

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

**Staff Report
September 23, 2013**

REQUEST OF THE ALBIN POLASEK MUSEUM FOR: APPROVAL TO RELOCATE THE CAPEN HOUSE NOW AT 520 INTERLACHEN AVENUE TO THE POLASEK MUSEUM AT 633 OSCEOLA AVENUE AND TO AMEND THE EXISTING DEVELOPMENT AGREEMENT TO REVISE THE NUMBER OF WEDDINGS; RECEPTIONS AND OTHER EVENTS THAT MAY BE HELD ON THE POLASEK MUSEUM PROPERTY, ZONED (PQP).

The Albin Polasek Museum and Sculpture Garden is requesting approval to relocate the Capen House from Interlachen Avenue onto the Museum grounds at 633 Osceola Avenue and to amend the existing Development Agreement to provide additional latitude on the number of rental events that may be held on-site involving more than 50 persons. The Polasek Museum is zoned Public, Quasi-Public (PQP) and within that zoning district, museums are a permitted use but their specific use is subject to the terms of the Development Agreement entered into on November 29, 2000 when the property was rezoned from Single Family Residential (R-1AA) to PQP.

Capen House Relocation: The historic Capen-Showalter house is proposed to be moved across Lake Osceola by barge to the eastern portion of the Museum property as depicted on the attached site plan. There was a house on that site (formerly 667 Osceola) that was torn down when purchased by the Polasek Museum in 2000 and incorporated into the overall museum grounds. Approval of this relocation is required because it is a change to the original development plan (Exhibit A) and because the Planning Board must review and approve all development on lakefront lots in the City per Section 58-87.

The lakefront review criteria are 1) impact on existing trees, 2) storm water retention, 3) views from the lake; and 4) protection of views of the neighbors. This is a very heavily wooded lot. As a result, there are ten trees that will be removed for the location of the Capen House and four trees to be removed in order to get the barges into the property and launched into the lake for the move. It is not shown on the site plan but there will need to be a new storm water swale as required by code for the new runoff and there is ample lakefront area to accommodate that feature. Views from the lake of the home will be significantly buffered by other existing trees. Views of the lake by the neighbors to the east at 675 Osceola Avenue (Beneke's) will be impacted, as the Capen house will be closer to the lake as shown on the site plan than their home in part due to the contour of the shoreline. The house could be moved further back on the lot but the Museum is trying to preserve the entire parking area out front and still have some "front yard" in front of the Capen house.

Development Agreement amendments: The proposed Development Agreement, as requested to be amended, is attached with the changes indicated in "track changes". Most of the changes are updates to the Agreement and do not change the essential operations or conditions. The move of the Capen house to the Polasek Museum is being done in part for historic preservation but the other main reason is to provide the Museum a new rental facility for wedding/receptions and other events as a rental income generator for the Museum and to contribute to the maintenance of the two historic properties. The Polasek Museum is very limited at present in accommodating events because virtually all of the indoor space is museum display area. The addition of the Capen House provides event rental space that does not exist today, and the income will contribute to the sustainability of both historic buildings.

This is a very similar situation to the arrangement at Casa Feliz. In both circumstances the location is in close proximity to residential neighbors. As a result, there are limitation agreements in place on both facilities with respect to the number of attendees, parking and the hours of operation.

	Friends of Casa Feliz	Polasek Foundation Request
Use	Historic house museum, meeting space, social events, luncheons, dinners, receptions and educational and cultural events.	2 historic house museums, cultural and educational activities galleries, sculpture garden, office for the Foundation, residence for artist, groundskeeper or security guard, boat dock, gift store, kitchen, museum storage, tea room educational classrooms, work rooms, auditorium/meeting rooms, pavilions and parking.
Number of events	Unrestricted.	Unrestricted.
Parking	5 reserved spaces per agreement. Secondary use of Country Club parking when available. Per <i>tenant regulations</i> , off-site parking may be arranged as needed through the Event Designer.	95 spaces on site. All events expecting 190 guests and all events anticipating more than 50 cars must contract with the Museum's parking vendor. No side street parking allowed.
Noise	Per <i>tenant regulations</i> , amplified music is not allowed outside except for wedding ceremonies only. All other amplified music must be played indoors. If police are called because of noise, the security deposited will be forfeited and the event may be shut down. DJ's must come from an approved list. Bands	No amplified sound on the exterior except for Polasek Museum events which shall not exceed four events per year.

	cannot exceed four members.	
Hours for events	Events must end by 10:00 p.m. Sunday through Thursday, and 10:30 p.m. Friday and Saturday.	Events may start no earlier than 9:00 a.m. and end by 10:00 p.m.

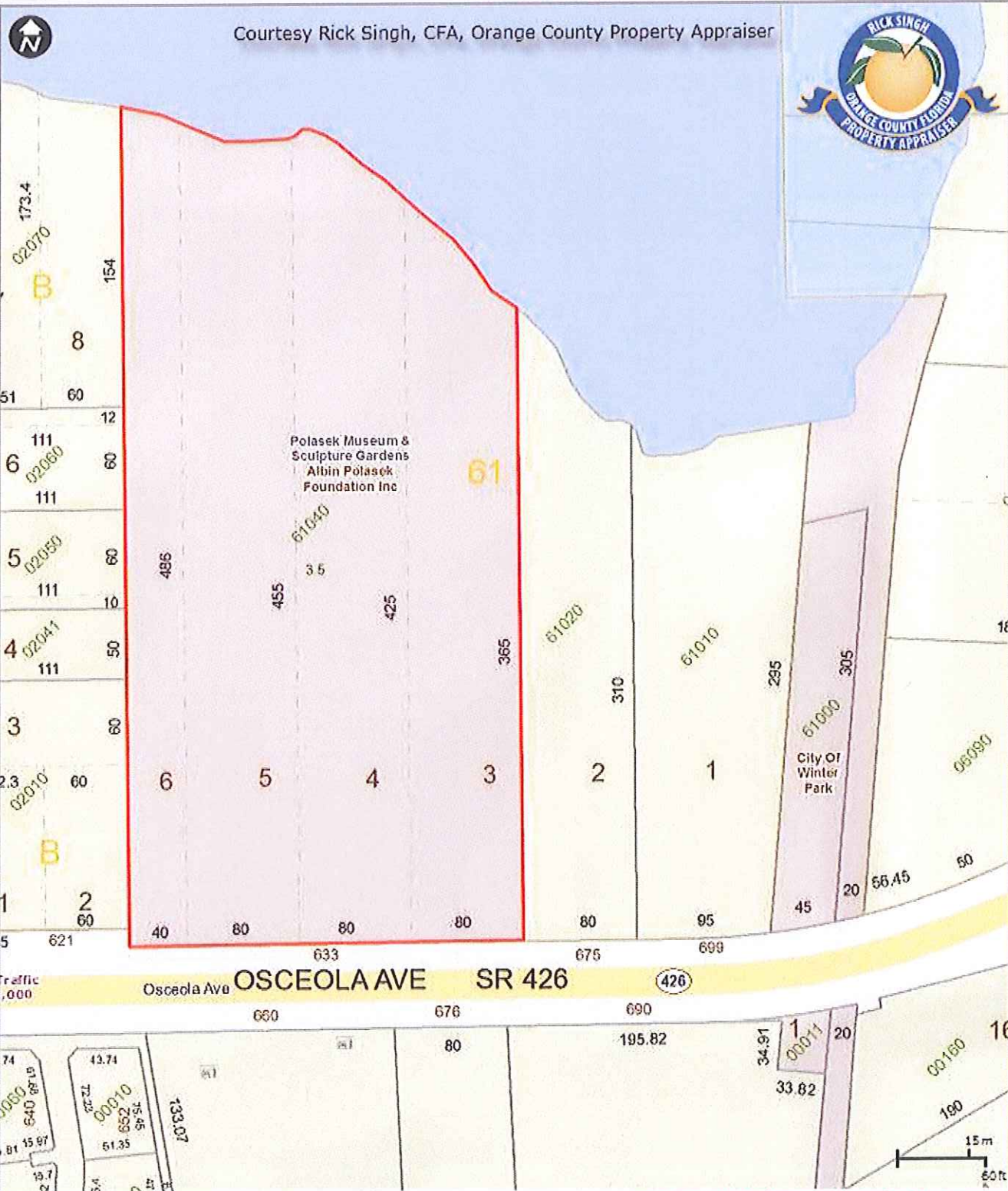
The Polasek Museum is content to keep the existing restrictions that limit events to no later than 10:00 pm and to maintain the prohibition of amplified music outdoors. However, the current Agreement also limits the number of events with groups over 50 persons to no more than twelve (12) events a year. This is the primary limitation that the Polasek Museum would like to have removed. Casa Feliz has been able to operate with those restrictions while being a good neighbor in a residential area.

STAFF RECOMMENDATION IS FOR APPROVAL

(Notices have been mailed to all property owners within 500 feet and staff understands that the Polasek Museum has also reached out to the adjacent neighbors.)

OCPA Web Map

	Major Roads		Proposed Road		Residential		Commercial/Industrial/Vacant Land/Agricultural Curtilage		Parks	6	Lot Number
	Florida Turnpike		Public Roads		Agriculture		Hydro		Lakes and Rivers	06060	Parcel Number
	Interstate 4		Gated Roads		Commercial/Institutional		Building		Block Number	3106	Parcel Address
	Toll Road		Road Under Construction		Governmental/Institutional/Misc		Waste Land		Parcel Dimension	111.9	Parcel Dimension



Created: 8/20/2013

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

OCPA Web Map

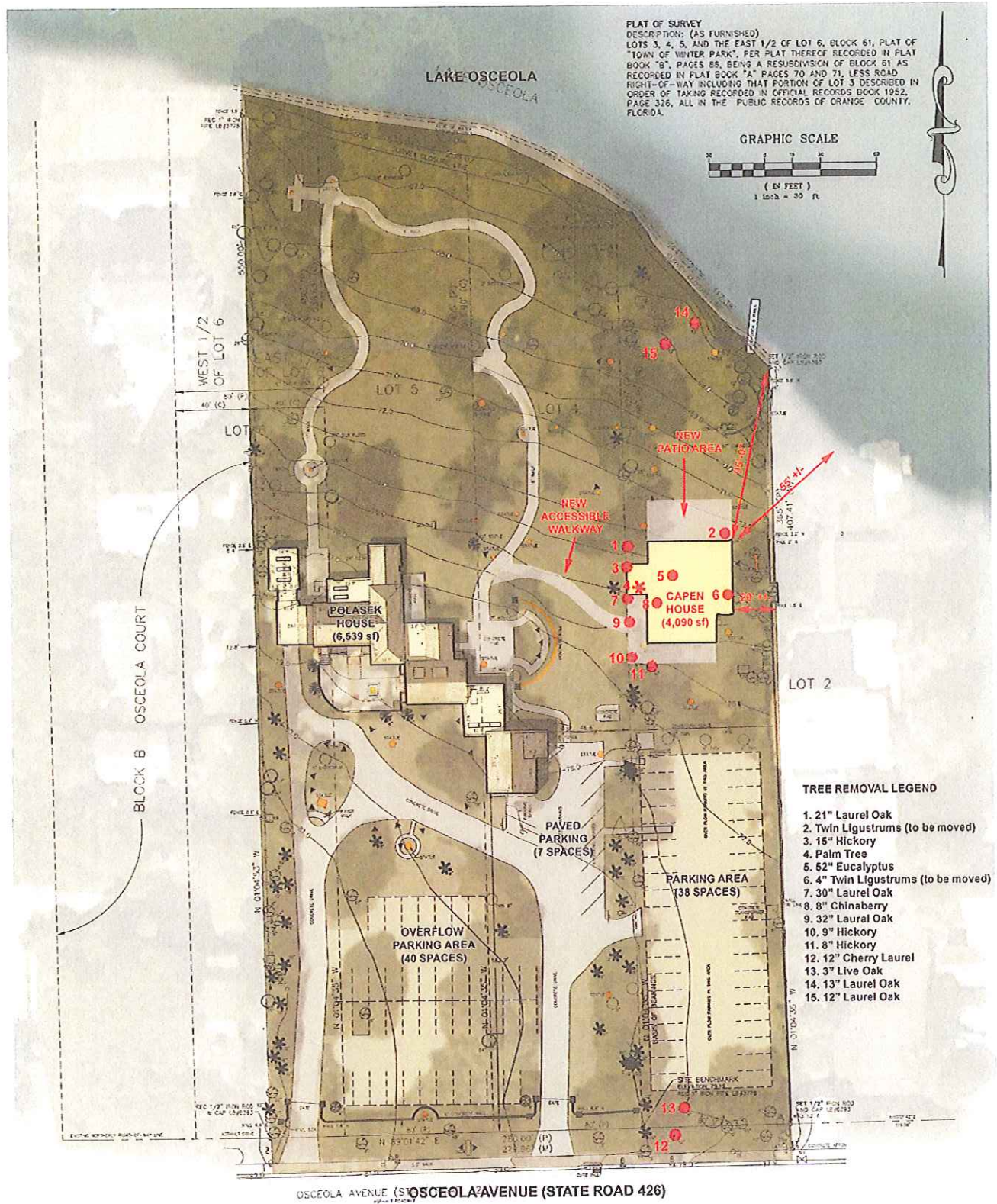
Major Roads	Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	6 Lot Number
Florida Turnpike	Brick Road	Agriculture	Agricultural Curtilage	Lakes and Rivers	06060 Parcel Number
Interstate 4	Gated Roads	Commercial/Institutional	Hydro	Building	3106 Parcel Address
Toll Road	Road Under Construction	Governmental/Institutional/Misc.	Waste Land	E Block Number	111.9 Parcel Dimensions

Courtesy Rick Singh, CFA, Orange County Property Appraiser



Created: 8/20/2013

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



POLASEK MUSEUM SCULPTURE GARDEN SITE PLAN

PREPARED BY AND RETURN TO:

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

ALBIN POLASEK FOUNDATION

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED ALBIN POLASEK FOUNDATION DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2013, by and between the CITY OF WINTER PARK, FLORIDA, a municipality of the State of Florida (the "City"), 401 Park Avenue South, Winter Park, Florida 32789, and the ALBIN POLASEK FOUNDATION, INC., a Florida not-for-profit corporation, whose street address is 633 Osceola Avenue, Winter Park, Florida and whose mailing address is Post Office Box 1691, Winter Park, Florida 32790 (the "Foundation").

WITNESSETH:

WHEREAS, the Foundation is currently the owner in fee simple of certain real property and has entered into a contract to acquire additional property, all located within the City of Winter Park, Orange County, Florida, more particularly described as: Lots 3, 4, 5 and 6, Block 61, Revised Map of the Town of Winter Park as recorded in Plat Book "A", Pages 67-72 of the Public Records of Orange County, Florida (the "Subject Property"); and

WHEREAS, the Subject Property currently holds Foundation buildings and other facilities primarily related to the Foundation's operation of the Albin Polasek Museum and Sculpture Gardens, that are to undergo further development following approvals by the City; and

WHEREAS, the Albin Polasek Museum and Sculpture Gardens has operated at this location since Albin and Emily Polasek founded the organization in 1961, and

WHEREAS, it is in the interest of the City of Winter Park to have significant cultural facilities operating within the corporate city limits, and

WHEREAS, it is intended that Museum and Sculpture Gardens be allowed to continue to operate as a viable museum, educational and -cultural institution at its present location, and

WHEREAS, the Foundation's future development plans will be phased over a number of years and there is a need for certainty that all phases may be undertaken given the continuing evolution of concurrence and other land development regulations; and

WHEREAS, the City desires to review and approve the plans for the development of the Subject Property as part of an overall Master Plan versus in a piecemeal fashion so that adequate public facilities may be planned; and

WHEREAS, the Foundation and the City desire to recognize the relocation to and the addition and preservation of the Capen House on the Subject Property and desire to amend and restate the original Development Agreement approved on November 29, 2000 and amended on October 25, 2004 with this new Amended and Restated Development Agreement which outlines the adaptive reuse of that historic structure to meet the needs of the Foundation while maintaining compatibility of that usage with the surrounding residential environment.

NOW, THEREFORE, in consideration of the premises hereof and of the mutual covenants set forth herein, the parties hereby agree as follows:

1. **DEVELOPMENT AUTHORITY**: The City acknowledges and commits to approve and permit the development of the Subject Property as outlined in this Development

~~Agreement. the development plans (the "Master Plan") which is attached hereto as Exhibit "A" and by this reference made a part hereof. The City and the Foundation agree to be bound by the development proposed in the Master Plan.~~ The Foundation acknowledges and agrees that each development or phase of the Master Plan shall satisfy the City's land development regulations in effect at the time of development in particular with regard to infrastructure, utilities and other building code standards. The City shall not be empowered to impose land development regulations or standards however, that would require a reduction in the overall density/intensity parameters agreed upon in the Master Plan. ~~In consideration of this agreement, the City has made the following necessary adjustments to the Comprehensive Plan, and Zoning Ordinance:~~

~~The Comprehensive Plan shall be changed from Single Family Residential to Community Services on the properties at 633 and 667 Oseeola Avenue.~~

~~The Official Zoning Map shall be changed from Lakefront (R-1AAA) to Public, Quasi Public (PQP) on the properties at 633 and 667 Oseeola Avenue.~~

~~The Zoning Code text shall be changed within the Public Quasi Public (PQP) District to add a permitted use for museums.~~

2. **PERMITTED USES:** The following describes the uses to be permitted on the Subject Property, ~~as otherwise shown on Exhibit A:~~ museum, galleries, sculpture garden, offices for the Foundation, museum or other non-profit activities, residence and studio for artist, residence for grounds keeper, or security guard, boat dock, gift store (limited to 600 square feet), catering kitchen, museum storage, educational

classrooms, work rooms, auditorium/meeting rooms, pavilions and parking.

3. **MASTER PLAN:** The Subject Property shall be developed in accordance with the City's Land Development Code except for the provisions outlined below. ~~that certain Preliminary Master Plan dated _____, 2000 attached hereto as Exhibit A. The City and Foundation acknowledge and agree that this Agreement and the Master Plan are intended to describe the overall development on the properties including development densities, intensities, heights and general locations. The Foundation acknowledges that no development can occur that exceeds in density, intensity or building height, the development proposed in the Master Plan; nor can there be any substantial change from the Master Plan without first receiving an amendment to this development plan through the normal public hearing process of the City of Winter Park. As pertaining to specific building locations a substantial change shall be defined as one in which the building location is altered more than twenty five feet in either direction and not violate agreed to set back requirements.~~ The City and the Foundation further agree that it is not the intent of this Developers Agreement to regulate the placement of sculptures, garden elements, pergolas, trellises and landscape on the grounds of the subject property. Specifically, the following elements are agreed to:

1. The ~~existing apartment building located on the~~ property at 663 Osceola Avenue may be utilized for the relocation of the Capen House and use by the Foundation as outlined in this Agreement ~~will be demolished.~~
2. The total floor area ration for the subject property will not exceed 0.30, same as is permitted in the R-1AAA residential zoning classification.
3. The height of all new structures shall not exceed 40 feet in height except for architectural features, parapets or other appendages to buildings which may be allowed an additional height, same as is permitted in the R-1AAA zoning

classification, subject to the approval of the Planning and Zoning Commission.

4. Buildings, accessory structures, patios, decks, driveways and other impervious surfaces shall not cover more than 45 percent of the total land area of the subject property, same as is permitted in the R-1AAA zoning classification.
5. Setbacks shall conform to the standards of the R-1AAA district.

4. **PHASING:** The relocation of the Capen House does not ~~Preliminary Master Plan depicted in Exhibit "A"~~ illustrates an end state or complete build-out for the Subject Property which may not be achieved for a number of years or decades depending on the Foundation's ability to raise capital. ~~First Phase improvement to the property are depicted in Exhibits "B"~~.

5. **SPECIAL CONDITIONS:** These special conditions shall also apply to the Foundations' use of the Subject Property:

1. The Foundation will establish a Neighborhood Relations Committee to be composed of representatives of the Polasek Museum and affected residents in order to insure that Museum activities are harmonious with neighboring residences. The Committee shall consist of not less than three and no more than seven members who shall be appointed in accordance with the Bylaws of the Foundation; provided that representatives of the Polasek Museum shall not compose a majority of members. Affected resident members shall be selected by those residents. The Foundation agrees to provide the City a list of members of the Committee and to keep the same current. The Committee will report to the City Commission by the end of the first year of the date of the Agreement as to the effectiveness of the conditions for adjacent residents and annually thereafter. The Foundation agrees to amend its Bylaws as required to provide for the Neighborhood Relations Committee as referenced herein.
2. ~~The only outdoor rental activities to third parties permitted are wedding ceremonies and receptions. There may be no more than twelve (12) per year outdoor weddings and receptions a year, excluding weddings and receptions of less than 50 persons in attendance.~~
2. There is to be no amplified sound on the exterior, except for Polasek Museum events, which shall not exceed four (4) events with amplified sound per year.
3. ~~Each event with amplified sound shall have the prior approval of the City Commission.~~

- ~~4.3.~~ The Polasek Museum shall require all activities of the Museum or rental clients Foundation which shall not rent the facility for, or hold events that are are anticipated to have more than twice the number of attendees than there are available (95) parking spaces, to useing on-site parking facilities and/or additional off-site parking facilities. All events anticipating more than 50 cars shall require client contract with Museum's approved valet parking vendor. Off-site parking facilities shall be within 2,000 feet of the premises, unless otherwise approved by the City Commission. There shall be a designated interior bus parking area toward the center of the site. For all events anticipated to have an excess of available onsite parking, the Museum shall post signs on adjacent residential Osceola Circle notifying there will be NO MUSEUM EVENT PARKING(The purpose of this condition is to control parking impacts on adjacent local residential streets.)
- ~~5.4.~~ All contracts for the rental or use of the Museum or for the Museum sponsored events shall provide that off-site parking on residential streets is prohibited, and that all parking shall be on-site or in additional off-site parking facilities for all cars, trucks, buses or other service vehicles. Off-site parking facilities shall be within 2,000 feet of the premises, unless otherwise approved by the City Commission. (The purpose of this condition is to control parking impacts on adjacent local residential streets.)
- ~~6.5.~~ The hours of all outdoor events shall commence no earlier than 9:00 a.m. and must be concluded by not extend beyond 10:00 p.m., including the break down and loading of event facilities.
- ~~7.6.~~ Indoor event set-up and take-down shall only occur during the hours of 8:00 am and 10:00 pm. Outdoor set-up and take-down shall occur only between the hours of 9:00 a.m. and 10:00 p.m. All event related vehicles and guests shall be off-site by 10:00 p.m.
- ~~8.7.~~ For tented events occurring during a weekday (Monday through Thursday) the tents shall be removed no later than the day after the event. For tented events occurring on the weekend (Friday, Saturday or Sunday) tents shall be removed no later than Monday.
- ~~9.8.~~ There shall be planted five (5) foot landscape buffers with screening material (trees and hedges) along both east and west property lines, provided the adjacent property owners concur.
- ~~10.~~ The tea room hours of operation shall be no earlier than 10:00 a.m. and no later than 95:00 p.m. ~~The Polasek Museum shall not serve alcoholic beverages as part of their management and operation of the Tea Room shall only be allowed for those Museum related events approved by the City Commission.~~
- ~~11.~~ ~~No future property expansions will be allowed.~~
- ~~12.9.~~ Prior to the relocation of the museum entrance and exit points, the Museum will provide to the City a professional detailed engineering study

analyzing the sight distance requirements and safety conditions for vehicles exiting the Museum.

6. **TRANSFER OF DEVELOPMENT RIGHTS AND USES:** The Foundation hereby transfers, assigns and sets over to the City any and all development rights and uses in or pertaining to the Property other than for use as a museum facility and ancillary uses defined here within this Agreement in accordance with this approval and other applicable ordinances, rules and regulations of the City.
7. **CONSENT TO LAND USE CHANGE:** In as much as the City in the Year 2001 pursuant to the original November 29, 2000, Development Agreement, changed the changed the City's Zoning Code to make museums a permitted use in the Public, Quasi-Public (PQP) zoning district and also changed the Comprehensive Plan, future land use plan map and the Official Zoning Map from single family designations to Institutional future land use and Public, Quasi-Public (PQP) zoning for the Subject Property in order to eliminate the then nonconforming use of the property and bestow permitted use status to the Albin Polasek Museum and Sculpture Gardens, and as such the Owner continues to agrees and consents to the City, by its own administrative or other action, re-zoning the Subject Property to Single-Family Residential (R-1AAA) District, or other such zoning designation as permits no more than single-family residential use, and further amending the Future Land Use Map designation for the Subject Property to Single-Family Residential, in the event the Subject Property ceases to be used as a museum facility in accordance with this

agreement and other applicable ordinances, rules and regulations of the City. In such event, the Foundation waives any claim it may have under Chapter 70, Florida Statutes, The Bert J. Harris Private Property Rights Protection Act.

8. **COVENANT:** The foregoing transfer of development rights and uses, and consent to land use change shall be deemed binding covenants and restrictions, running with the Subject Property, in favor of and enforceable by the City.
9. **BINDING EFFECT:** This [Amended and Restated](#) Development Agreement shall be binding upon Owner and its successors and assigns in interest and all other parties acquiring any interest in the Subject Property, and shall inure to the benefit of the City.
10. **IMPACT AND OTHER DEVELOPMENT FEES:** The Foundation acknowledges and agrees that the City may enact or change City-wide impact fees and other development and permit fees during the term of this Agreement. Nothing shall be interpreted to exempt this development from new fees or from changes in fee rates that may occur over the term of this Agreement.
11. **AUTHORITY:** Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this [Amended and Restated Development](#) Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this [Amended and Restated Development](#) Agreement have been taken, obtained or followed, as the case may be, and that upon execution of this [Amended and Restated Development](#) Agreement by both parties, this [Amended and Restated Development](#) Agreement

shall be valid and binding upon the parties hereto and their successors in interest.

12. **GOVERNING LAW:** This [Amended and restated Development](#) Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
13. **AMENDMENT:** This [Amended and Restated Development](#) Agreement may be amended or canceled in writing by mutual consent of the City and the Foundation, subject to the public hearing requirements of the City Code and Florida Statutes.
14. **SUCCESSORS AND ASSIGNS:** This [Amended and Restated Development](#) Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City and the Foundation and their respective successors in interest, and the terms and conditions of this [Amended and Restated Development](#) Agreement similarly shall be binding upon the Subject Property and shall run with title to the same.
15. **RECORDING:** This [Amended and Restated Development](#) Agreement shall be recorded by the City, at the Foundations' expense, among the Public Records of Orange County, Florida.
16. **SEVERABILITY:** If any provisions of this [Amended and Restated Development](#) Agreement are to be illegal or invalid, the other provisions of this agreement shall remain in full force and effect.
17. **EFFECTIVE DATE:** This [Amended and Restated Development](#) Agreement shall be effective upon the date at which it becomes executed by both parties.

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

Signed, sealed and delivered
in the presence of

CITY OF WINTER PARK, FLORIDA
A municipal corporation

By: _____

Its: _____ Mayor _____

Date Executed: _____

ALBIN POLASEK FOUNDATION, INC.

By: _____

Its: _____ President _____

Date Executed: _____

Jeffrey Briggs

From: Lindsey Hayes
Sent: Monday, September 16, 2013 9:45 AM
To: Dori Stone; Jeffrey Briggs
Subject: FW: Polasek Museum agreement

Email below in support of the Polasek request.

Lindsey

Under Florida law, email addresses and written correspondence with the city become public record and must be made available to the public and media upon request (unless otherwise exempt). If you do not want your email address to be public record, please contact our office by phone.

-----Original Message-----

From: Kenneth and Ann Hicks Murrah [<mailto:kmurrah@cfl.rr.com>]
Sent: Friday, September 13, 2013 6:26 PM
To: Lindsey Hayes
Subject: Polasek Museum agreement

To the City Commissioners and Members of the Planning and Zoning board -

I understand you have scheduled expedited consideration of the amended development agreement submitted by the Polasek Museum, an essential step for the preservation of the Capen-Showalter House. I write to thank you for that, and to encourage your approval of the amended agreement.

This project fits perfectly with Winter Park's motto, "City of Culture and Heritage." By now you surely have heard all the reasons advanced in support of moving the house to the Polasek site. I believe Education and Economics are chief among them. The house will be a valued community asset for classes and programs, seminars and retreats, exhibits and celebrations. It will serve young, old, and in-between in our town. In addition, it will further develop Winter Park's attraction as a destination for cultural tourism. It will be a good investment for all of us.

Because of my enthusiasm for this project, I agreed to serve on the committee working to raise the funds to move the house across the lake. What better, more positive way for Winter Park to get national attention!

Thank you for your consideration,

Ann Hicks Murrah
1601 Legion Drive

P.S. Of course I'd love your fund-raising support as well as your vote!

Lindsey Hayes

From: Karen Blumenthal <redpepper@cfl.tr.com>
Sent: Wednesday, September 11, 2013 3:51 PM
To: Lindsey Hayes
Subject: Development Agreement

Dear Ms. Hayes:

As a longtime Winter Parker who cares deeply about our historic Capen House, I cannot stress the urgency and importance of the Planning and Zoning Board recommending to the Commission an amendment to the Development Agreement (between the Polasek Museum and Sculpture Garden and the City) that will allow the house's relocation to the Polasek grounds.

This project demonstrates what good citizens can do when they come together for a great solution. To fail to amend the Agreement would be demoralizing to the community and bring national disgrace to Central Florida. The eyes of America are watching how this unfolds ...

Thank you,
Kären Blumenthal

Kären Love Blumenthal
LOVING ART Partnerships

1740 Bryan Avenue
Winter Park, FL 32789-3957
407-691-0022 (office)
321-279-7460 (cell)
redpepper@cfl.tr.com

www.lovimgart.net

Lindsey Hayes

From: C Wisler <cawisler@gmail.com>
Sent: Wednesday, September 11, 2013 6:02 PM
To: Lindsey Hayes
Subject: Polasek Museum zoning

Dear Commissioner:

As a Winter Park resident I strongly support the request for zoning change for the Polasek Museum which will allow the relocation of the historic Capen house.

Thank you for your positive vote.

Carol Wisler

665 Balmoral Road
Winter Park, Florida 32789