NOT FOR
CONSTRUCTION

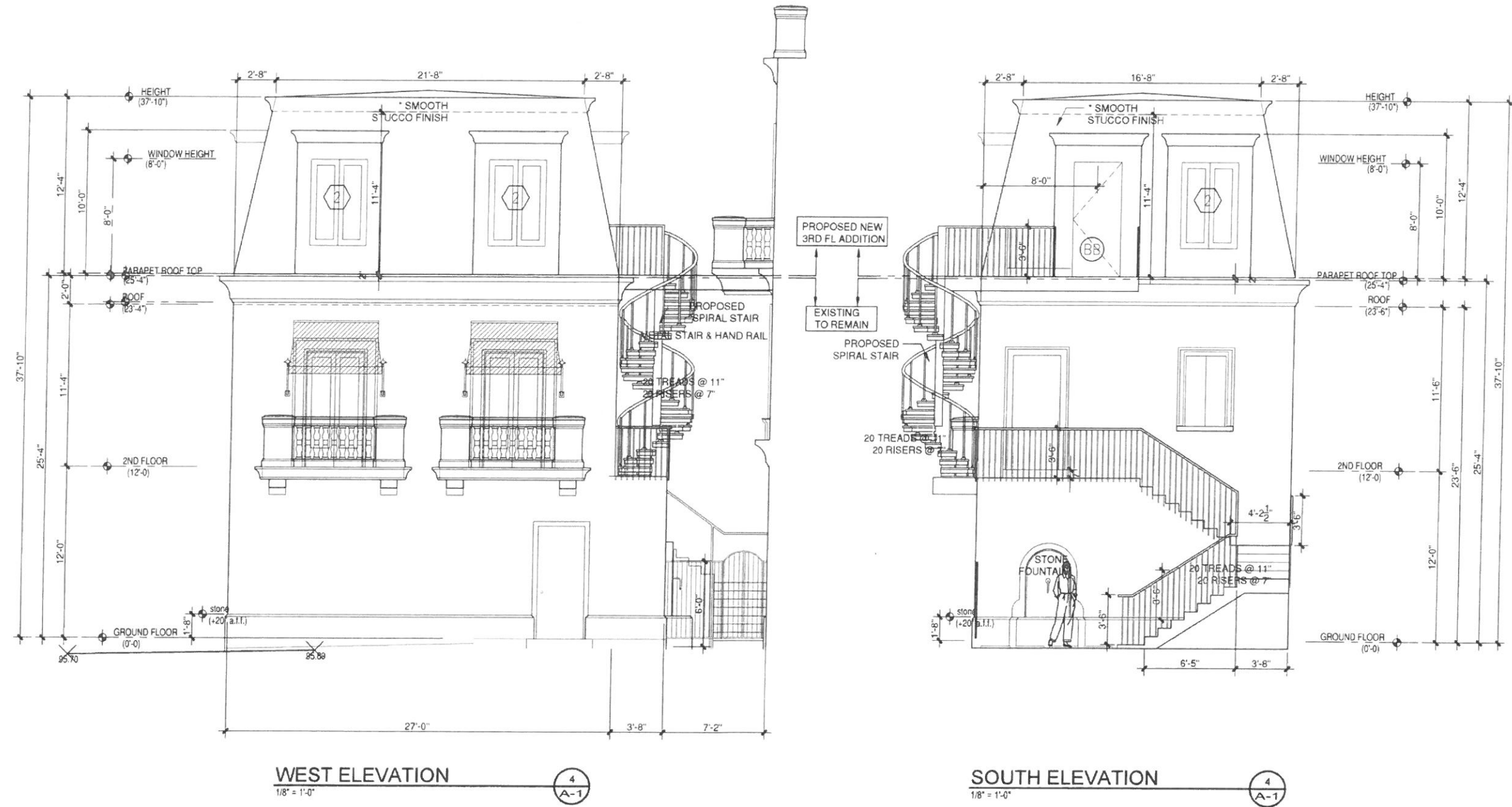
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DWG NO.	SCALE: N/A	DATE: 08-15-19
A1	NO REVISIONS	



411 GUESTHOUSE WEST NEW ENGLAND
REVISED 3RD FLOOR
WINTER PARK, FL 32790

PRELIMINARY
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CONSTRUCTION

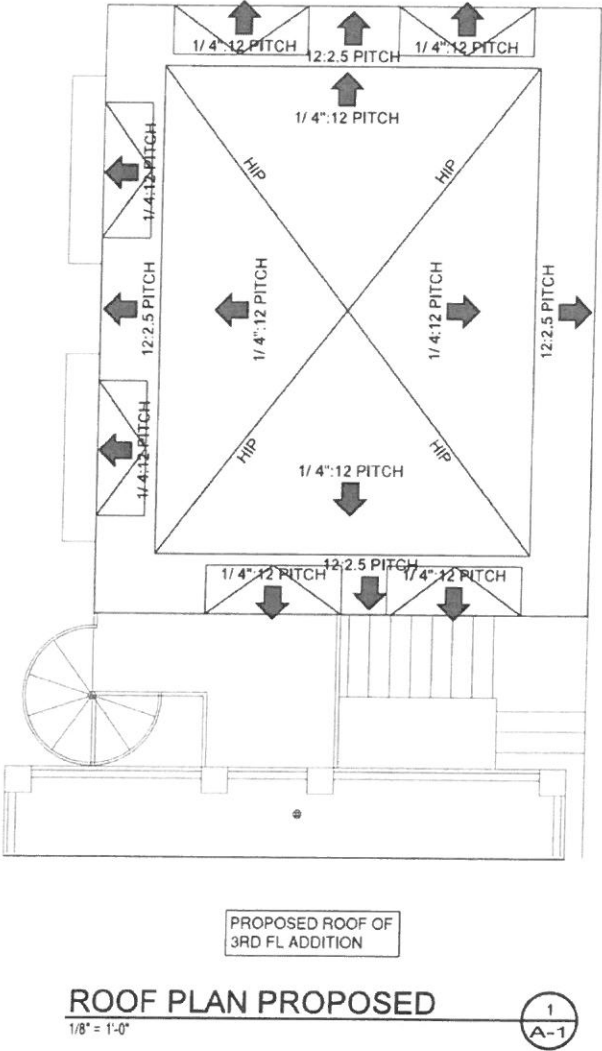
MOD	DWG NO.	T/ 407.740.5585		MO@MODinc.us	
		SCALE	DATE	NO.	REVISIONS
E1		N/A			
		DATE	08-15-19		



411 GUESTHOUSE WEST NEW ENGLAND
REVISED 3RD FLOOR
WINTER PARK, FL 32790

PRELIMINARY
NOT FOR
CONSTRUCTION

MOD	T/ 407.740.5585		MO@MODinc.us	
	DWG NO.	SCALE	DATE	NO. REVISIONS
E2	N/A	08-15-19		



MOD		T/ 407.740.5585		MO@MODinc.us		<div>PRELIMINARY NOT FOR CONSTRUCTION</div>		411 GUESTHOUSE WEST NEW ENGLAND <div>REVISED 3RD FLOOR WINTER PARK, FL 32790</div>	
DWG NO. <div>R1</div>	SCALE	N/A	DATE	NO.	REVISIONS				
		DATE: 08-15-19							
</									

BOUNDARY SURVEY FOR / CERTIFIED TO: Winter Park Redevelopment Agency & Daniel B. Bellows; David Englert;
Paradise Bank; Liberty Title; Old Republic National Title Insurance Co.

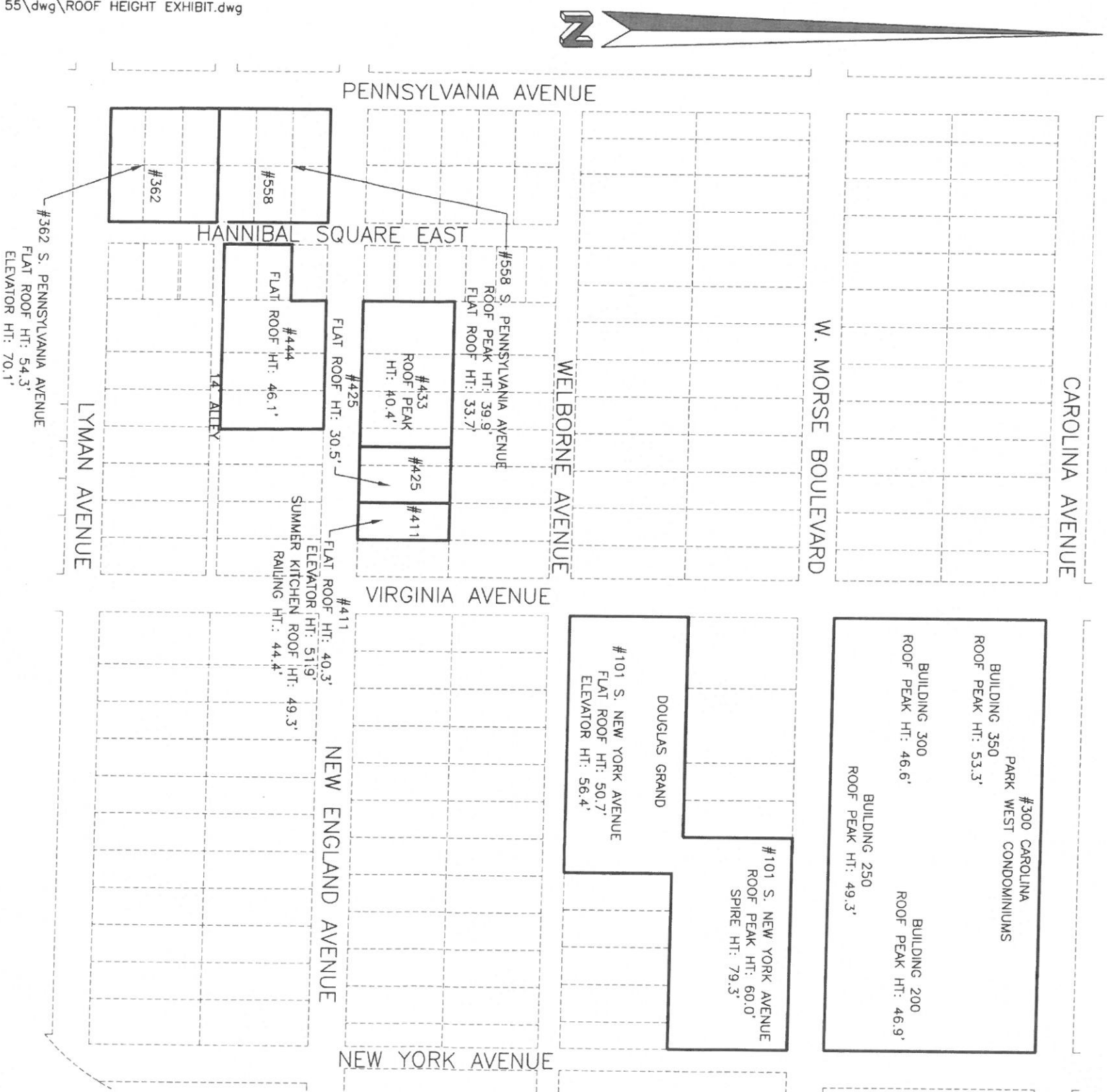


GRUSENMEYER-SCOTT & ASSOC., INC. - LAND SURVEYORS

- 5400 E. COLONIAL DR. ORLANDO, FL. 32807 (407)--277-5232 FAX (407)--656-1436
- NOTES: 1. THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 6101-7-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 4172-0027 FLORIDA STATUTES.
2. UNLESS EMBOSSED WITH SURVEYOR'S SEAL, THIS SURVEY IS NOT VALID AND IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.
3. THIS SURVEY WAS PREPARED FROM TITLE INFORMATION FURNISHED TO THE SURVEYOR. THERE MAY BE OTHER RESTRICTIONS OR ENCUMBRANCES THAT AFFECT THIS PROPERTY.
4. NO UNDESIRABLE ENCUMBRANCES HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
5. THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY.
6. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
7. BEGINNINGS ARE BASED ASSUMED DATUM AND ON THE LINE SHOWN AS BASE BEARING (BB).
8. ELEVATIONS, IF SHOWN, ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929, UNLESS OTHERWISE NOTED.
9. CERTIFICATE OF AUTHORIZATION NO. 4356.
- SCALE: 1" = 20' DRAWN BY: JB of ol
- DATE: _____

(CRUEL-PR No.

EXHIBIT
BUILDING HEIGHTS
411 W. NEW ENGLAND AVENUE
WINTER PARK, FL 32789
(AND SURROUNDING AREA)
FOR
SYDGAN CORPORATION



LEGEND

HT	HEIGHT
#	ADDRESS

SURVEYOR'S NOTES:


- Z:\Projects\Town of Winter Park Block 55\dwg\ROOF HEIGHT EXHIBIT.dwg
-
- LEGEND**
- | HT | HEIGHT |
|----|---------|
| # | ADDRESS |
- SURVEYOR'S NOTES:**
1. This is not a survey.
 2. The purpose of this exhibit is to show the height of the roofs and elevator shafts at the locations noted.
 3. All addresses are on New England Avenue unless otherwise noted.

HLSN, LLC
Hennich-Luke-Swagerty-Menard
Professional Surveyors & Mappers

Licensed Business No. 7276
794 Big Tree Drive, Suite 108
Longwood, Florida 32750
P. (407) 647-7546
F. (407) 982-7166
Survey@HLSM.US

Job No: F-180
Field Date: 4/10/15
Drawn By: ADA
Scale: 1"=200'

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


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



city commission agenda item

item type	Public Hearings	meeting date	11/25/2019
prepared by	City Clerk	approved by	City Manager, City Attorney
board approval	yes final vote		
strategic objective	Exceptional Quality of Life, Intelligent Growth and Development		

subject

Request of Chez Vincent and Hannibal's and the City of Winter Park for:

- An Ordinance amending Chapter 58 "Land Development Code" Article III, "Zoning" Section 58-84 to provide for the same hours of sale of alcoholic beverages that exist within the City at-large to be applied within the New England Avenue portion of the Hannibal Square Neighborhood Commercial district. (1)
- An Ordinance amending Chapter 62, Division 2, Noise and Disturbance Control, providing for the same noise controls that exist within the Central Business District to be applied within the Hannibal Square Neighborhood Commercial district. (1)

motion / recommendation

Recommendation by staff to approve the Ordinances as presented.

background

Staff has revised the Ordinances in response to the action to table on October 28th. Now these two ordinances are intended to provide consistency on Park Avenue and New England Avenue by establishing the same hours of alcoholic beverage sale and consumption and the same rules for noise control.

As discussed previously, in 1995/1996 when the CRA evolution of New England Avenue, there was a serious concern about the impact that new bars and restaurants might have on the surrounding residential homes and apartments. The goal of the CRA was to establish a "restaurant district" but the City did not want New England Avenue to become a "bar and nightclub district". To ensure that outcome, the City established earlier closing hours for New England Avenue and the rest of the Hannibal Square Neighborhood Commercial district. Those hours are closing at 11:00 pm on Sunday thru Thursday and 12:00 Midnight on Friday and Saturday nights. The rules in the Central Business District and everywhere else in the City are closing at 2:00 am except for 12:00 Midnight on Sundays. This earlier closing hours has been a source of frustration for restaurants on New England Avenue that have operated within the area that cannot host later evening dinners or special events and

have customers that leave to go to Park Avenue, where the rules allow for later hours of operation.

In the 1980's, a problem of live music existed along Park Avenue with bands playing late at night that were disturbing to the guests at the Park Plaza Hotel and nearby residential properties. The solution was to adopt noise controls for the Central Business District that create a violation after 10:00 pm if one can hear the sound of live music 50 feet away from an establishment. Those established conditions have adequately addressed the issues that once existed along Park Avenue.

The Ordinances establish consistency in two ways. One Ordinance would establish the same hours of alcoholic beverage sale and consumption that exist in the Central Business District to also apply on the New England Avenue portion of the Hannibal Square Neighborhood Commercial district, which is until 2:00 AM, and 12:00 AM on Sundays. The second Ordinance establishes the same cut-off hours of 10:00 pm for live music.

These regulations have worked well along Park Avenue to maintain the primary focus as a "restaurant district" and not as a "bar/nightclub district". The same then will be the case on New England Avenue in the Hannibal Square Neighborhood Commercial district.

There was no "promise" that the hours of sale would be changed after one year. It was agreed that the hours could be revisited after one year after the "one year probation" but the reason the shorter hours have remained in place since 1995 was that no one wanted the live music at Dexter's to be heard by residents until 2:00 am. Now that Dexter's has closed and moved to Ravaudage, it opens up the opportunity for consistency of the hours city-wide. Provided that there are adequate controls on noise.

Mr. Barnes has asked that the City Commission to consider making that 10:00 pm cut-off apply in all residential areas. In that way if there were a party with music playing that was bothersome and people could not sleep, the music could be ended at 10:00 pm versus now only at 11:00 pm. Another option is to have a 10:00 pm cut-off for any outdoor music/live bands city-wide since those are the instances that generate complaints affecting many homes.

The Police Dept. will enforce whatever rules the City Commission establishes for other residential areas city-wide. However, the Police Dept. does expect some increase in calls if officers must respond an hour earlier after 10:00 pm city-wide versus after 11:00 pm now. These are difficult calls due to the nature of call, multiple people on scene and often uncooperative hosts.

Parties/music inside residences is typically not what generates calls to the Police. It is outdoor music from bands or music systems that generates the calls to the Police since they affect a much wider number of homes. An alternative is to have a 10:00 pm cut-off for outdoor music. Then the Police can ask that the party and music move indoors.

alternatives / other considerations

N/A

fiscal impact

N/A

ATTACHMENTS:

Description	Upload Date	Type
Ordinance - Hours for Sale of Alcoholic Beverages	11/19/2019	Backup Material
Ordinance for Noise Control	11/19/2019	Backup Material

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING REGULATIONS" SECTION 58-84 "GENERAL PROVISIONS FOR NONRESIDENTIAL ZONING DISTRICTS" AND CHAPTER 10 "ALCOHOLIC BEVERAGES" SECTION 10-33 "HOURS DURING WHICH SALES, CONSUMPTION AND SERVICE ARE PROHIBITED" SO AS TO ESTABLISH UNIFORM HOURS OF SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON NEW ENGLAND AVENUE AS CURRENTLY ARE IN PLACE CITY-WIDE.

WHEREAS, the City Commission of the City of Winter Park (the "City") recognizes that the hours of sales and consumption of alcoholic beverages and the hours of live music at venues located nearby residential homes and apartments can affect the livability and peaceful enjoyment of those residential neighbors; and

WHEREAS, the City recognizes that providing for uniform hours for the sale and consumption of alcoholic beverages and for the control of noise city-wide in the equitable manner in which to protect the public health, safety and general welfare.

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

SECTION 1: Recitals. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

SECTION 2: Amendment to Section 58-84. That Chapter 58 "Land Development Code", Article III "Zoning", Section 58-84 "General Provisions", of the City of Winter Park Code of Ordinances is hereby amended to delete subsection (x) of Section 58-84 in its entirety as shown below (underlined language are additions; ~~stricken through~~ language are deletions; provisions not shown are not being amended):

Section 58-84. General Provisions for Nonresidential Zoning Districts.

(x) Restaurant, bar, tavern, lounge; conditional uses in the Hannibal Square neighborhood. The city has established that restaurants, bars, taverns or lounges, in the Hannibal Square Neighborhood Commercial District located on Morse Boulevard or on Pennsylvania Avenue north of Morse Boulevard, shall be limited in the hours of sale and consumption of alcoholic beverages due to the proximity of residential homes and apartments and the related problems of nighttime activity and noise generated by these establishments and their customers outside the establishments. This restriction shall be in effect within the geographic area of the Hannibal Square neighborhood bounded by Denning Drive, Comstock Avenue, New York Avenue and Webster Avenue. The restriction shall limit the hours of sale and consumption of alcoholic beverages to no later than 11:00 p.m. on Sundays through Thursdays and no later than 12:00 a.m. (midnight) on Fridays and Saturdays, except for New Year's Eve when the hours are extended until 1:00 a.m.

SECTION 3. Amendment to Section 10-33. That Chapter 10 "Alcoholic Beverages", Section 10-33 "Hours during which sales, consumption and service are prohibited" of the Code of Ordinances is hereby amended to delete subsection (j) of Section 10-33 in its entirety as shown below (underlined language are additions; ~~stricken through~~ language are deletions; provisions not shown are not being amended):

Sec. 10-33. - Hours during which sales, consumption and service are prohibited.

(j) The city has established that restaurants, bars, taverns and cocktail lounges located on Morse Boulevard or on Pennsylvania Avenue, north of Morse Boulevard, in the Westside neighborhood shall be limited in the hours of sale and consumption of alcoholic beverages due to the proximity of churches, residential homes and apartments and the related problems of nighttime activity and noise generated by these establishments. ~~This restriction shall be in effect within the geographic area of the Westside community bounded by Denning Drive, Comstock Avenue, New York Avenue and Webster Avenue.~~ The restriction shall limit the hours of sale and consumption of alcoholic beverages to no later than 11:00 p.m. on Sundays through Thursdays and no later than 12:00 a.m. (midnight) on Fridays and Saturdays.

SECTION 4. INCONSISTENCY. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION 5: SEVERABILITY. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

SECTION 6: CODIFICATION. Sections 2 and 3 of this Ordinance shall be codified and made a part of the City of Winter Park Code of Ordinances, and the sections of this Ordinance may be renumbered or re-lettered to accomplish this intention. The word "Ordinance" may be changed to "Section," "Article," or other appropriate word. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

SECTION 7: This Ordinance shall become effective immediately following approval by the City Commission at its second reading.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2019.

Mayor Steve Leary

ATTEST:

Rene S. Cranis, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 62, "OFFENSES AND MISCELLANEOUS PROVISIONS" WITHIN DIVISION 2, "NOISE AND DISTURBANCE CONTROL", SECTION 62-98, PROVIDING FOR THE SAME NOISE CONTROLS THAT EXIST WITH THE CENTRAL BUSINESS DISTRICT TO ALSO APPLY WITH THE HANNIBAL SQUARE NEIGHBORHOOD COMMERCIAL DISTRICT AND TO CLARIFY EXISTING LANGUAGE; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park (the "City") recognizes that the hours of live music and other amplified sounds at venues located nearby residential homes and apartments can affect the livability and peaceful enjoyment of those residential neighbors; and

WHEREAS, the City recognizes that providing for uniform hours for certain types of live music and other noise and sounds for the control of noise in an equitable manner for both the Central Business District and the Hannibal Square Neighborhood Commercial District is in the best interests of the public and residents in order to protect the public health, safety and general welfare.

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

SECTION 1: Recitals. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

SECTION 2: Amendment. That Chapter 62 "Offenses and Miscellaneous Provisions", Division 2 "Noise and Disturbance Control, Section 62-98 of the City of Winter Park Code of Ordinances is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; provisions not shown are not being amended):

Chapter 62. Offenses and miscellaneous provisions.

Sec. 62-98. –Central business district and Hannibal Square Neighborhood Commercial District.

(a) The regulations of this section apply within the Central Business District and Hannibal Square Neighborhood Commercial District. As used in this section, the "Central Business District" shall have the same meaning as defined within the maps of the Central Business District adopted in the Definitions section of the Comprehensive Plan of the city, Article I, Chapter 58 and is generally is defined as that part of the city bordered by Webster Avenue on the north, Interlachen Avenue on the east, Fairbanks Avenue on the south and New York Avenue on the west and that part of the city zoned central business (C-2) district. As used in this section, the "Hannibal Square Neighborhood Commercial District" shall have the same meaning

as defined within the maps of the Hannibal Square Neighborhood Commercial District adopted in the Definitions section of the Comprehensive Plan of the city, Article I, Chapter 58 and is generally that part of the city fronting on New England Avenue, Hannibal Square, Morse Boulevard and Pennsylvania Avenue.

(b) It shall be unlawful for any person operating or occupying a motor vehicle on a street or highway between the hours of 10:00 p.m. and 7:00 a.m. to operate or amplify the sound produced by a radio, tape player, or other mechanical sound making device or instrument from within the motor vehicle so that the sound:

(1) Is plainly audible to a reasonably prudent person of ordinary sensibilities on a public street or highway within the Ceentral Bbusiness dDistrict or within the Hannibal Square Neighborhood Commercial District but outside the motor vehicle in which the sound is created;

(2) Is plainly audible to a reasonably prudent person of ordinary sensibilities within a hotel or restaurant located within the Ceentral Bbusiness dDistrict or within the Hannibal Square Neighborhood Commercial District; or

(3) Is at a level that equals or exceeds 50 dBA measured at the property line of the recipient of such sound.

(c) It shall be unlawful for any person on a public street or highway between the hours of 10:00 p.m. and 7:00 a.m. to operate or amplify the sound produced by a radio, tape player, or other mechanical sound making device or instrument so that the sound:

(1) Is plainly audible to a reasonably prudent person of ordinary sensibilities within a hotel or restaurant located within the Ceentral Bbusiness dDistrict or within the Hannibal Square Neighborhood Commercial District; or

(2) Is at a level that equals or exceeds 50 dBA measured at the property line of the recipient of such sound.

(d) If a sound prohibited in subsection (b) of this section is created within a motor vehicle, the driver and each passenger shall be presumed to have individually and collectively used, operated or maintained such sound amplification device in violation of this section.

(e) It shall be unlawful for any person, business or establishment between the hours of 10:00 p.m. and 7:00 a.m. to provide musical entertainment in such manner as to create a plainly audible sound to a reasonably prudent person of ordinary sensibilities or detectable vibration that:

(1) Unreasonably disturbs the peace;

(2) Can be heard or felt at a distance of 50 feet from the building or structure in which such musical entertainment is located;

(3) Can be heard or felt inside any residential occupancy within another building or any tenant space within the same building; or

(4) Is in excess of 50 dBA as measured with a sound level meter inside any receiving property.

(f) A violation of any provision of this section shall be classified as a class II violation. Each successive repeated violation of this section shall be subject to a civil

penalty for the next higher violation classification. For example, a first violation of this section will be fined as a class II violation, a second violation will be fined as a class III violation, and so on. Nothing shall prohibit the city from enforcing this section by any other means. Further, the city commission shall have the right to revoke or suspend the permission for any musical entertainment for a period of time to be determined by the city commission in the case of repeated violations of this section.

(g) Exempted from the prohibitions of this section is the use of sound amplification devices in connection with the use of emergency, fire, police and ambulance vehicles, railway locomotives or railway crossing warning devices, emergency warning systems, and theft alarms, as well as the use of horns or other warning devices required by F.S. § 316.271 when necessary to ensure safe operation of the motor vehicle to which the horn or device is attached. Also exempted from this section is the use of sound amplification devices in connection with an event sanctioned by prior resolution or approval of the city commission or for which a special permit has been issued by the city, and the event has been given specific authority to produce sound amplification or noise within the scope of the permit.

SECTION 3. INCONSISTENCY. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

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

SECTION 5: CODIFICATION. Section 2 of this Ordinance shall be codified and made a part of the City of Winter Code or Ordinances, and the sections of this Ordinance may be renumbered or re-lettered to accomplish this intention. The word "Ordinance" may be changed to "Section," "Article," or other appropriate word. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective immediately following approval by the City Commission at its second reading.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2019.

Mayor Steve Leary

ATTEST:

Rene Cranis, City Clerk