

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

**Staff Report
September 2, 2014**

REQUEST OF MR. JOSEPH PASSALACQUA FOR: AN AFTER-THE-FACT SUBDIVISION OR LOT SPLIT APPROVAL SO THAT 1252 LAKEVIEW DRIVE, ZONED R-1AAA, WILL BE DETERMINED TO BE A BUILDABLE LOT. THE PROPOSED LOT WOULD HAVE 52.2 FEET OF FRONTAGE ON LAKEVIEW DRIVE; 70 FEET OF FRONTAGE ON LAKE VIRGINIA AND HAVE 9,858 SQUARE FEET OF LOT AREA. VARIANCES ARE REQUESTED FOR THESE LOT DIMENSIONS IN LIEU OF THE MINIMUM REQUIREMENTS FOR LOT SIZES WITHIN THIS R-1AAA ZONING OF 150 FEET OF FRONTAGE ON THE STREET AND LAKE AND 25,000 SQUARE FEET OF LOT AREA.

Mr. Joseph Passalacqua (as represented by Rebecca Wilson) is requesting an after-the-fact subdivision or lot split approval so that the property at 1252 Lakeview Drive will be determined to be a buildable lot. To that end, the applicant is voluntarily offering a condition of approval that the resultant single family home will be no larger than 3,000 square feet. The property is zoned R-1AAA. There are variances necessary as a part of the subdivision approval as the proposed lot does not meet the minimum dimensions of the R-1AAA district.

Property History: There is quite a bit of relevant history to this request. In 1973 Mr. Passalacqua purchased and owned both the vacant parcel at 1252 Lakeview Drive and the adjoining improved parcel at 1270 Lakeview Drive, as one combined property. In 1976 Mr. Passalacqua sold only the portion of the property that held the existing home at 1270 Lakeview Drive and retained the vacant parcel (thereafter given the address of 1252 Lakeview Drive). Apparently, Mr. Passalacqua was under the impression from discussions with the City, via his attorney, that if he kept a lot with at least 50 feet on the street, then it would be buildable. However, as the attached letters from his attorney, Jim Moreland, indicate, the lot had to be 50 feet wide throughout its length. The property at 1252 Lakeview is not 50 feet wide throughout its length. Thus, the City determined that the parcel was not buildable since it was not a 'non-conforming lot of record' that was grandfathered-in as having been created prior to 1971 and also did not meet the minimum requirements even to be viewed as an after-the-fact 'non-conforming lot of record' since it was not 50 feet wide throughout its length. The issues were then and still are today that Mr. Passalacqua subdivided the property without City approval and split the property without maintaining the minimum dimensions for a buildable lot meeting the Zoning standards.

In 1978, Mr. Passalacqua requested variances for the substandard lot dimensions from the Board of Adjustment. At that time, the staff believed that a variance was the proper procedure for the substandard dimensions. That variance was denied. The variance denial was subsequently appealed to Circuit Court which upheld the City's denial of the variances.

In 1990, the legal opinion of the City was modified and it was felt that the proper venue for subdivision or lot split requests was under the Subdivision Code (not the Zoning Code), and thus the subdivision or lot split venue was appropriate via the Planning Commission and City Commission review. Thus, in 1990 Mr. Passalacqua requested an after-the-fact subdivision or lot split with the required variances from the R-1AAA zoning as to the lot dimensions. The Planning Commission recommended denial on April 3, 1990 and the City Commission denied the request on April 10, 1990.

Current Status of 1252 Lakeview Drive: While 1252 Lakeview Drive is not a buildable lot, it is not without value to the owner. The property holds a boathouse built by Mr. Passalacqua which provides access to the Chain of Lakes and contributes value to his homestead across the street at 1251 Lakeview Drive. His home is not unlike others along Lakeview Drive that have their lakefront access and boathouse across the street from their homestead. The 1252 Lakeview Drive property is not legally bound or tied to his homestead across the street, so it could be purchased by someone wishing to gain lakefront access to the Chain of lakes.

The City has learned in trying to buy boathouse lots on the Osceola/Maitland canal that the opportunity for access to the Chain of Lakes is very valuable to some. For example, there was a sale of a boathouse on that canal this year for \$105,000 so 1252 Lakeview Drive has significant value. However, it does not have the value that it would if it were deemed a buildable lot which would be in the \$400-\$500,000 range.

Legal Status of this Request: To the best of Staff's knowledge, Mr. Passalacqua is the only citizen who has ever applied for an "after the fact" subdivision. In fact, the Code does not contemplate that a subdivision would be approved retroactively. Mr. Passalacqua has wanted to revisit the denials from 1978 and 1990 for some time, but Staff has discouraged reapplications, since the requests were already heard and denied. Staff's position was based on the legal principle, as staff understands it, of "res judicata". See attached memo from the city attorney who will be attending the P&Z meeting. Staff is not an attorney but as we understand it, that legal principle says that once something is decided by the Court or a City board, then a City board hearing the application again should not make a different decision under the exact same facts and circumstances and under the same law.

The applicant now says that circumstances have "substantially changed" since the previous request. The dimensions of the parcel or the variances required have not changed. The applicant's position is that the application is "substantially changed" because the applicant is offering a voluntary condition of approval that the resultant house will be no larger than 3,000 square feet. To that end, they have provided a conceptual plan which shows the layout and design for such a home capped at 3,000 square feet. Further, the applicant contends that the neighborhood has changed, and other lot splits have been approved since 1990. This is a situation where the P&Z Board, as a quasi-judicial body will need to determine if the Board agrees that circumstances have "substantially changed" from the time the request was denied in 1990 to justify a different decision.

Part of the rationale that this is "substantially changed" is that the applicant has offered a voluntary condition to reduce the house size to 3,000 square feet maximum which is an FAR of 30.4%. Normally the Code on this parcel with a lot area of 9,858 sq. ft. would permit a maximum house size of 4,436 sq. ft. at the maximum FAR of 43%.

The opposite viewpoint that this is not "substantially changed" is that this is the same lot size, same variances and same request to establish buildability. Also the Subdivision Code related to variances (Sec.58-376) which was in effect in 1990 says that the "In granting any variance the City Commission may prescribe appropriate conditions...". This means that in 1990 the City Commission could have granted the request, and imposed the square footage and FAR restriction, but the Commission instead chose to deny the waiver request.

Subdivision Variances Required: This property is zoned R-1AAA and the minimum standards for new lots are 150 feet of frontage on the street; 150 feet of frontage on the lake and 25,000 square feet of lot area. This proposed lot has 52.20 feet of frontage on the street; 70 feet of frontage on the lake and 9,858 square feet of lot area. Since this is an after-the-fact request, an argument can be made that the standards applied should be the same as were in place in 1976 when the split occurred, when this property was zoned R-1AA. At that time, the requirements for new R-1AA lots were 100 feet of frontage and 10,000 square feet. So the variances have been increased in scale at the time the City rezoned all of the lakefronts to our R-1AAA lakefront district in 1979.

Conformance to the Comprehensive Plan (Sec. 58-377): Section 58-377 (c) of the Subdivision Code indicates that for subdivisions or lot splits the City is to look to the lot sizes within 500 feet of the subject property with comparable R-1AAA zoning to determine conformance to neighborhood density or standards. This comparison is a door that can swing both ways. If the neighboring lots are larger than the zoning minimums; it provides the City a method to require lot sizes larger than the zoning minimums. If the neighboring lots are smaller than the zoning minimums; it can help substantiate the appropriateness of variances.

There are eight (8) other lakefront homes within 500 feet of this subject property. The average frontage on the street is 106 feet; the average frontage on the lake is 71.3 feet and the average lot size is 11,112 square feet. Thus the proposed lot does not meet the neighborhood density standards. The attached map shows the eight homes that are included in this neighborhood standard.

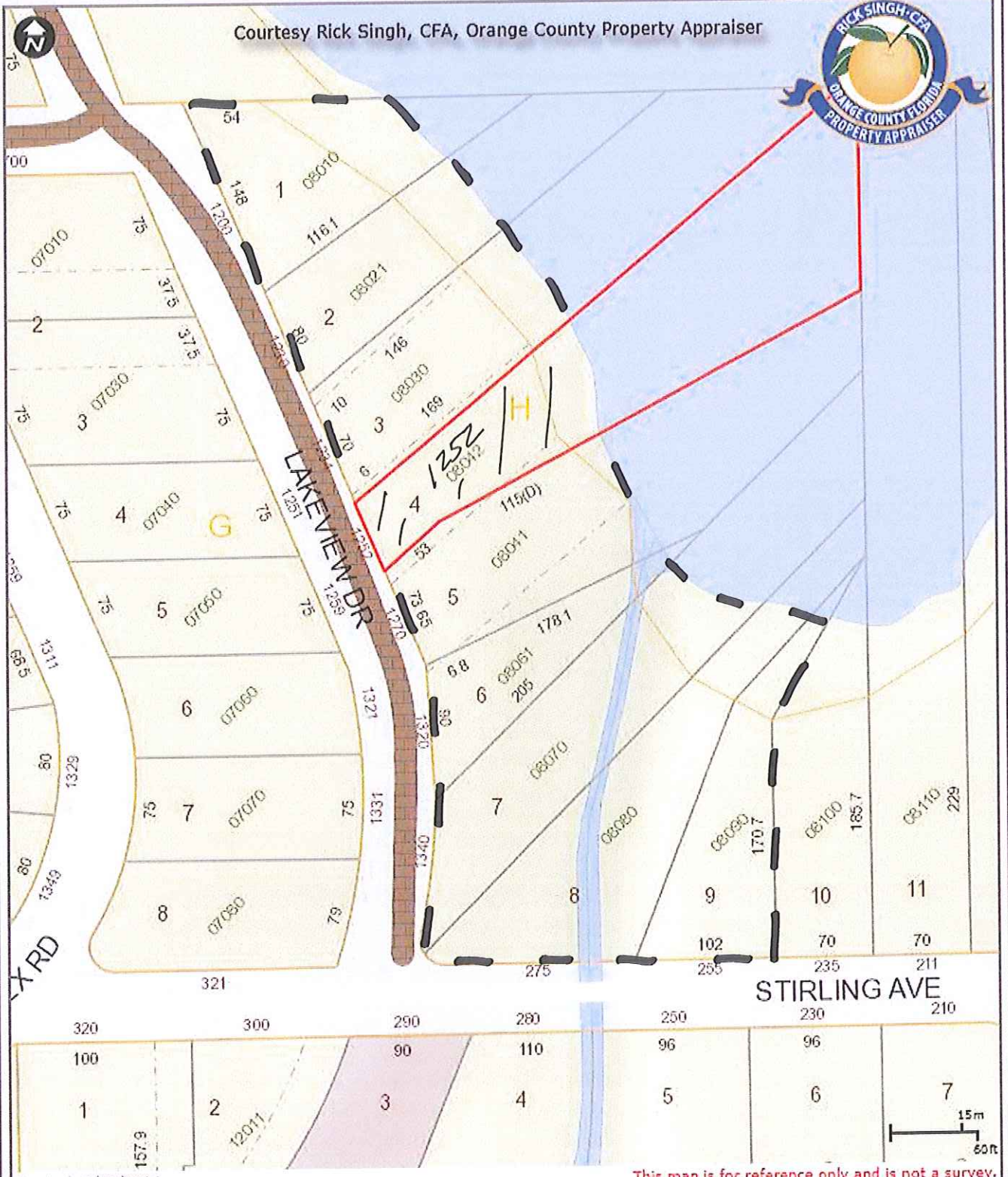
Proposed development plans: The applicant has presented conceptual plans for a home not exceeding 3,000 square feet. If this request is approved, the actual development plans (house plans), due to the lakefront location, would need further Planning Board review on a future agenda pursuant to the lakefront review authority in the zoning code.

Summary: The planning staff recommendation in 1990 was for denial and to the planning staff today in 2014, the request still contains the same elements cited for the 1990 recommendation for denial. Those are the substantial variances required from the 1990 and 2014 R-1AAA zoning standards, and the inconsistency with the neighborhood standards per Section 58-344 of the Subdivision Code. It is unfortunate that Mr. Passalacqua did not seek this property split approval in 1976 so the issue would have been resolved at that time, but instead made the split without seeking any city subdivision approval.

Staff is also uncomfortable with the legal argument that this is a "substantially changed" application. If we accept Mr. Passalacqua's argument that this application is substantially changed because he has agreed to new conditions of approval, then if this request is denied, then can then apply again next year offering only a 2,500 square foot home and then apply again the year after offering only a 1,500 square foot home? That would seem to be an undesirable result.

Staff Recommendation is for Denial

OCA Web Map	Major Roads	Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	6	Lot Number	
Florida Turnpike	Public Roads	Brick Road	Agriculture	Agricultural Curtilage	Lakes and Rivers	08060	Parcel Number	
Interstate 4	Galad Roads	Block Line	Commercial/Institutional	Hydro	Building	3106	Parcel Address	
Toll Road	Road Under Construction	Lot Line	Governmental/Institutional/Misc.	Waste Land	E	Block Number	111.9	Parcel Dimension



Created: 8/20/2014

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

Properties Within 500 ft. radius - dotted line

MEMORANDUM

TO: Catherine D. Reischmann

FROM: L. Robin McKinney

RE: Variance or Subdivision Request for 1252 Lakeview Drive

DATE: May 30, 2012

Issue: Whether the legal doctrine of administrative res judicata applies to bar property owner's potential request for a variance or subdivision, where both requests were previously denied.

Summary: Administrative res judicata would likely bar property owner's request for reconsideration of variance or subdivision applications, where the issues had been previously considered and denied by the city, and where there has been no substantial change in circumstances. The applicant has apparently not offered evidence that the neighborhood conditions or requirements for lot subdivision or variance have changed substantially since his prior requests.

Background: Property owner has approached the Mayor about his requests to obtain either a variance or a subdivision/lot split that would make his property a buildable lot. He subdivided a larger parcel in 1976, selling the portion with the house and keeping the vacant side yard. In the 1980s, he made separate applications to the city for approval of a variance and an after-the-fact subdivision/lot split for the side yard; both were denied by the Planning and Zoning Commission and Board of Adjustment.

Analysis: Res judicata will bar a court's reconsideration of an issue that has been decided by another court, unless there has been a sufficient change in circumstances. Res judicata is the legal rule providing that where an issue has been finally settled by one court, it cannot be litigated again in a subsequent action. Generally, for res judicata to apply, there must be an identity of causes of action, including an identity of facts essential to the maintenance of the action. *See id.* Res judicata is a doctrine that should be applied in zoning cases with great caution. *See City of Miami Beach v. Prevatt*, 97 So. 2d 473, 477 (Fla. 1957). Where neighborhood conditions are changing, courts have found that res judicata will not apply, because the facts in the earlier case are no longer identical to the facts at issue.

Res judicata applies to decisions of administrative bodies, including those bodies dealing with zoning regulations, "unless it can be shown that since the earlier ruling thereon there has been a substantial change of circumstances relating to the subject matter with which the ruling was concerned, sufficient to prompt a different or contrary determination." *See Metropolitan Dade County Board of County Commissioners v. Rockmatt Corporation*, 231 So. 2d 41, 43 (Fla. 3d 1970) (citing *City of Miami Beach v. Prevatt*, 97 So. 2d 473).

Where there has not been a substantial change in circumstances, however, the doctrine of res judicata has been applied to bar reconsideration of an issue previously decided by the administrative body. In *Burger King Corp. v. Metropolitan Dade County*, 349 So. 2d 210, 211 (Fla. 3d DCA 1977), a landowner sought a rezoning from RU-4L (limited apartments) to RU-5L (professional office) and, at the same time, sought a use variance that would allow him to operate a Burger King restaurant on the property. The Dade County Commission granted the rezoning, but denied the use variance because of the numerous objections from the public. See *id.* at 211. Several years earlier, the owner had unsuccessfully sought to have the property rezoned to BU-1 (neighborhood business) for the purpose of operating a Burger King restaurant there.

Nevertheless, the owner sought review of the decision on the use variance from the circuit court, which denied his petition based on res judicata from the decision in the prior case. See *id.* The Third District Court of Appeal affirmed the circuit court, finding res judicata applied, since no substantial change in circumstances had occurred between the earlier rezoning request and the current petition for a use variance. The Third District Court was not persuaded by the owner's argument that the rezoning from RU-4 to RU-5 was a "sufficient change in circumstances" to overcome res judicata.

In the case at issue, the City has twice denied the property owner's requests concerning his unapproved, subdivided lot. It is unlikely that the applicant can show a substantial change in circumstances, because the neighborhood has not undergone significant changes in character. He would most likely not be entitled to a variance or a subdivision approval, because without a substantial change in circumstances, the doctrine of administrative res judicata would govern the City's action on future variance or subdivision requests.

August 19, 2014

VIA MAIL & EMAIL

Catherine D. Reischmann
111 N. Orange Ave., Suite 2000
P.O. Box 2873
Orlando, Florida 32802-2873
creischmann@orlandolaw.net

Mr. Jeff Briggs
Planning & Community Development Director
Winter Park Planning Dept.
401 Park Avenue South
Winter Park, FL 32789
jbriggs@cityofwinterpark.org

**Re: Application to Request a Variance and Lot Split in order to make the
Property a Buildable Lot (the "Requests")**

Dear Catherine and Jeff,

We appreciate all of your assistance to date in reviewing Mr. Joseph Passalacqua's application for a variance and subdivision request for his property located at 1252 Lakeview Drive in Winter Park, Florida (the "Property"). As we both understand from previous discussion, the Property is a lake front property with frontage on Lake Virginia. In 1979, it was administratively rezoned from R-1AA to R-1AAA. The Property is part of the Virginia Heights plat created in 1922 by H. M. Tinklepaugh; it primarily consists of Lot 4 of the plat. At some point, the majority of Lots 4 and 5 were combined and a home was built on what is predominantly Lot 5. Mr. Passalacqua currently owns only Lot 4.

We originally requested consideration (per letter dated July 21, 2014) of a corrected survey demonstrating that the Property has 50' of width at its narrowest point. Due to concerns raised by Mr., Foley's attorneys, we will withdraw the survey in order to avoid involving the City in the survey dispute. Instead we respectfully request to pursue the variance and subdivision application with the following conditions being voluntarily offered: (1) any home on the Property will be limited in size to 3,000 sq. ft. (including garage) and (2) enclosed site plan depicting location of proposed improvements.

We have reviewed your memorandum dated May 30, 2012 (the "Memo"). Based on our recent correspondence and the findings of the Memo, we would like to clarify the basis for your findings that administrative res judicata bars Mr. Passalacqua's Requests. While we believe the Memo is generally correct regarding the elements of administrative res judicata, we believe that Mr. Passalacqua's Requests are not barred by such doctrine since there has been a substantial change in circumstances warranting the approval of Mr. Passalacqua's request for a variance and subdivision.

You are correct that administrative res judicata bars an administrative body from reconsidering a previous decision “unless it can be shown that since the earlier ruling thereon there has been a substantial change of circumstances relating to the subject matter with which the ruling was concerned, sufficient to prompt a different or contrary determination.” See *Metropolitan Dade County Board of County Commissioners v. Rockmatt Corporation*, 231 So. 2d 41, 43 (Fla. 3d DCA 1970). Thus, “the proper rule in a case where a previous permit application has been denied is that res judicata will apply only if the second application is not supported by new facts, changed conditions, or additional submissions by the applicant.” *Thomson v. Department of Environmental Regulation*, 511 So. 2d 989 (1987) (citing *Doheny v. Grove Isle, Ltd.*, 442 So. 2d 966, 976 (Fla. 1st DCA 1983)). In determining whether res judicata applies to the Requests, the board is to consider not only any changes in circumstances, but also new facts, changed conditions and additional submissions by Mr. Passalacqua.

The case of *Gunn v. Board of County Commissioners, Dade County* provides an example of such change that supports consideration and approval of the Requests. 481 So. 2d 95 (Fla. 3d DCA 1986). According to *Gunn*, when new plans materially change the aspects of a case, “it is settled law that there can be a new application and determination” by a board of the same. *Id.* “[I]t is for the board to determine whether or not changed facts or circumstances are presented and, in doing, it may give weight even to *slight differences* which are not easily discernible.” *Id.* (emphasis added). In the *Gunn* case, the applicant had submitted plans for the construction of a softball field which had been denied; two years following such denial, the applicant submitted a “generally similar request”. *Id.* Though generally similar, the second request “differed from the first in repositioning home plate at a greater distance from nearby residences.” In that case, the repositioning of the home plate was considered by the court to be a “meaningful alteration of the proposal [the commission] had previously rejected” and therefore administrative res judicata was barred. *Id.*

While we agree that the determination of whether there has been a change in circumstances lies within the discretion of administrative board, it is clear from prevailing case law that there is no required threshold level of change needed to permit Mr. Passalacqua to submit his Requests. The court in *Gunn* clearly evidenced that even a “slight” change to a location of a home plate set forth in a second “similar request”, was sufficient to bar the application of res judicata. *Id.*

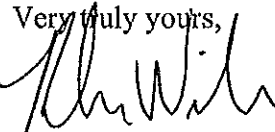
Applying such case law to Mr. Passalacqua’s Requests, it’s clear that there new facts and changed conditions relating to the Requests based on the new maximum buildable area of the proposed residence, along with submission of a site plan, justifying the review and approval of the Requests.

In regards to the new facts related to the maximum buildable area of the proposed residence, Mr. Passalacqua has changed the previous building plans by limiting the residence to 3,000 square feet which would bring his proposed residence below the Code of Ordinances of the City of Winter Park (the “City”) FAR maximum. Such change is clearly more substantial than the slight change of a home plate location evidenced under the *Gunn* case. The fact that the Requests have substantially changed the application building size and include submission of a site plan evidence the substantial change in

conditions and facts that justify the Requests. Additionally, the new site plan evidencing the location of a residence on the Property is an additional submission and a new set of facts which distinguishes the Requests from the prior application; therefore baring res judicata.

Moreover, since the last application in 1990, the City has undergone substantial changes. There have been numerous lot splits and consolidations on lakefront properties in the City, as well as the bricking of Lakeview Drive and the installation of a curb cut on the Property.

We appreciate your time and consideration of the information presented above.

Very truly yours,

M. Rebecca Wilson

MRW/TLT
Enclosure
cc: Mr. Joseph Passalacqua

7. Request of Joseph J. Passalacqua for a variance of Sec. 31-5 "R-1AA Residential District," par. 5(a) and 6(b) to allow the following:
- a. construction on a non-conforming lot (53 ft. frontage and 9,500 sq. ft. area) in lieu of the required 100 ft. frontage and 10,000 sq. ft. area.
 - b. a 7.5 ft. side property setback in lieu of the required 10 ft.

Acting Chairman Lutz presided in this matter.

Attorney James A. Moreland, representing Mr. Joe Pacy, explained the unusual circumstances involved in this matter. Mr. Pacy had been the owner of both Parcel X and Parcel Y. Acting on the advice from the Building Official and the City Planner in 1976, Mr. Pacy sold Parcel X thinking that he had divided the land into two buildable lots. The present Zoning Official does not feel that Mr. Pacy has a buildable lot, thus making it a non-conforming lot. Therefore, Mr. Pacy was requesting three variances (frontage, area and side setback) in order to build a home on the remaining Parcel Y. His hardship was based upon the fact that if he had been advised by the City that Parcel Y was not a buildable lot, he never would have sold Parcel X. Pictures of the site in question were presented to the Board.

The original deed did not contain the full and correct property description. When the lot was sold, a corrected deed was submitted. That deed, too, had several discrepancies and was changed. Therefore, the original deed was corrected, then was subsequently changed. Now the original deed was back on record.

Mr. Moreland felt Mr. Pacy's application met the four criteria to be considered when granting an application. 1) There were special conditions and circumstances, peculiar to the land and which are not applicable to other land in the same district. 2) Literal interpretation of the code would deprive Mr. Pacy of the rights enjoyed by other property owners in the same district in that other property owners have lots of the same size that have been built upon. 3) The special conditions that exist were not the result of the act of the applicant, and 4) No special privileges were involved here. Mr. Pacy would not be here except for the actions of the previous Building Official.

Mr. Moreland presented four letters he had written to the previous Building Official confirming the conversations about the property in question. He had never received any correspondence from the Building Department acknowledging these letters. A favorable petition containing four names was submitted to the Board.

Attorney Jesse Graham appeared representing Mr. and Mrs. John Fluno and Mr. Perreira (neighbors adjacent to the site in question). His clients were opposed to granting the request. Mr. Graham felt Mr. Pacy's problems were self-imposed, that his lot did not meet the requirements for a non-conforming lot, and that Mr. Pacy should be appealing a decision from the Zoning Official and not asking for variances. The Board assured Mr. Graham that the request was as published; that is, asking for three variances and not appealing any decision by the City.

Mr. Peter Foley, who is in the process of purchasing Mr. Perreira's a lot, was opposed to granting the variances. He was purchasing the property with intentions of having privacy and a clear view of the lake.

Board of Adjustments

Page 5

20 June 1978

Mr. Jack Lane, 1200 Lakeview Drive, and Mr. C. V. Bowen, 1251 Lakeview Drive, spoke in opposition to granting the request.

ACTION:

Questions concerning the controversy involved in this matter were raised by the Board. Mr. Hope Strong wanted to have a chance to discuss the matter with the City Manager and the City Attorney.

Mr. Lobley made a motion, seconded by Mr. Strong to TABLE this matter until further investigation into the facts surrounding the case could be made. The motion to TABLE the request passed 4 to 0.

8. Request of Winter Park Federal Savings & Loan for a variance of Sec. 31-11 "Office District (0-1)," par. 5(a) to allow construction of an addition 1.5 ft. from the front property line in lieu of the required 10 ft. setback.

Mr. Doster resumed as Chairman.

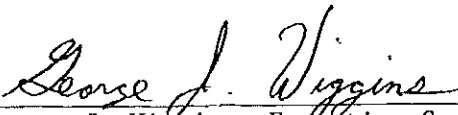
Mr. Doyle Oldham, Senior Vice President of Winter Park Federal, introduced Mr. Jack Rogers of Rogers, Lovelock & Fritz. Mr. Rogers is the architect for the proposed additions/alterations for Winter Park Federal. The building has been on the site since 1956. The hardship was based on compliance with the requirement of a 10 ft. front setback, which would place the setback five feet inside the existing building. There is another 30 ft. setback from the centerline of Knowles Avenue. This setback would impact the west side of the existing building. Mr. Rogers then presented plans for the building. Winter Park Federal's additions/alterations would be in keeping with the architectural character of Winter Park and they are scheduled to appear before Planning and Zoning and the City Commission for approval of the final plans.

No one spoke in favor or in opposition of granting the request. Lengthy discussion ensued with Mr. Rogers answering questions of the Board.

ACTION:

Mr. Lobley made a motion, seconded by Mr. Lutz to APPROVE the request for Winter Park Federal Savings & Loan. The motion passed 5 to 0.

The meeting closed at 7:15 p.m.


George J. Wiggins, Executive Secretary

Regular Meeting

18 July 1978

4:30 P.M.

SUBJECT

Approval of Minutes: 20 June 1978 - Regular Meeting _____

Withdrawal Request: _____

Request of L. M. Coop for a variance of Sec. 31-20 "Off-Street Parking and Loading Regulations," par. 2(b) to allow location of a parking lot in the required front setback without the required five foot landscaped strip along the street frontage on property located at: 1051 West Fairbanks.

PUBLIC HEARINGS:

- #1 Request of Mr. Edward H. Heidt for a variance of Sec. 31-22 "Lakefront Lots, Boathouses and Docks," par. 3, to allow construction of a boathouse located at: 1726 Alabama Drive on Venetian Canal access via Alabama Drive _____
- #2 Request of Dr. Louis Pesce, D.D.S. for a variance of Sec. 31-12 "Commercial Shopping Center (C-1) District" par. 4(a) to allow construction of an office addition located at: 1311 West Webster Avenue, Lord's Subdivision. _____
- #3 Request of Joseph J. Passalacqua for a variance of Sec. 31-5, "R-AA Residential District," par. 5(a) and par. 6(a) to allow the following:
- a. Construction on a non-conforming lot (53 ft. frontage and 9,500 Sq. ft. area) in lieu of the required 100' frontage and 10,000 sq.ft. area. _____
 - b. A 7.5 foot side property setback in lieu of the required ten (10) feet. Adjacent to: 1270 Lakeview Drive. _____
- #4 Request of Ester D. Stubbs for a variance of Sec. 31-5, "R-1AA and R-1A Districts," par. 6(a) and Sec. 31-4, Non-conforming Characteristics of Use," par. 5(2), located at: 1198 Oxford Rd. _____
- #5 Request of David Tegethoff for a variance of Sec. 31-21, "General Provisions," par. 14(b), to allow erection of six (6) ft. fencing in front yard in lieu of the required maximum height of three (3) feet, located at: 673 Osceola Avenue. _____

CITY OF WINTER PARK, FLORIDA
BOARD OF ADJUSTMENT

MINUTES

REGULAR MEETING
CITY HALL

18 JULY 1978
4:30 p.m.

PRESENT: Mr. William E. Doster, Chairman, Mr. James R. Lobley, Mr. Samuel B. Kirby, Mr. Robert C. Lutz, Mr. Hope Strong III and George J. Wiggins, Acting Zoning Official.

The meeting was called to order by Chairman Doster at 4:30 p.m.

Chairman Doster explained the procedures, powers and duties of the Board of Adjustment.

Minutes of the Regular Meeting of 20 June 1978 were read and approved.

#3 TABLED FROM 20 JUNE 1978. Request of Joseph J. Passalacqua for a variance of Section 31-5 "Residential (R-1AA) Districts," paragraph 6(a) to allow:

- a. construction on a non-conforming lot (53 ft. frontage and 9,500 sq. ft. area) in lieu of the required 100 ft. frontage and 10,000 sq. ft. area.
- b. a 7.5 foot side property setback in lieu of the required 10 feet.

Chairman Doster recounted his 15 June 1978 letter to the Board of Adjustment stating a conflict of interest in this matter; therefore, Mr. Lutz presided as Acting Chairman. Mr. Lutz reported the matter had been republished in order to let the public know that the matter was still open and to reopen the public hearing if necessary. The matter had been adequately covered during the public hearing of 20 June 1978 before going to closed, executive session; therefore, Mr. Lutz proposed the closed session be continued with no further input from the public. All Board members concurred with Mr. Lutz's decision. Attorney James Moreland requested an opportunity to respond to a letter addressed to the Board of Adjustment from the City Attorney. (See attached exhibit.) The request by Mr. Moreland was denied.

ACTION:

Mr. Strong made a motion, seconded by Mr. Kirby to DENY the request based upon the information in the letter from the City Attorney and upon the information contained in Section 31-26, paragraph (g) of the zoning code. The motion to DENY the request passed 4 to 0.

Mr. Doster suggested a new procedure for voting by the Board of Adjustment. When an application for a variance and/or an appeal is filed, the applicant is asking for approval. Therefore, there would be a motion on the floor at all times to APPROVE the application as requested. Voting would be on the question of approval of the variance as requested by the application. The failure to approve the application as submitted would constitute a denial of the requested variance. After denial of a requested variance, the Chair would entertain motions from the members of the Board for more limited or conditional variances than those requested in the application. All Board members agreed with Chairman Doster and voted 5 to 0 to APPROVE the new voting procedure.

Copy to Jury Official

LAW OFFICES OF

JOHNSON, MOTSINGER, TRISMEN AND SHARP, P. A.

100 EAST ROBINSON STREET
THE JOHNSON BUILDING
ORLANDO, FLORIDA 32801
TELEPHONE (305) 841-7350

213 WEST COMSTOCK AVENUE
POST OFFICE BOX 1860
WINTER PARK, FLORIDA 32789
TELEPHONE (305) 847-5854

GEORGE W. JOHNSON
JOHN MOTSINGER, JR.
RICHARD F. TRISMEN
JOEL H. SHARP, JR.
WINIFRED JOHNSON SHARP
ERIK C. LARSEN
JOHN D. McELHENY
ROBERT D. GATTON
MICHAEL G. WILLIAMSON

IN REPLY ADDRESS FIRM AT

July 10, 1978

Winter Park

Hope Strong, III, Esquire
Acting Chairman
Winter Park Board of Adjustment
200 W. Welbourne
Winter Park, Florida 32789

Dear Hope:

This is in response to questions you raised with respect to the Pacey application for a variance on property located on Lakeview Drive.

QUESTION: Does the Winter Park Board of Adjustment have the authority to consider evidence and testimony outside that which is presented by the petitioner and opponents at the public hearing?

ANSWER: No. The Board of Adjustment is not constituted as an investigating body but is a quasi-judicial body. It should therefore limit its deliberations to those matters which are brought to it during the public hearing. This is not to say, however, that the Board members cannot ask questions or require that the petitioner and/or opponents produce evidence or testimony in support of allegations or representations made during the public hearing. I understand that customarily Board members do not interject questions or make comments during the public hearing portion of a meeting, but participate only after the hearing has closed and executive session of the Board is commenced. I see nothing wrong with this procedure so long as the interested parties are advised during the hearing that the Board will continue in an executive session before the end of the meeting and that all who are interested in the subject should remain in case questions or requests for additional information are made. If it is determined after the close of the public hearing that insufficient evidence or testimony has been given in support of a relevant issue, the Board may advise the petitioner or opponent of such deficiency and allow for a re-opening of the public hearing if the party wishing the issue to be considered elects to add to the evidence or testimony. If such an election is not exercised the Board's deliberations should continue without weight being given to the unsupported or documented issue.

QUESTION: Should the Board of Adjustment grant a variance when a self-imposed hardship exists if the petitioner created the hardship in reliance upon the advice of a public official?

ANSWER: No. If a hardship has been created by the voluntary act of the owner of property, the Board of Adjustment is without power to grant a variance. Advice or

Hope Strong, III, Esquire
July 10, 1978
Page 2

assurances made by public officials cannot relieve a property owner of the responsibility for his own acts and his adherence to the Zoning Code. It is a well known principle that a variance is a legal status granted to a parcel of property due to circumstances or characteristics peculiarly or uniquely related to the property. The opinion, advice or act of a public official which is in violation of the law is null and void regardless of the good intentions of the public official or the reliance upon such opinion, advice or act on the part of the citizen. Thus, even where the act of a public official is as formal as the granting of a building permit or issuance of a license, such an act does not vest the citizen the right to construct the building or make use of the license if the public official illegally granted the permit or license.

It has been held in some Florida cases that the mere fact a petitioner for a variance purchased the subject property after the enactment of the ordinance from which the petitioner seeks a variance was enough to establish a self-imposed hardship. Other cases have been less strict and have applied the self-imposed hardship rule only when the petitioner had actual knowledge of the ordinance when he acquired the property. Still others applied the self created hardship rule when the petitioner acted upon the property after he acquired title thereby creating the hardship.

A variance is not the proper or appropriate remedy of a property owner who acts to his detriment in reliance upon someone else's opinion of the law. A public official who has apparent authority and upon whose act or advice the property owner relies in good faith, may create liability on the part of the City but he cannot affect a waiver or suspension of the law. Thus, it is not the duty nor is it in the power of a Board of Adjustment to grant variances as a means of settling disputes between a property owner and the City arising from the illegal acts of City officials.

I wish to point out that there have been court decisions which have allowed boards of adjustment to grant variances where self-imposed hardships were created by acts of good faith and in reliance upon the statements of municipal officials. However, these decisions have been entered in states outside Florida and in some of the states self-created hardships are not a bar to the granting of variances. Some of the Florida decisions contain dictum which might indicate that a board of adjustment could grant a variance notwithstanding the existence of a self-imposed hardship, but in light of the fact that the great majority of the Florida court decisions have held that self-imposed hardship constitutes a bar to a variance, I feel it would be imprudent of the Winter Park Board of Adjustment to act in reliance on out-of-state court decisions and occasional dictum expressed by the Florida courts. In support of that opinion I would point out that it is preferable for the Board of Adjustment to remain clearly within its jurisdictional authority leaving to the courts the power to grant redress to a property owner whose use and enjoyment of his property is unreasonably or unnecessarily restricted by the City's Zoning Code than it is for a board of adjustment to extend its jurisdiction into legally questionable areas.

CONCLUSION: The foregoing opinion is based on my interpretation of the law in Florida with respect to the rule of self-imposed or self-created hardship. It would be within the power of the City by appropriate amendment to the Zoning Code Section 31-2

Hope Strong, III, Esquire
July 10, 1978
Page 2

to grant to the Board of Adjustment explicit authority to consider applications for variances where the applicant acted to his detriment in good faith reliance upon the statements or actions of public officials. No such authority presently exists, and on the contrary, Section 31-26(2)(a) 3 requires that an applicant for a variance demonstrate that the special conditions and circumstances creating the hardship do not result from the actions of the applicant.

I am prepared if you find it necessary, to provide you with the legal citations upon which this opinion is based, and to advise the Board further in this matter if needed or desired.

Respectfully submitted,

RICHARD F. TRISMEN

RFT/ch

cc: Mr. David T. Harden

ACTION:

Mr. Reeves made a motion to APPROVE the request with the following conditions:

- 1) There shall be no display of boats for sale on the U.S. 17-92 front half of the property.
- 2) This conditional use permit shall be in force for a period not to exceed eighteen (18) months.

Mr. Colado seconded the motion which passed unanimously.

→ MISC 4:90

Request of Joe Pacy for Subdivision Approval to allow the land between the properties at 1234 and 1270 Lakeview Drive to become a buildable single family residential (R-1AAA) lots, with variances.

The City Planner explained that this item is an "after-the-fact" subdivision request to make Mr. Pacy's property a buildable single family lot. He indicated the property in question on an overhead transparency.

In relating the property's history, staff explained that originally Mr. Pacy owned this property and the property adjacent at 1270 Lakeview, all as one property. In 1976, he sold 1270 Lakeview but split off this subject property. Mr. Pacy says the property was split on advice from Mr. Paul Gendron (former building official), and he did so with the belief that he was creating two buildable lots. However, without city approval he created a non-conforming lot, since it did not have the frontage or area needed for the R-1AA zoning at that time. The split also created a non-conforming setback between the lot line and the house at 1270 Lakeview.

In 1978, Mr. Pacy applied to the Board of Adjustment for variances to make this a buildable lot. In July 1978 the Board of Adjustment denied Mr. Pacy's application. Shortly thereafter, attorney Jim Moreland, representing Mr. Pacy, appealed this decision to the Orange County Circuit Court. The City of Winter Park defended the suit and the Circuit Court upheld the Board of Adjustment's denial.

The City Planner explained that several things have changed since then. The zoning for this property is now R-1AAA (lakefront) and requires 125 feet at the lake and at the street. The minimum lot size is 25,000 square feet. This means that the variances requested are substantially larger. Also, subdivision variances are now decided by the Planning and Zoning Commission and City Commission.

Mr. Pacy still owns the land and still desires approval for this property as a buildable lot. Staff pointed out that the lot now is worth \$300,000-400,000 if deemed to be buildable.

In applying the zoning test to this property, significant variances are required, as the lot would be required to have 25,000 square feet of area and 125 feet of property at the lake and at the street. In comparing the proposed lot to those existing in the established neighborhoods, staff related that of 32 homes in the immediate area the average frontage is 101 feet. The median is 96 feet with the smallest frontage of 70 feet. The proposed lot would have 9,500 to 10,100 square feet of area (depending on the survey), which is well below the neighborhood average.

The City Planner pointed out that denial of this request does not mean there is no possible use for this property. The land could be sold or used by someone as lakefront access. It could be land for a boathouse. Staff felt use by someone in the neighborhood would be the best option.

Staff recommended denial of the subdivision request due to the significant variances needed to create a non-conforming lot that is out of character with the size and frontage of the homes in the surrounding area. The denial was also based on not complying with Comprehensive Plan policies for subdivisions in established neighborhoods. Staff felt conditions have not significantly changed since the 1978 denial of this identical request by the Board of Adjustment which was upheld by Circuit Court of Orange County.

Mr. Steve Bechtel, attorney representing Mr. Pacy, presented a packet of information to the Board members. This packet included a letter from Mr. Pacy's realtor, architect and attorney. Mr. Bechtel related the history of this property, as did staff, stating that Mr. Pacy always had the intent and desire to build upon Lot 4. Mr. Bechtel stressed that Mr. Pacy acted upon direction and reassurances from the City that dividing the property and selling Lot 5 would still allow Lot 4 to be buildable. Mr. Bechtel presented a colored rendering of a "proposed" home that could be built on the subject property without any variances.

Mr. Joe Pacy (Joseph Passalacqua), also appeared to relate his request and relate the personal history of this property.

Mr. Udo Garbe, 1340 Lakeview Drive, stated that he is an architect and desired to support the request. He felt it was unfair that Mr. Pacy was taxed on the property as a residence, but could not build one on the property.

The following persons spoke in opposition to the subdivision request:

- Mrs. Antoinette Foley, 1270 Lakeview Drive
- Ms. Adair Fluno, 1234 Lakeview Drive
- Mr. Ed Hurt, 1211 College Point
- Mr. John Fluno, 1234 Lakeview Drive
- Mr. Doug Osborn, 1321 Lakeview Drive
- Mr. Roy Crabtree, 1221 Arlington Place
- Mrs. Phyllis Wycoff, 1479 Glencoe Avenue

Mrs. Foley presented a prepared statement (copy attached to these minutes) asking the City to uphold their previous denial of this non-conforming lot, that she felt was a self-imposed. Ms. Foley stated that a 100 year old oak and endangered species palm exist on the property. Mr. Hurt stated that zoning regulations are in force to protect the community, he urged the Board to uphold their regulations. Mr. Fluno objected to the property being referred to a "lot" as he stated it was never a complete lot, but a parcel of land and related history of ownership. He opposed any construction on this property.

Mr. Osborn stated that any construction will block neighbor's lake views, and felt this is a consideration by the Planning and Zoning Commission in reviewing lakefront site plan reviews. Mr. Crabtree felt the City is being ruined by too many large homes and felt building on this sub-standard lot would degrade the neighborhood. Mrs. Wycoff stated that if Mr. Pacy can build on this tiny parcel, she could subdivide her lot (1479 Glencoe) into about five homesites.

Mr. Bechtel responded that the property is not a "free park" for the neighbors enjoyment and that Mr. Pacy's property rights should be respected as much as the neighbors.

The Board members concurred that the property was non-conforming under current zoning restrictions, and creating a buildable lot was contrary to the intent of the City's Comprehensive Plan policies regarding new lots in established neighborhoods.

→ ACTION:

Mr. Colado made a motion to DENY the request. Mrs. Sanders seconded the motion which passed unanimously.

SITE PLAN REVIEWS:

SPR 8:90 ~~SCHOFIELD RESIDENCE - 420 N. Interlachen Avenue - for new driveway and motor court, patio area/wall on Canton, and wall on Interlachen on Lake Osceola.~~

~~The City Planner related the request for a new driveway and motor court, new patio area and a wall on Canton Avenue, and a wall on Interlachen Avenue at the Schofield residence at 420 N. Interlachen Avenue. Staff related the variances (for wall) previously granted by the Board of Adjustment. He stated that on this two plus acre property code coverages were not a problem (impervious will be 27%). No trees will be removed. Stormwater retention/percolation will be accomplished via an underground exfiltration system. Staff recommended approval.~~

~~Mr. Bob Keith, Foster, Conant & Associates, was present to represent the request. Mr. Keith explained the underground exfiltration system.~~

1252 Lakeview Sub.
City Commission Minutes
1990

CITY OF WINTER PARK.
REGULAR MEETING OF THE CITY COMMISSION
APRIL 10, 1990

The Regular Meeting of the Winter Park City Commission was called to order by Mayor David Johnston at 4:30 P.M. Said meeting took place in the Commission Chambers of 401 Park Avenue, South, Winter Park, Florida.

PRESENT. Mayor David Johnston; Commissioners Gary Brewer, Rachel Murrah, Pamela Peters and Peter Gottfried. Also in attendance were City Manager, Anthony Barrett; City Attorney, C. Brent McCaghren and City Clerk, Arlene Coleman.

INVOCATION. Commissioner Peter Gottfried offered the Invocation which was followed by the Pledge of Allegiance.

APPROVAL OF MINUTES. **Motion to approve the minutes of Regular Meeting of March 27, 1990 made by Commissioner Murrah, seconded by Commissioner Brewer. No additions or corrections were made. Motion carried with a favorable 5-0 vote.**

MAYOR'S REPORT.

Recognition of retiring employee. Perry Saunders. Mayor Johnston recognized Mr. Saunders with a plaque for his sixteen (16) years of dedicated service. Mr. Saunders was unable to attend the meeting to receive his plaque.

Board Appointments:

Mayor Johnston reappointed Betty Bay, Karen Branen, Sabrina Balhazor, Jean Oliphant and Judy Green to the Sidewalk Art Festival Commission, seconded by Commissioner Brewer. Motion carried with a favorable 5-0 vote.

Roy Crabtree, 1221 Arlington Place, requested the City Commission waive the policy of requirement for terms served on the Winter Park Housing Authority, and requested the reappointment of James Carter. Mr. Crabtree felt Mr. Carter has done an outstanding job on the Board. Mayor Johnston conferred with the Commission, with general consensus being; a waiver cannot be given due to setting a precedent, and the present policy must be adhered to.

Mayor Johnston reappointed Lemuel Quinton and appointed Betty Field to the Winter Park Housing Authority Commission, seconded by Commissioner Brewer. Motion carried with a favorable 5-0 vote.

Formal Commission Meeting
April 10, 1990

Page (5)

In June 1988, the City recognized the major K-Mart redevelopment which would turn the area into a construction site as the parking lot is redone, new buildings are constructed, renovations, etc. with a time frame of approximately 18-24 months. It was expected that this Conditional Use for boat sales would not appear out of place or as a detriment to the image and character of the area until the K-Mart project was completed. However, it is twenty (20) months later and K-Mart is just getting ready to start their construction.

The Planning and Zoning Commission recommended approval of this request 4-1 with the following recommendations: 1) There shall be no display of boats for sale on the U.S. 17-92 front half of the property. 2) This conditional use permit shall be in force for a period not to exceed eighteen (18) months.

Bruce Barber, applicant, requested approval of the request. Ms. Shirley Wills, representing K-Mart, requested denial of the request.

Public Hearing Closed

Motion to deny Conditional Use Request made by Commissioner Gottfried. Motion died for lack of a second.

Motion to approve Conditional Use Request with conditions imposed by the Planning and Zoning Commission, made by Commissioner Murrah, seconded by Commissioner Brewer. Motion to amend the main motion to insert one (1) year extension, instead of the requested eighteen (18) months, made by Commissioner Peters, seconded by Commissioner Brewer. Main motion with amendment carried with a 5-0 vote.

→ Subdivision Request - Request of Joe Pacy for Subdivision approval to allow land between 1234 and 1270 Lakeview Drive to become buildable, single family residential lots with variances.

Jeffrey Briggs, Planning Director, explained that this item is an "after-the-fact" subdivision request to make Mr. Pacy's property a buildable single family lot. Mr. Briggs indicated the property in question on an overhead transparency.

In relating to the property's history, Mr. Briggs explained that originally Mr. Pacy owned this property and the property adjacent at 1270 Lakeview but split off this subject property. Mr. Pacy said the property was split on

Formal City Commission Meeting

April 10, 1990

Page (6)

advice from Paul Gendron, who is the former building official, doing so with the belief that he was creating two (2) buildable lots. However, without city approval he created a non-conforming lot, since it did not have the frontage or area needed for the R-1AA zoning at that time. The split also created a non-conforming setback between the lot line and the house at 1270 Lakeview.

In 1978, Mr. Pacy applied to the Board of Adjustment for variances to make this a buildable lot. In July 1978 the Board of Adjustment denied Mr. Pacy's application. Shortly thereafter, Attorney Jim Moreland, representing Mr. Pacy, appealed this decision to the Orange County Circuit Court. The City of Winter Park defended the suit and the Circuit Court upheld the Board of Adjustment's denial.

Mr. Briggs explained changes which have taken place, such as; the zoning for this property is now R-1AAA (lakefront) and requires 125 feet at the lake and at the street. The minimum lot size is 25,000 square feet. This means that the variances requested are substantially larger. Also, subdivision variances are now decided by the Planning and Zoning Commission, as well as the City Commission.

Mr. Pacy still owns the land and still desires approval for this property as a buildable lot. Mr. Briggs pointed out that the lot is now worth approximately \$300 - \$400,000 if deemed to be buildable.

Denial of this request does not mean there is no possible use for this property. The land could be sold or used by someone as lakefront access, and could be land for a boathouse.

The Planning and Zoning Commission concurred that the property was non-conforming under current zoning restrictions, and creating a buildable lot was contrary to the intent of the City's Comprehensive Plan policies regarding new lots in established neighborhoods, and recommended denial by a 5-0 vote.

Steve Bechtel, Attorney, representing Mr. Pacy, related the history of the property, and presented a colored rendering of a "proposed" home that could be built on the subject property without variances, as well as presenting the Commission with a "packet" of information on the subject matter.

Formal City Commission Meeting
April 10, 1990

Page (7)

Mrs. Antoinette Foley, 1270 Lakeview Drive, Ms. Adair Fluno, 1234 Lakeview Drive, Doug Osborn, 1321 Lakeview Drive, Roy Crabtree, 1221 Arlington Place, Mrs. Grace Schram, 1352 Richmond Road, spoke in opposition to the request.

Public Hearing Closed.

Motion to deny the Subdivision request made by Commissioner Peters, seconded by Commissioner Brewer.

Commissioner Peters stated her reason for denying the request, and concurred what the Planning and Zoning Commission exhibited in their report, and their reasons for denying. The density that would accompany building on the subject lot would be unpleasant and detrimental to the neighborhood and to the City of Winter Park. The feelings of the residents already residing in the neighborhood need to be respected, and the zoning ordinance should be abided by.

Commissioner Murrah stated that ample consideration was given by the Commission to the supporting documents, and the information "packet" distributed by Mr. Bechtel has already been reviewed by the Commission. There is also a copy of the order of the court denying the petition for Certiorari, and in that order, it does say, the variances sought by the petitioner before the Board of Adjustment were properly denied by that Board.

Commissioner Brewer stated he was sorry the applicant did not apply for subdivision approval prior to the sale of the property, which should have been the normal turn of events, and sorry he wasn't advised of that requirement at the time, by his Attorney or any City official. Commissioner Brewer felt if the Subdivision request was permitted, the city would be setting a very dangerous precedent, as there are probably multiple lakefront properties within the city that could potentially have the same possibility of subdividing.

Commissioner Gottfried felt a key point that the applicant made was the hardship in the changing of the process, and felt he was under the impression he could do something, then found out he couldn't. In his experience, Commissioner Gottfried has dealt with developers all over the state, and individuals run the risk of situations changing when they have a piece of property, such as ownership of property in the wetlands. People should take the time to keep up with changing real estate rules and regulations.

↙ The motion carried with a favorable 5-0 vote for denial.

MORELAND & GUNNINGHAM, P. A.

ATTORNEYS AT LAW

280 CANTON AVENUE WEST

POST OFFICE BOX 651

WINTER PARK, FLORIDA 32789

305/628-0884

October 27, 1975


JAMES A. MORELAND
JAMES R. GUNNINGHAM

Mr. Paul Gendron,
Building Official,
City of Winter Park,
City Hall,
Winter Park, Florida 32789.

Re: Lot 4, Block H, VIRGINIA HEIGHTS,
Plat Book G, Page 107, Public
Records of Orange County, Florida.

Dear Paul:

This will confirm our recent discussions concerning the possibility of building a residence on part of Lot 4, Block H, VIRGINIA HEIGHTS (Plat Book G, Page 107, Public Records of Orange County, Florida), on Lakeview Drive near where Bob Koch is building a new home.

Parts of Lots 4, 5 and 6 were formerly owned by one individual. An existing structure is on Lot 5 and corners thereof jut into parts of Lot 4 and Lot 6. The home was sold off and a new parcel was created out of part of Lot 4 and Lot 5, after earlier discussions with Dave Harden concerning the zoning matters and non-conforming lot questions. The new lot is at least fifty feet wide in all dimensions. The thought is to build a new home at some point on this lot. 

Our discussion indicated that, since the lot is at least fifty feet wide in all dimensions and since it encompasses in its metes and bounds description part of two existing lots which antedated the current zoning ordinance, the lot is buildable although it does not comply with current zoning requirements.

Sincerely,

James A. Moreland.

JAM:rc

bcc: Mr. Joe Pacy.

MORELAND & GUNNINGHAM, P. A.

ATTORNEYS AT LAW

280 CANTON AVENUE WEST

POST OFFICE BOX 651

WINTER PARK, FLORIDA 32789

305/628-0884

JAMES A. MORELAND
JAMES R. GUNNINGHAM

November 3, 1975

Mr. Joe Pacy,
3066 Plaza Terrace Drive,
Orlando, Florida.

Dear Mr. Pacy:

I believe that your question over building on your lot on Lakeview Drive in Winter Park has been resolved. As I indicated to you over the telephone, the lot can be divided up in such a manner so as to avoid the necessity of a variance for either portion.

My discussion with the Building Official and the Planning Director reached the conclusion that, as long as the house currently existing on Lot 5 has 7-1/2' side yard ~~whert~~ it juts into Lot 4, the building for Lot 4, or the existing house on Lot 5, need not go through the variance procedure. The new lot, however, must have a minimum of 50 feet in width throughout the entire lot. I have discussed this with Mr. Koch and he indicated that the scale is accurate and that the building, with a 7-1/2' side yard, would, in fact, have in excess of 50 feet remaining on Lot 4. The metes and bounds description then could be prepared showing at least a 50' width for that lot for the entire depth of the lot. ←

It would appear now that all that need be done is to have plans prepared showing the separation of the lot and have the building plans presented to the Planning & Zoning Commission for approval since this is a lakefront lot. This presentation is normally done on an informal basis and a lawyer is not necessary for that. It appears that the point has been reached in this matter where my services are no longer required, and I have, accordingly, prepared a bill which I enclose. I am glad we have been able to resolve this matter to everyone's satisfaction so quickly.

Sincerely,

James A. Moreland

James A. Moreland.

JAM:rc

Encl.

9 A.M.

MORELAND & GUNNINGHAM, P. A.
ATTORNEYS AT LAW

280 CANTON AVENUE WEST
POST OFFICE BOX 651
WINTER PARK, FLORIDA 32789
305/628-0884

October 27, 1976

JAMES A. MORELAND
JAMES R. GUNNINGHAM

1. SHOULD I FILE REPLATTED SURVEY?
2. WITHIN WITHOUT?

Mr. Joe Pacy,
3066 Plaza Terrace Drive,
Orlando, Florida 32803.

Re: Lot 4, Block H, VIRGINIA
HEIGHTS, Plat Book G, Page 107,
Public Records of Orange
County, Florida.

Dear Joe:

I apologize for not getting back to you sooner on this matter.

I had several good conversations with Paul Gendron about this matter. He assured me that, as long as there is a continuous width of fifty feet or more throughout the proposed building lot, a home can be built on the property even though the lot may be described by metes and bounds and cover an area both within and without an already existing lot.

Although the lots in question all are narrower than the current requirement for buildable lots within the applicable residential zone, the lots were platted prior to the date of the current zoning map and, therefore, do not pose a problem for building purposes. I have confirmed this in writing with Mr. Gendron so that we will have something for the file in the future should any question arise at some point down the road.

Sincerely,

James A. Moreland.

JAM:rc

P.S.: We still have the surveyor's drawings; what do you want us to do with them?

April 5, 1990

1234 Lakeview Drive

City of Winter Park Commission:
Mayor David A. Johnston
Gary A. Brewer
Pamela Peters
Rachel Murrah
Peter K. Gottfried

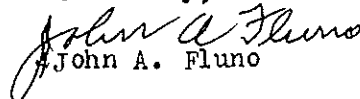
Dear Commissioner:

Last April 3 the Planning and Zoning Commission, in an unanimous ruling, upheld the building and subdivision ordinances of Winter Park, denying a request to make a buildable lot of partial Lot 4 between 1234 and 1270 Lakeview Drive. We urge you, our representatives, to agree with the Planning and Zoning Commission, and the many citizens of the neighborhood who have expressed their agreement by signing our petition.

Lot 4, between 1234 Lakeview (my home) and 1270 Lakeview, has not for many years existed in its original width of 70 feet. Part of Lot 4 has been, for over 60 years occupied by a portion of the dwelling at 1270 Lakeview. A strip 6 feet wide, from street to lake, was obtained many years ago and is part of my property, as the tax rolls indicate. The proposed subdivision is reported to sacrifice a bit of original Lot 4, bending 7.5 feet away from the edge of the dwelling on Lot 5 (1270 Lakeview). It would appear that a portion of Lot 5 along the lake front would also be taken by the proposed new Lot 4; otherwise the lakefront portion of this proposed Lot 4 would be little if any more than 64 feet wide. Is the City of Winter Park willing to do this?

I strongly object to this subdivision approval request and to any and all variances that would be needed to make this parcel buildable. Too many residential neighborhoods are becoming crowded with new construction and this is highly undesirable in this R-1AAA neighborhood. Thank you for your consideration.

Sincerely,


John A. Fluno

REMARKS GIVEN BY ANTOINETTE FOLEY 4/3/90 BEFORE WINTER PARK PLANNING & ZONING BOARD

In June of 1978 the Winter Park Board of Adjustments denied the request for buildable status for the land adjoining me. Mr. Pacy sued the city of Winter Park in the Circuit Court of Orange County because of this decision. The Circuit Court upheld the decision of the city.

The situation we are currently discussing is a repeat of 1978. The land in question did not then nor does it now conform to city code requirements for buildable status. At its creation, January 13, 1976, it did not meet the following city code:

Zoning code section 31-5 " Residential (R-AA) District" Paragraph 6a because the lot created did not conform to the minimum requirements of 100 ft. width at the building line (frontage) and did not have the minimum 10,000 sq. ft. land area, and : zoning code section 31-5 paragraph 6b because it created a side property set back of 7.5 ft. to the house at 1270 lakeview drive vs. the required 10 ft.

In 1990, this evening, the zoning code section violated is 31-4.5 "lakefront (R-1AAA) district paragraph 5a because the lot created does not conform to the minimum requirements of 125 ft. width at the street and lake and does not have the minimum 25,000 sq. ft. land area.

It should also be noted that the land between 1270 and 1234 Lakeview is 49.5 ft. at its narrowest point.

Mr. Pacy is asking the Planning and Zoning Board to reverse the decision of the Board of Adjustments which was upheld by the Circuit Court of Orange County in order to solve his self-created problem. According to my abstract Mr. Pacy was fortunate to reap a financial gain when he purchased 1270 Lakeview Drive for \$55,000 and in less than 3 years sold it for \$99,000 and retained the land in question. He continues to receive offers to sell this land in its unbuildable status for in excess of \$149,000.

I request the Board to uphold the 1978 decision of the Board of Adjustments and confirmed by the Circuit Court of Orange County to deny subdivision or buildable status for this property. In addition, I request the Board to uphold the existing rules and regulations in effect today governing subdivisions and buildable status on the parcel in question.

Copies of this statement are submitted for the recording minutes, and I request that copies be forwarded to each city commissioner and the mayor.

Respectfully submitted

Antoinette Foley
1270 Lakeview Drive

April 3, 1990

March 22, 1990
1234 Lakeview Drive

To: Winter Park Planning
and Zoning Commission

Subject: Request for Subdivision
Approval, Agenda Item MISC 4:90

Margaret Sanders

Guy D. Colado

Charles Rosenfelt

Malcolm MacDiarmid

I. S. K. Reeves

Dear Commissioner:

Lot 4, situated between 1234 Lakeview Drive (where I reside and which I own) and 1270 Lakeview Drive had not for many years existed in its original width of 70 feet. Part of this lot has been, for 60 years or more, occupied by a portion of the dwelling at 1270 Lakeview. A strip 6 feet wide, running from the street to Lake Virginia, was obtained many years ago and is now part of my property, as the tax rolls indicate. Shortly before June 20, 1978, an attempt was made to establish a buildable lot, yielding an additional portion of old Lot 4 to the property at 1270 Lakeview Drive. This request for retroactive subdivision approval appears to be an attempt to get the City of Winter Park to legalize the appropriation of a portion of Lot 5 along the lake and toward the street.

The parcel slopes considerably between the street and the lake in this flood plain designated location. Filling on the flood plain is, of course, not permitted and would increase the water damage to adjacent properties.

I Strongly object to this subdivision request and any and all variances needed to make this parcel buildable.

John A. Fluno

ter, 4763 Palmetto Ave. Space is available and the charge for a 10-foot-square booth is \$10. For more information, call Jane Admatico at 671-4237.

Winter Park

■ CITY COMMISSION

PARADES REJECTED. The Shriners will not get to march in the city after all. The Imperial Shrine Convention plans a major get-together in Central Florida in 1992. The group wanted to stage two four-hour parades on Park Avenue during its convention. Shriner Ken Thomas said the events would bring 10,000 people downtown. But commissioners said blocking Park Avenue for such long periods would be unfair to residents, shoppers and merchants. They also said that having such a parade on U.S. Highway 17-92 would be an equally bad idea.

■ LAKE VIRGINIA

ZONING BATTLE. Residents along the west side of Lake Virginia won another round this week in their long neighborhood battle to keep a home from being built on a lakefront lot that is only 53 feet wide. Joe Passalacqua bought the property between 1234 and 1270 Lakeview Drive in the 1970s, but has never obtained approval of the zoning needed to build a house there. A circuit court judge agreed with the city 12 years ago that Passalacqua did not have the right to build because the lot is not large enough to meet city standards. Current zoning restrictions are even stricter than they were then; a lot on the lake must be 150 feet wide and contain at least 25,000 square feet in order to accommodate a house. Passalacqua's attorney, Steven Bechtel, told the City Commission this week that an architect has designed a house that would fit on the lot without requiring any setback variances. But neighbors argued that allowing the house would undermine the city's zoning code. Commissioners unanimously voted to deny approval for the house.

Contributions to Neighborhood Notebook, compiled by C.A. Glover, are welcome. Send typewritten announcements for consideration by editors to Neighborhood Notebook, Metro Department, The Orlando Sentinel, P.O. Box 2833, Orlando, Fla. 32802. Please include the name and daytime phone number of a person to call for more information. Items must be received by the Monday preceding publication.

Society hopes to get state help for Waterhouse home restoration

By Ines Davis Parrish

OF THE SENTINEL STAFF

MAITLAND — The Waterhouse home off Lake Lily eventually will be the jewel of the city's proposed cultural corridor.

But polishing that jewel will require money. So the Maitland Historical Society wants residents to write their legislators asking them to approve a \$200,000 grant for the restoration project.

In addition to the letter-writing campaign, society members plan to speak directly with lawmakers at the state Capitol about funding the project during Preservation Day activities April 23-24.

The state Bureau of Historic Preservation has included the Waterhouse proposal on its list of 55 recommended projects. But lawmakers will have the final say and applicants will not know anything until July, said Walt Marter with the bureau.

The bureau has asked for \$12 million for various projects.

As Maitland's only building on the National Register of Historic Sites, the Waterhouse home is considered outstanding because it is one of the few homes from the late 19th century that still is in good shape.

The city last year received a \$10,785 planning grant to develop blueprints to restore the house to its original condition.

Society president Jeff Farley suggested residents write letters stating the restored home will be "a living museum and a small chapter of Florida history... and the last example in Central Florida of what life was like for the middle class in the late 19th century."

Farley said he thinks the city has a pretty good chance of getting the money.

The city and society fund-raisers will pay the balance of the estimated project cost of \$270,000, he said.

Plan to register house surprises owner

By Ines Davis Parrish

OF THE SENTINEL STAFF

MAITLAND — Ruth Wagner knows that the 109-year-old house where she and her husband live is historically significant. But she did not know city officials may consider recommending her house for the National Register of Historic Places.

Wagner learned of her home's potential future after reading a newspaper article this week about a survey of the city's old buildings. The survey done by Historic Properties Associates Inc. of St. Augustine included the recommendation that city officials nominate four buildings for the National Register.

The Wagners' home at 100 Oak-

leigh was one of them, as was the Hill-Stone house at 1300 N. Maitland Ave.; a Queen Anne-style home at 1 Park Lane; and part of the Episcopal Church of the Good Shepherd off Lake Avenue.

The survey included 72 buildings that are 50 years or older and in fairly good shape. Council members received the consultants' 69-page report and recommendations at Monday's meeting.

The next step in the process would be to apply for a state grant. The council will kick in \$4,000 more if it receives the grant to pay for putting together the nomination.

Wagner said Wednesday she has no idea what it would mean to her personally to have the home she has lived in for 31 years included on the National Register, "so I

have no opinion about it one way or the other until I get more information."

Sidney Johnston with Historic Properties said his company did not talk with the residents of the homes they surveyed because they had no reason to do so.

The city has two buildings — the Waterhouse home overlooking Lake Lily and the Maitland Art Center — listed on the National Register.

City officials are trying to get at least \$200,000 to restore the vacant Waterhouse home as a museum.

The National Register identifies historically or culturally significant buildings that are 50 years or older but does not protect the building from alterations or demolition.

Please see **HOUSE, 5**

WE THE UNDERSIGNED ARE OPPOSED TO SUBDIVISION APPROVAL THAT WOULD ALLOW
THE PARTIAL LOT 4 BETWEEN THE PROPERTIES AT 1234 AND 1270 LAKEVIEW
DRIVE TO BECOME A BUILDABLE SINGLE FAMILY RESIDENTIAL LOT AND TO ANY
AND ALL VARIANCES THAT WOULD NEED TO BE GRANTED, INCLUDING LATERAL
SETBACKS, FRONTAGE, AND MINIMAL LOT SIZE, AS REQUIRED IN THIS R-1AAA
DISTRICT. GRANTING SUBDIVISIONAL APPROVAL AND THE NECESSARY VARIANCES
WOULD CAUSE SEVERE CROWDING OF ADJACENT HOMES.

19

W Hopecraft 1230 Lakeview
Antoinette Louise Foley 1270 Lakeview
Linda Donnelly 243 Hampden Bl.
Bonnie Carpenter 1560 Glencoe Rd.
Chris F. Schreck 1650 Laurel Rd. W.P.
~~Bo Fitting~~ 321 STRECHS ROE W.P.
Kannan Ackerman 1349 Essex Rd
Victoria S. Oliva 1235 Essex Rd.
Ann C. Tancoutra 700 Oxford Road
Mel W. Tancoutra 700 Oxford Rd.
Kathleen Culin 453 Melrose Ave. W.P.
Al Hudson 953 Melrose Ave W.P.
Bob Shultz 1035 Lakewood Drive, Winter Park, Fla. 32789
Elizabeth Stocum Partridge, 1111 Lakewood Drive, Fl.
(Mrs. Olinia W. von der Berg)
Peter F. Foley 1270 LAKEVIEW DRIVE WINTER PARK, FL 32789
Douglas W. Horn 1321 LAKEVIEW DR., WINTER PARK, FL. 32789
Tade S. 1350 College Pt. Winter Park, FL 32789
Meyou Radcliffe 1361 College Point, Winter Point, FL 32789
A Radcliffe 1361 College Point, W.P. 32789
Robert A. Hicks 144 Stirling Ave. W.P. 32789

WE THE UNDERSIGNED ARE OPPOSED TO SUBDIVISION APPROVAL THAT WOULD ALLOW -
 THE PARTIAL LOT 4 BETWEEN THE PROPERTIES AT 1234 AND 1270 LAKEVIEW
 DRIVE TO BECOME A BUILDABLE SINGLE FAMILY RESIDENTIAL LOT AND TO ANY
 AND ALL VARIANCES THAT WOULD NEED TO BE GRANTED, INCLUDING LATERAL
 SETBACKS, FRONTAGE, AND MINIMAL LOT SIZE, AS REQUIRED IN THIS B-1AAA
 DISTRICT. GRANTING SUBDIVISIONAL APPROVAL AND THE NECESSARY VARIANCES
 WOULD CAUSE SEVERE CROWDING OF ADJACENT HOMES.

TED Moskos 1330 ESSEX Rd. Winter Park, FL 32789
 (also on Lakeview)
 John A. Fluro 1234 LAKEVIEW DRIVE, WINTER PARK
 Elizabeth Osburn 1321 LAKEVIEW DR., WINTER PARK
 Peter J. Osburn 1321 Johnson Dr., Winter Park
 James G. Drayak 1357 Richmond Rd.
 Winter Park, FL. 32789
 John W. Drayak 1357 Richmond Rd. - Winter Park
 William J. Brist 1221 Richmond " " "
 Elizabeth Brist 1221 Richmond Road W. Park
 Mary Martin 1230 Richmond Rd. W. Park
 Col. Benton R. Baldwin 1195 Lakeview Dr. W. Park
 Phyllis B. Hyck 1479 Glencoe Rd. W. Park
 Margaret Maxwell 1470 Glencoe Rd. W. P.
 1430 Glencoe Rd. W.P.
 James D. Lower 1430 Glencoe Rd W.P.
 Mary Z. Somers
 Barbara Hicks 144 Stirling Avenue
 Kay M. Jewell 1381 College Point
 Linda Lord 1381 College Point
 Gary R. Mygal 1341 College Point
 Ed Hart Dr 1211 College Pt. W.P.
 Allen H. Bowen 1251 Lakeview Dr. W.P.
 Nettie Saltzman 1252 Essex Rd. W.P.
 Lorraine Saltzman 1252 Essex Rd W.P.
 Adair Fluro 1234 LAKEVIEW DR W.P.

WE THE UNDERSIGNED ARE OPPOSED TO SUBDIVISION APPROVAL THAT WOULD ALLOW THE PARTIAL LOT 4 BETWEEN THE PROPERTIES AT 1234 AND 1270 LAKEVIEW DRIVE TO BECOME A BUILDABLE SINGLE FAMILY RESIDENTIAL LOT AND TO ANY AND ALL VARIANCES THAT WOULD NEED TO BE GRANTED, INCLUDING LATERAL SETBACKS, FRONTAGE, AND MINIMAL LOT SIZE, AS REQUIRED IN THIS R-1AAA DISTRICT. GRANTING SUBDIVISIONAL APPROVAL AND THE NECESSARY VARIANCES WOULD CAUSE SEVERE CROWDING OF ADJACENT HOMES.

Adele Prince 447 Melrose Ave Winter Pk 32789
 Anne Jungens 407 Melrose Ave W.P. 32789
 Robert Jungens " " " "
 Jim Plattner 420 MELROSE AVE W.P. 32789
 Henry Zetner 493 MELROSE AVE
 R. Plattner 1221 Arlington for P.
 Axel Fluro 1234 Lakewood Dr. - W.P. 32789
 Eleanor Cretcher 1221 Arlington Place, W.P. 32789
 Jerry N. Samuels 1231 Arlington Place W.P. 32789
 Annette Foley 1270 Lakeview Dr. W.P. 32789
 Grace C. Schram 1352 Richmond Rd. W.P. 32789
 Bill Garrett 1399 Richmond Rd. W.P. 32789
 Kathleen C. Jazard 1353 Essex Rd 32789
 Jennette Johnson 300 Stirling Ave 32789
 Robert J. Auburn 320 Stirling Ave. 32789
 Virginia Auburn 320 Stirling Ave. 32789
 James E. Johnson 300 Stirling Ave. 32789
 Mary B. Hall 1525 Glencoe Rd 32789
 " " " " " "
 " " " " " "
 Tom W. Hall 1515 " " 32789
 Richard O. Babler 1515 " " " "
 Catherine T. Baldwin 1515 " " " "
 Ed Pease 1207 Essex Wido Park F 32789
 Nick Pease 1207 Essex Wido Park F 32789
 Polly Hopcraft 1230 Lakewood Dr. W.P. 32789

WE THE UNDERSIGNED ARE OPPOSED TO SUBDIVISION APPROVAL THAT WOULD ALLOW -
 THE PARTIAL LOT 4 BETWEEN THE PROPERTIES AT 1234 AND 1270 LAKEVIEW
 DRIVE TO BECOME A BUILDABLE SINGLE FAMILY RESIDENTIAL LOT AND TO ANY
 AND ALL VARIANCES THAT WOULD NEED TO BE GRANTED, INCLUDING LATERAL
 SETBACKS, FRONTAGE, AND MINIMAL LOT SIZE, AS REQUIRED IN THIS R-1AAA
 DISTRICT. GRANTING SUBDIVISIONAL APPROVAL AND THE NECESSARY VARIANCES
 WOULD CAUSE SEVERE CROWDING OF ADJACENT HOMES.

<i>Jean Sturt</i>	1216 College Pt.	WP
<i>Esther Sturt</i>	1198 Oxford Rd	WP
<i>John Owen 4/1/90</i>	1311 Essex Rd	WP
<i>E. Maynard Baldwin</i>	1358 Richmond Rd	WP
<i>Nozella S. Baldwin</i>	" "	"
<i>Wm C E Astman</i>	493 Melrose Ave	W.P.
<i>Chas. H.</i>	1400 "	" "
<i>Harry Hoff</i>	446 Melrose Ave,	W.P. 32789

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

**Staff Report
September 2, 2014**

REQUEST OF THE SYDGAN CORP. FOR: AN ORDINANCE AMENDING CHAPTER 58 'LAND DEVELOPMENT CODE', ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY TO LOW DENSITY RESIDENTIAL FUTURE LAND USE ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE.

REQUEST OF THE SYDGAN CORP. FOR: AN ORDINANCE AMENDING CHAPTER 58 'LAND DEVELOPMENT CODE', ARTICLE I, ZONING AND THE OFFICIAL ZONING MAP SO AS TO CHANGE SINGLE FAMILY RESIDENTIAL (R-1A) ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE.

REQUEST OF THE SYDGAN CORP. FOR: A LOT CONSOLIDATION UNDER SECTION 58-392 OF CHAPTER 58 "LAND DEVELOPMENT CODE" SO AS TO COMBINE THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE CONSOLIDATED PARCEL FOR A UNIFIED RESIDENTIAL DEVELOPMENT AND SUBDIVIDE INTO FOUR SINGLE FAMILY LOTS, THREE DUPLEX LOTS AND TWO TRIPLEX LOTS, SUBJECT TO CONDITIONAL USE SITE PLAN APPROVAL BY THE CITY.

REQUEST OF THE SYDGAN CORP. FOR: CONDITIONAL USE APPROVAL UNDER THE CLUSTER HOUSING PROVISIONS OF R-2 ZONING TO REDEVELOP THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE CONSOLIDATED PARCEL FOR A RESIDENTIAL DEVELOPMENT OF 16, TWO STORY TOWNHOUSE RESIDENTIAL UNITS CONSISTING OF FOUR SINGLE FAMILY BUILDINGS, THREE DUPLEX TOWNHOME BUILDINGS AND TWO TRIPLEX TOWNHOME BUILDINGS WITH A TOTAL PROJECT SIZE OF APPROXIMATELY 41,334 SQUARE FEET.

This is a continuation of the requests made by the Sydgan Corp. that were on the April 8th agenda and tabled, then withdrawn and pursued via a re-application. They seek three approvals from the City as follows:

1. Change the existing Single Family Residential future land use designation in the Comp. Plan and Single Family (R-1A) zoning to Low Density Residential future land use and Low Density Residential (R-2) zoning on the properties at

755/781/783/785/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue in order to use these properties per the "lot plan" attached.

2. Consolidate all of these nine individual properties into one unified development site, and Subdivide the combined Property into four (4) single family lots, three (3) duplex lots and two (2) triplex lots.
3. Approve a Conditional Use in the R-2 zoning for the proposed residential townhouse project of 16 units in two story buildings with an aggregate project size of approximately 41,334 square feet.

Previous P&Z and Community Meetings:

The Planning Board tabled a request by the applicant to designate the property as Medium and High Density Residential with R-3 and R-4 zoning districts at the April 8th P&Z meeting. There were seventeen speakers/neighbors in opposition to the requests and a petition presented with 130 signatures of citizens in opposition. Per the direction of the P&Z Board, there was a subsequent 'community meeting' of about 50 neighbors who gathered to discuss options and to agree upon a consensus recommendation from the neighborhood. Then there was another meeting a week later at the Community Center with representatives of the applicant and the builder together with about 30 neighbors to review the rezoning proposal and to offer their viewpoints. Staff was present at this meeting to hear all points of view.

From the second community meeting, it appears that the neighbors are steadfastly in opposition to any changes in the Comp. Plan FLU or Comp. Plan policies or Zoning. They firmly believe that the view of the parking garage can be easily screened with a two story homes or with new trees planted along the rear property line, as the parking garage is only 27 feet in height. They believe there is no need for increased residential density or three story buildings to screen that structure. The neighbors firmly oppose townhouse type projects that group units together in multi-unit buildings that will be 13-15,000 square feet in size, as this, in their opinion, is out of scale and character with the adjacent neighborhood and the number of single-family homes that exist on both Capen Avenue and Canton Avenue. As a result, there was no expectation that the public hearing would offer any neighborhood support for the 26 unit project of two and two and ½ story townhouse buildings that together comprise 62,000 square feet of building size that was proposed at that time.

Site and Context: Since the P&Z meeting on April 8th, one more property has been added to the request at 785 W. Canton Avenue. There are now nine properties involved in this request. They are all designated Single Family Residential in the Comprehensive Plan and zoned R-1A. Altogether the nine properties encompass 81,545 square feet (1.87 acres). Under the single family designations, the maximum density on these nine properties is 9 single family homes. The requested changes to Low Density Residential FLU and R-2 zoning would permit an increase to 18 units. The applicant has submitted a voluntary Development Agreement that limits the unit count to 16 units in the overall project.

The property, in staff's opinion, has two identities. One section is the portion that is south of and adjacent to the parking garage. The other section is the larger portions which fronts on Canton and Capen Avenues. On Canton Avenue this property is opposite single family homes and in the case of Capen Avenue, clearly on a single family residential street.

Conditional Use for the Project Plans: In order to provide certainty for the City and the neighbors, these requested zoning changes are accompanied by a Conditional Use application and a Development Agreement prepared by the applicant. Those specific site plan and building front elevations are attached. The purpose of the Conditional Use submittal by the applicant is that if any changes are made to the FLU and Zoning, those changes would be "married" to the development plan via the Conditional Use and Development Agreement so that only that specific development could utilize such approvals. The larger issue is, of course, the change in density (units & square footage).

Lot Consolidation and Subdivision Request: The City adopted a lot consolidation approval requirement for residential properties in 2009 requiring approvals of lot consolidations in residential areas whenever the frontage would exceed 150% of the average frontage of the residential properties on that street. However, this is a completely different circumstance than envisioned by the Code because while the applicant is seeking to consolidate the nine properties, they are only doing so in order to immediately then subdivide the combined property into nine lots again which are proposed to be four single family lots, three duplex lots and two triplex lots for nine individual residential buildings equal to the nine properties being consolidated. The size of the single family lots are the same as exists today and the size of the duplex and triplex lots meet the minimum land area/size requirements for such R-2 lots (9,000 sf duplex & 12,000 sf triplex). This subdivision is then governed by the Conditional Use and Development Agreement.

Comprehensive Plan Policy Guidance:

There are a number of policies in the City's Comprehensive Plan that protect and preserve the quality and character of Winter Park's residential neighborhoods.

OBJECTIVE 1-3.6: PRESERVE THE QUALITY AND CHARACTER OF WINTER PARK'S RESIDENTIAL NEIGHBORHOODS. Protect and conserve the diverse range of residential opportunities, ranging from lakefront estates to high rise apartments. Maintain the single-family neighborhoods within the City, including the variety of housing styles and values; the older neighborhoods that have a combination of historic homes and new development; as well as other neighborhoods comprised of modest homes on small interior lots as well as areas where large lakefront estates are predominant. Preserve opportunities for multifamily lifestyles, including duplex, townhouse, garden apartment and high rise apartment living as well as a variety of group housing including retirement homes, nursing homes, and adult congregate living facilities.

Policy 1-3.6.1: Maintain the Scale and Character of Neighborhoods. New development and redevelopment shall occur in a manner that preserves the elements of the existing neighborhood character that provide the attractiveness and unique character of each individual neighborhood. The City shall accommodate redevelopment activity in a manner that does not produce new residences which substantially alter the scale or character of a street. The aim shall be to restrict home sizes so they do not visually overpower the natural features or amenities in a neighborhood, but instead complement those features. The City shall regulate the degree and scale of development on single-family properties through the use of the tools of setbacks, height limits, lot coverage restrictions and impervious coverage restrictions, floor area ration, limiting wall heights at side yard setbacks, reducing heights along sensitive edges, second floor step backs on front and side, establishing maximum wall plane lengths that reflect the traditional width of buildings along the street, roof pitches, and alignment of front setbacks. Winter Park applies and shall continue to apply a floor area ratio in managing the size, building mass, and design features of single-family and townhouse buildings. Pursuant to the City's strategic plan, the City shall review its residential development standards as new issues are confronted in maintaining a proper scale and intensity among adjacent uses in order to retain Winter Park's "village" character.

Policy 1-3.6.2: Maintain the Quality and Character of Single-Family Residential Neighborhoods. Maintaining the character and quality of life for these neighborhoods shall continue to be a major policy of the Comprehensive Plan. The City shall maintain the quality and attractiveness of public infrastructure and public property such as streets, sidewalks, parkways, street canopies, and plants on public property. Pursuant to the City's strategic plan, the City shall review and revise its Land Development Code within one year of adoption of this Comprehensive Plan, to ensure that the scale and character of new development/redevelopment is compatible with existing single-family neighborhoods. The City Planning Commission and City Commission shall continue to develop more stringent land development codes as needed to avoid the adverse impacts of increased Commercial and/or High-Density Residential development adjacent to historically Single-Family or Low-Density Residential neighborhoods. The City shall protect Single-Family neighborhoods from all impacts of development that are not compatible with Low-Density and Single-Family environments and shall prohibit parking garages abutting Single-Family and Low Density Residential development. The City shall prohibit above grade parking garages within 100 feet of a single family or low density residential property.

Policy 1-3.8.4: Encourage Single-Family Detached Homes. The City shall encourage single family detached homes as opposed to apartments and condominiums by strongly discouraging Future Land Use Map amendments from Single-Family Residential or Low-Density Residential to Medium or High-Density Residential. The intent of this policy is to provide a smooth transition of density/intensity of land use.

Each of the referenced policies addresses the need to maintain the character of single-family or low-density residential in neighborhoods and recognize the unique character of each individual neighborhood. In analyzing this request, one of the key points in the analysis is looking at the block itself and its placement as part of the overall neighborhood.

Summary and Recommendation:

It is staff's position that this block is very different from many others in the neighborhood that are primarily single-family residential with detached housing. The character of this block was redefined and changed when the High Density Residential FLU and R-4 zoning was approved for 3.5 acres of this block along the Swoope, Denning and Canton Avenue frontages . It was further changed when the parking garage was constructed and a four story, 55 foot tall senior living project was approved and constructed. This block has transitioned. This block no longer fits the exclusively single-family residential profile, based on uses that exist today. The senior living center meets a need within the community and the residents of that facility enjoy the residential components of the neighborhood including its walkability and residential character. When staff looked at the land use and zoning on this block, it does not fit the character of the neighboring blocks. Given that, it is appropriate that there be a transition to the more established single-family residential blocks.

The proposal to Low Density Residential FLU and R-2 zoning provides this transition. Using the lot consolidation approach the developer has created a new subdivision within this block. Given the limit of two stories in height, the question becomes the character of the dwelling units themselves. Setbacks in this project are consistent with the character of the neighborhood. Garages will be in the back of the houses and not dominate the street frontage. The plan is limited to nine buildings; four of them detached single-family homes along Capen and the corner of Canton Avenue, maintaining the sense of single-family detached housing along this street. The sidewalks will remain and the developer will be responsible for undergrounding the power and adding streetlights. The size of the lot consolidation defines the parameters of the subdivision to ensure that individual small lots are not rezoned to allow duplex development.

The concern that staff has about this project is its impact on other areas within the Hannibal Square neighborhood. There are numerous policies within the Hannibal Square Planning Area that provide protection for encroachment of development patterns that do not fit the single-family profile. In recognizing that the block involved in this land use change and rezoning is significantly different than other residential blocks, staff feels that only this block would allow for this type of redevelopment. Any type of attached residential development in a block that is designated primarily or wholly as single-family residential with a majority of the zoning reflecting R-1A is outside the character of the neighborhood. Staff would not recommend approval for further attached housing in blocks that meet this definition.

Policy 1-4.1.H.1: Discourage Non-Residential Encroachments into Residential Sections. The City shall discourage non-residential and high-density residential encroachments into low density residential areas of this neighborhood planning area. As a prerequisite to such Comprehensive Plan Amendments, the actions must be reviewed by the CRA Advisory Board for recommendation in order to be deemed consistent with CRA policy prior to review by the Planning Commission. However,

inclusion in the CRA Plan or approval or denial by the CRA Advisory Board does not mandate approval of such Comprehensive Plan Amendments given the public hearings and consideration necessary as part of the process.

Policy 1-4.1.H.10: Rezoning Single-Family Property to \leq 7,500 sq. ft. Lots Deemed Inconsistent with Comprehensive Plan. The rezoning of any single-family property of 50 foot by 150 foot (7,500 sq. ft.) or smaller to low-density (R-2) residential for additional density shall be deemed in conflict with the Comprehensive Plan (single-family to duplex, for example).

STAFF RECOMMENDATION is for Approval of the FLU/Rezoning and Lot Consolidation requests for 831/835/781/783/785 W. Canton to R-2 and for 437/439/441 North Capen Avenue.

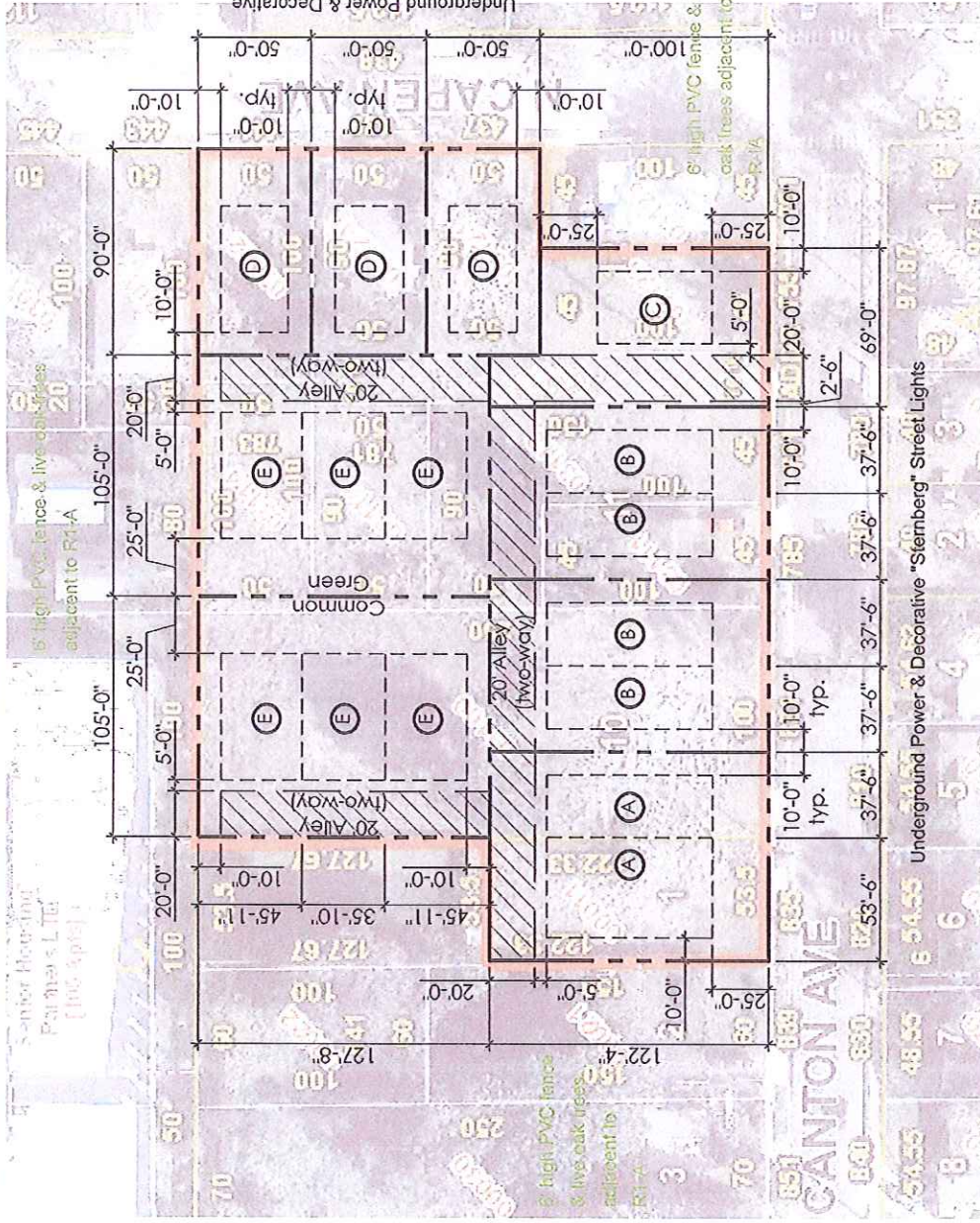
STAFF RECOMMENDATON is for Approval of the Lot Consolidation and Subdivision requests subject to the Conditional Use application and the terms of the voluntary Development Agreement.

STAFF RECOMMENDATON is for Approval of the Conditional Use application subject to the terms of the voluntary Development Agreement.

R2 Zoning		Unit Types				
Setbacks		A	B	C	D	E
Front - 1st Floor		25	25	25	25	25
Front - 2nd Floor		30	30	30	30	30
Rear - 1st Floor		10	10	10	10	10
Rear - 2nd Floor		25	25	25	25	25
Side - 1st Floor		10	10	10	7	10
Side - 2nd Floor		10	10	10	10	10
Bldg. Max. Stories		2	2	2	2	2

Legend

- (A) Duplex 1 - 11,132 sf Lot
5,566 sf Land/Unit, 2,505 sf Unit (0.45 FAR)
2 Units
 - (B) Duplex 2 - 9,175 sf Lot
4,587 sf Land/Unit, 2,523 sf Unit (0.55 FAR)
4 Units
 - (C) Single Family 1 - 7,402 sf Lot
7,402 sf Land/Unit, 4,071 sf Unit (0.55 FAR),
1 Unit
 - (D) Single Family 2 - 4,500 sf Lot
4,500 sf Land/Unit, 2,475 sf Unit (0.55 FAR)
3 Units
 - (E) Cluster - 13,405 sf Lot
4,468 Land/Unit, 2,456 sf Unit (0.55 FAR)
6 Units
- 16 Units TOTAL



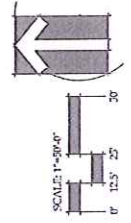
2014.127

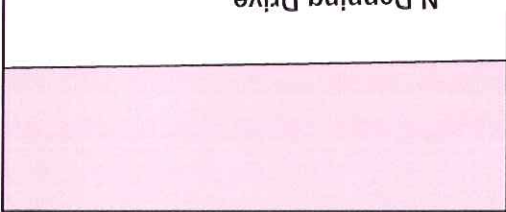
Bd Bg

BONNETT design group, llc
 Landscape Architecture & Community Planning
 151 Credit Drive, Maitland, FL 32751
 407.622.1088 (cell) • 407.256.1363 (fax)
 www.bonnettdesigngroup.com

June 23, 2014

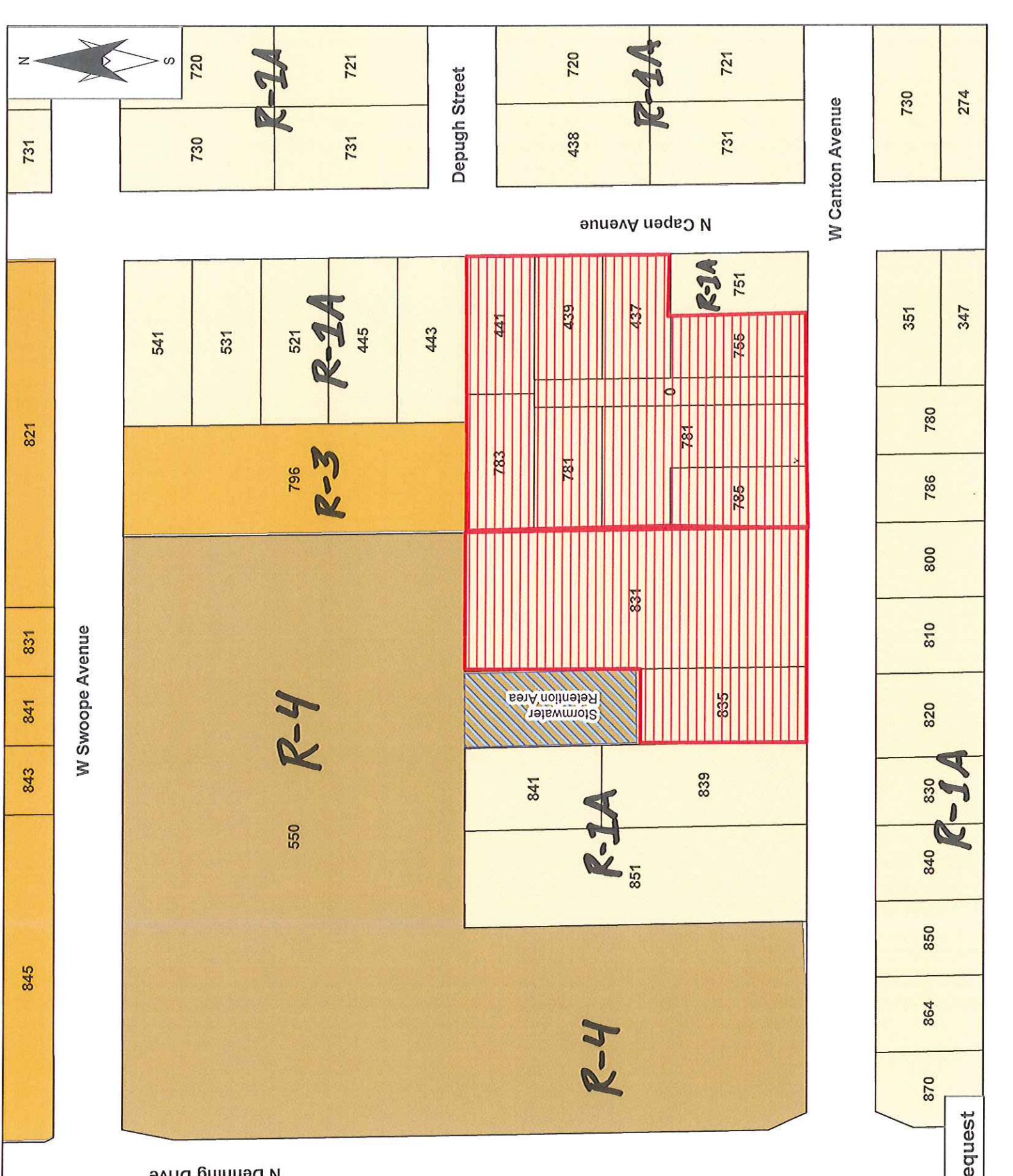
WINTER PARK, FLORIDA
 PREPARED FOR:
 DAVID WEEKLEY HOMES
 CONCEPTUAL COMMUNITY PLAN





N Denning Drive

Zoning
C-1
C-2
C-3
C-3A
I-1
O-1
O-2
PL
PQP
PR
PURD
R-1A
R-1AA
R-1AAA
R-2
R-3
R-4



845
843
841
831
821

870
864
850
840
830
820
810
800
786
780
351

730
274

731
730
721

438
720
721

541
531
521
445
443

Re-Zoning Request

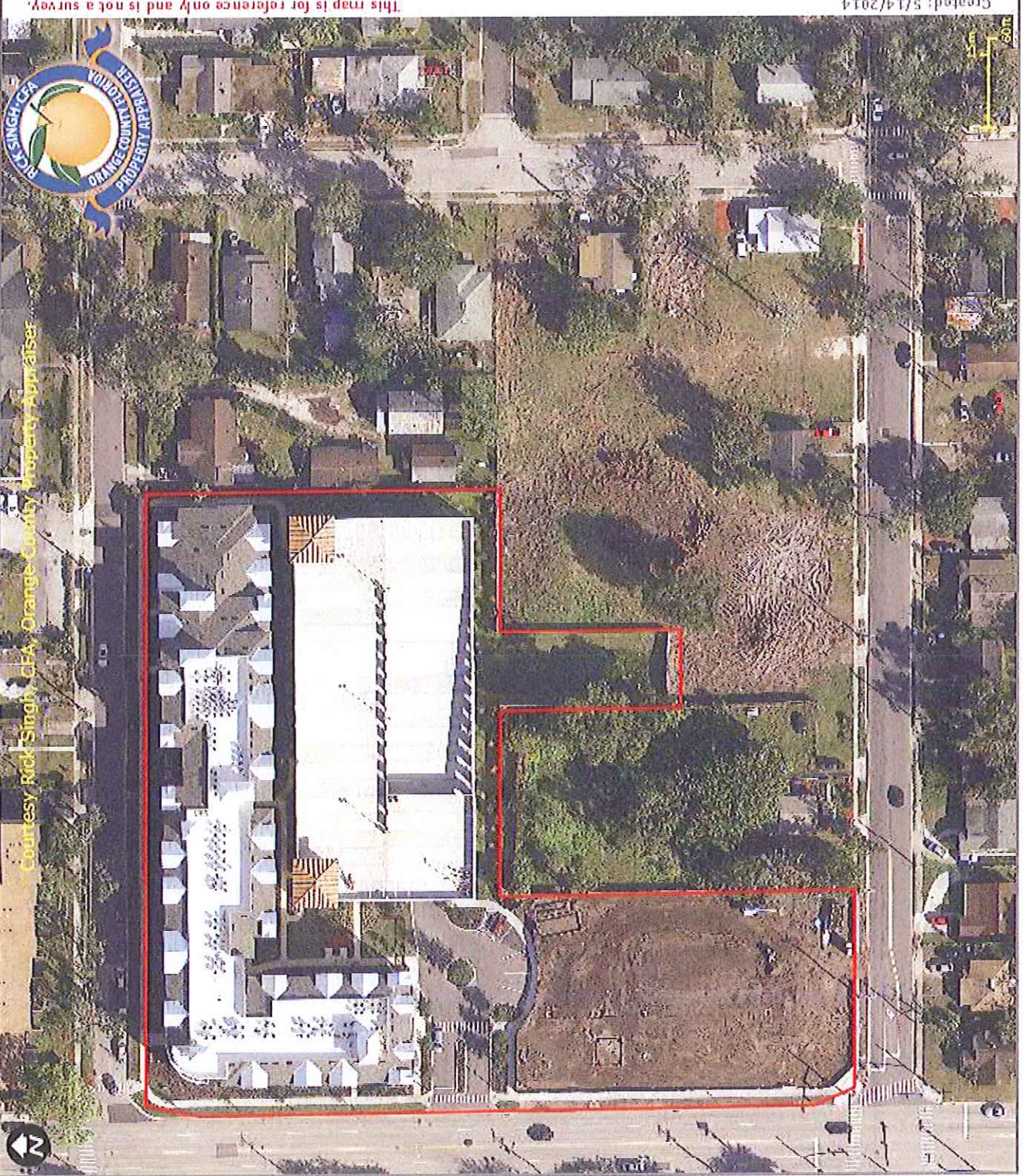
W Swoope Avenue

N Capen Avenue

Depugh Street

W Canton Avenue

- Florida turnpike
- Interstate 4
- Toll Road
- Major Roads
- Public Roads
- Gated Roads
- Road Under Construction
- Proposed Road
- US Road
- State Road
- County Road
- One Way
- Brick Road
- Proposed SunRail
- Block Line
- Lot Line
- Residential
- Agriculture
- Commercial/Institutional/Governmental/Misc
- Commercial/Industrial/Vacant Land
- Hydro
- Waste Land
- Agricultural Curtilage
- County Boundary
- Parks
- Golf Course
- Lakes and Rivers
- Block Number
- Lot Number
- Parcel Number
- Parcel Address
- Parcel Dimension



Courtesy Rick Singh, CFA, Orange County Property Appraiser

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

Created: 5/14/2014

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL TO LOW DENSITY RESIDENTIAL ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

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

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

WHEREAS, the owner of the properties on W. Canton Avenue, as petitioner for a future land use amendment, is desirous of amending the future land use designation from Single Family Residential to Multi-Family Residential; and

WHEREAS, Section 163.3187(1)(c) allows the City to revise the text of the City's Comprehensive Plan utilizing the small scale adoption process when such text revisions relate to and are adopted simultaneously with small scale future land use map amendments; and

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

WHEREAS, the Winter Park Planning and Zoning Commission, acting as the designated Local Planning Agency, has reviewed and recommended adoption of the proposed Comprehensive Plan amendment, having held an advertised public hearing on September 2, 2014, provided for participation by the public in the process, and rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the proposed Comprehensive Plan amendment and held advertised public hearings on September 22, 2014 and on October 13, 2014 and provided for public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process.

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

SECTION 1. Future Land Use Map Amendment. That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to change the future land use map designation from Office to High Density Residential on the properties at 755/781/783/831/835 W. Canton Avenue and at 437/439/441 North Capen Avenue, more particularly described as follows:

- CAPENS REPLAT O/140 LOT 1 (LESS N 127.67 FT THEREOF) (Parcel ID 06-22-30-1170-00-011) **835 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 LOT 10 BLK C (Parcel ID 06-22-30-1168-03-100) **831 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE W 45 FT OF S 100 FT LOT 11 BLK C (Parcel ID 06-22-30-1168-03-111) **785 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF S 150 FT OF W 90 FT AND E 45 FT OF W 90 FT OF S 100 FT OF LOT 11 BLK C (Parcel ID 06-22-30-1168-03-112) **781 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE S 50 FT OF N 100 FT OF W 90 FT LOT 11 BLK C (Parcel ID 06-22-30-1168-03-113) **781 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF LOT 11 BLK C (Parcel ID 06-22-30-1168-03-114) **783 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF LOT 12 BLK C (Parcel ID 06-22-30-1168-03-122) **441 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE S 50 FT OF N 100 FT OF E 90 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-124) **439 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE E 90 FT OF N 50 FT OF S 150 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-121) **437 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE W 45 FT OF E 90 FT OF S 100 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-123) **755 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE E 10 FT OF S 200 FT OF LOT 11 & W 10 FT OF S 200 FT OF LOT 12 BLK C (Parcel ID 06-22-30-1168-03-115) **Of Public Record Access Easement Parcel**

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

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

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

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

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE SINGLE FAMILY RESIDENTIAL (R-1A) ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owner has requested a Zoning Map amendment consistent with the amended Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for the property and such municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at their September 2, 2014 meeting; and

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

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

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

SECTION 1. Official Zoning Map Amendment. That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the zoning designation from Single family Residential (R-1A) District to Low Density Residential (R-2) District on the properties at 755/781/783/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue, more particularly described as follows:

- CAPENS REPLAT O/140 LOT 1 (LESS N 127.67 FT THEREOF) (Parcel ID 06-22-30-1170-00-011) 835 W. Canton Ave.
- CAPENS ADDITION TO WINTER PARK A/95 LOT 10 BLK C (Parcel ID 06-22-30-1168-03-100) 831 W. Canton Ave.

- CAPENS ADDITION TO WINTER PARK A/95 THE W 45 FT OF S 100 FT LOT 11 BLK C (Parcel ID 06-22-30-1168-03-111) **785 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF S 150 FT OF W 90 FT AND E 45 FT OF W 90 FT OF S 100 FT OF LOT 11 BLK C (Parcel ID 06-22-30-1168-03-112) **781 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE S 50 FT OF N 100 FT OF W 90 FT LOT 11 BLK C (Parcel ID 06-22-30-1168-03-113) **781 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF LOT 11 BLK C (Parcel ID 06-22-30-1168-03-114) **783 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF LOT 12 BLK C (Parcel ID 06-22-30-1168-03-122) **441 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE S 50 FT OF N 100 FT OF E 90 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-124) **439 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE E 90 FT OF N 50 FT OF S 150 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-121) **437 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE W 45 FT OF E 90 FT OF S 100 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-123) **755 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE E 10 FT OF S 200 FT OF LOT 11 & W 10 FT OF S 200 FT OF LOT 12 BLK C (Parcel ID 06-22-30-1168-03-115) **Of Public Record Access Easement Parcel**

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

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

SECTION 4. Effective Date. This Ordinance shall become effective upon the effective date of Ordinance _____. If Ordinance _____ does not become effective, then this Ordinance shall be null and void.

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

Mayor

Attest:

City Clerk

Prepared by: Dan Bellows
PO Box 350
Winter Park, Florida 32790

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

VOLUNTARY COMMITMENT AGREEMENT
(WEST CANTON AVENUE AND CAPEN AVE)

THIS VOLUNTARY COMMITMENT AGREEMENT (“Agreement”) is made this ___ day of _____, 2014, between the **CITY OF WINTER PARK, FLORIDA**, a Florida municipality (“City”), whose address is City Hall, 401 Park Avenue South, Winter Park, Florida 32789, and **DENNING PARTNERS, LTD**, A Florida limited Partnership, **MORNEY PARTNERSHIP, LTD**, a Florida Limited Partnership, and **WINTER PARK REDEVELOPMENT AGENCY LTD**, a Florida Limited Partnership (“Owner”) whose addresses are Post Office Box 350 , Winter Park, Florida 32790.

RECITALS

WHEREAS, the City and Owner desire to modify the City’s Comprehensive Plan future land use designation and zoning district designation for properties on West Canton and North Capen Avenues, referred to as the “Property”, more particularly described as:

- CAPENS REPLAT O/140 LOT 1 (LESS N 127.67 FT THEREOF) (Parcel ID 06-22-30-1170-00-011) **835 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 LOT 10 BLK C (Parcel ID 06-22-30-1168-03-100) **831 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE W 45 FT OF S 100 FT LOT 11 BLK C (Parcel ID 06-22-30-1168-03-111) **785 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF S 150 FT OF W 90 FT AND E 45 FT OF W 90 FT OF S 100 FT OF LOT 11 BLK C (Parcel ID 06-22-30-1168-03-112) **781 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE S 50 FT OF N 100 FT OF W 90 FT LOT 11 BLK C (Parcel ID 06-22-30-1168-03-113) **781 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF LOT 11 BLK C (Parcel ID 06-22-30-1168-03-114) **783 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE N 50 FT OF LOT 12 BLK C (Parcel ID 06-22-30-1168-03-122) **441 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE S 50 FT OF N 100 FT OF E 90 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-124) **439 N. Capen Ave.**

- CAPENS ADDITION TO WINTER PARK A/95 THE E 90 FT OF N 50 FT OF S 150 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-121) **437 N. Capen Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE W 45 FT OF E 90 FT OF S 100 FT LOT 12 BLK C (Parcel ID 06-22-30-1168-03-123) **755 W. Canton Ave.**
- CAPENS ADDITION TO WINTER PARK A/95 THE E 10 FT OF S 200 FT OF LOT 11 & W 10 FT OF S 200 FT OF LOT 12 BLK C (Parcel ID 06-22-30-1168-03-115) **Of Public record Access easement Parcel**

and,

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

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

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

1. **RESTRICTIONS AS TO HEIGHT:** The Owner voluntarily agrees that future development on the Property shall be Single Family Homes and attached Townhomes not exceeding two (2) stories and thirty (30) feet in height.
2. **RESTRICTIONS AS TO DENSITY:** The Owner voluntarily agrees that future development on the Property will be restricted to a maximum residential density of Sixteen (16) residential units, and that the cumulative maximum floor area density (floor area ratio) shall be no more than 41,334 square feet in total for all 16 units on the Property, as defined by the definition of floor area ratio within the City Zoning Code.
3. **OWNER COMMITMENTS AS TO DEVELOPMENT AND INFRASTRUCTURE:** Owner agrees pursuant to the approvals granted by the City to develop the Property in conformance with those approvals and per the development and lot layout plan included as Exhibit "A" to the Agreement. Owner or assigns agree to (a) Construct new sidewalk along entire property frontage of W. Canton Avenue and N. Capen Avenue as directed by the City of Winter Park, (b) Agree to convert above ground power to underground power along entire property frontage of W. Canton Avenue and N. Capen Avenue, (c) Agree to install Sternberg decorative street lights along entire property frontage of W. Canton Avenue and N. Capen Avenue, (d) Agree to plant live oak street trees spaced 36' O.C along entire property frontage of W. Canton Avenue and N. Capen Avenue as directed by the city

of Winter Park, (e) Agree to install 6' high PVC fence and live oak trees spaced 30' O.C. along any adjacent R-1A zoning.

4. **OWNER COMMITMENTS AS TO ARCHITECTURE:** Owner or Assigns agree to construct covered front porches on all homes fronting W. Canton Avenue and N. Capen Avenue. Single story open porches can extend up to 7 feet into the front building setback.
5. **CITY COMMITMENTS AS TO SETBACKS FROM PUBLIC ACCESS EASEMENT PARCEL** (Parcel ID 06-22-30-1168-03-115): The setbacks from the access easement parcel provided for on the subdivision plat for this Property are permitted to be for Single-Family Detached Homes; 10 foot rear first story, 25 foot rear second story, 5 foot side; for the Duplexes Buildings they are permitted to be 5 foot side and for the Triplex Cluster Housing they are permitted to be; 5 foot rear first story, 5 foot rear second story.
6. **BINDING EFFECT:** This Agreement shall be binding upon City and the Owner and their successors and assigns in interest and all other parties acquiring any interest in the Property, and shall inure to the benefit of the City, and shall be a covenant running with the land.
7. **AUTHORITY:** Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this Agreement have been taken or followed, as the case may be, and that upon execution of this Agreement by both parties, this Agreement shall be valid and binding upon the parties hereto and their successors in interest.
8. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- 9.. **SEVERABILITY:** If any provisions of this Agreement are found to be illegal or invalid, the other provisions of this Agreement shall remain in full force and effect.
- 10.. **RECITATIONS:** The Recitals are hereby incorporated as if fully set forth herein.
- 11.. **THIRD PARTY BENEFICIARIES:** This Agreement gives no rights or benefits to anyone other than the City and Owner and has no third-party beneficiaries, except as otherwise provided herein.

- 12.. **AMENDMENT.** This Agreement may be amended or terminated only by a written instrument executed by the parties hereto or by their respective successors in interest or assigns, and approved by the City Commission after public hearing.
- 13.. **RECORDING.** This Agreement shall be recorded by the City, at Developer's expense, among the Public Records of Orange County, Florida. The recordation of this Agreement shall not constitute or impose any lien or encumbrance upon the title in the Property and shall instead only constitute record notice of governmental regulations which govern the development and use of the Property.
- 14.. **SUBORDINATION/JOINDER.** Unless otherwise agreed to by the City, all liens, mortgages and other encumbrances not satisfied or released of record, must be subordinated to the terms of this Agreement or the lienholder must join in this Agreement. It shall be the responsibility of the Developer to promptly obtain the said subordination or joinder, in form and substance acceptable to the City Attorney, prior to the City's execution of this Agreement.
- 15.. **NOTICES:** Any notices required or permitted to be made or given to either party pursuant to this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written notification of receipt; or (iii) by email or facsimile transmission upon acknowledgment of receipt of electronic transmission. Notices shall be addressed to the parties identified below, unless otherwise changed by proper notice to the respective parties.

OWNER:

Denning Partners, Ltd, a Florida Limited Partnership
Post Office Box 350
Winter Park, Florida 32790
Attn: Daniel B. Bellows

Morney Partnership, Ltd, a Florida Limited Partnership
Post Office Box 350
Winter Park, Florida 32790
Attn: Daniel B. Bellows

Winter Park Redevelopment Agency, Ltd, a Florida Limited Partnership
Post Office Box 350
Winter Park, Florida 32790

CITY:

City of Winter Park
401 South Park Avenue
Winter Park, Florida 32789

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

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

Signed, sealed and delivered
in the presence of :

CITY OF WINTER PARK, FLORIDA
a municipal corporation

Signature

By: _____
Kenneth W. Bradley, Mayor

Print Name

ATTEST:

Signature

By: _____
Cynthia S. Bonham, City Clerk

Print Name

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

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

Notary Public, State of Florida

Print, Type or Stamp Commissioned Name of
Notary Public

Denning Partnership, Ltd
a Florida limited partnership

Signature

By: _____
Daniel B. Bellows, President

Print Name

Signature

Date: _____

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

Acknowledged before me this _____ day of September, 2014, by Daniel B. Bellows, President of The New England Ave Development Company, a Florida corporation, the general partner for Denning Partners, Ltd, a Florida limited partnership, who is personally known to me or has produced _____ (type of identification) as identification

Notary Public, State of Florida

Print, Type or Stamp Commissioned Name of
Notary Public

STATE OF FLORIDA
COUNTY OF ORANGE

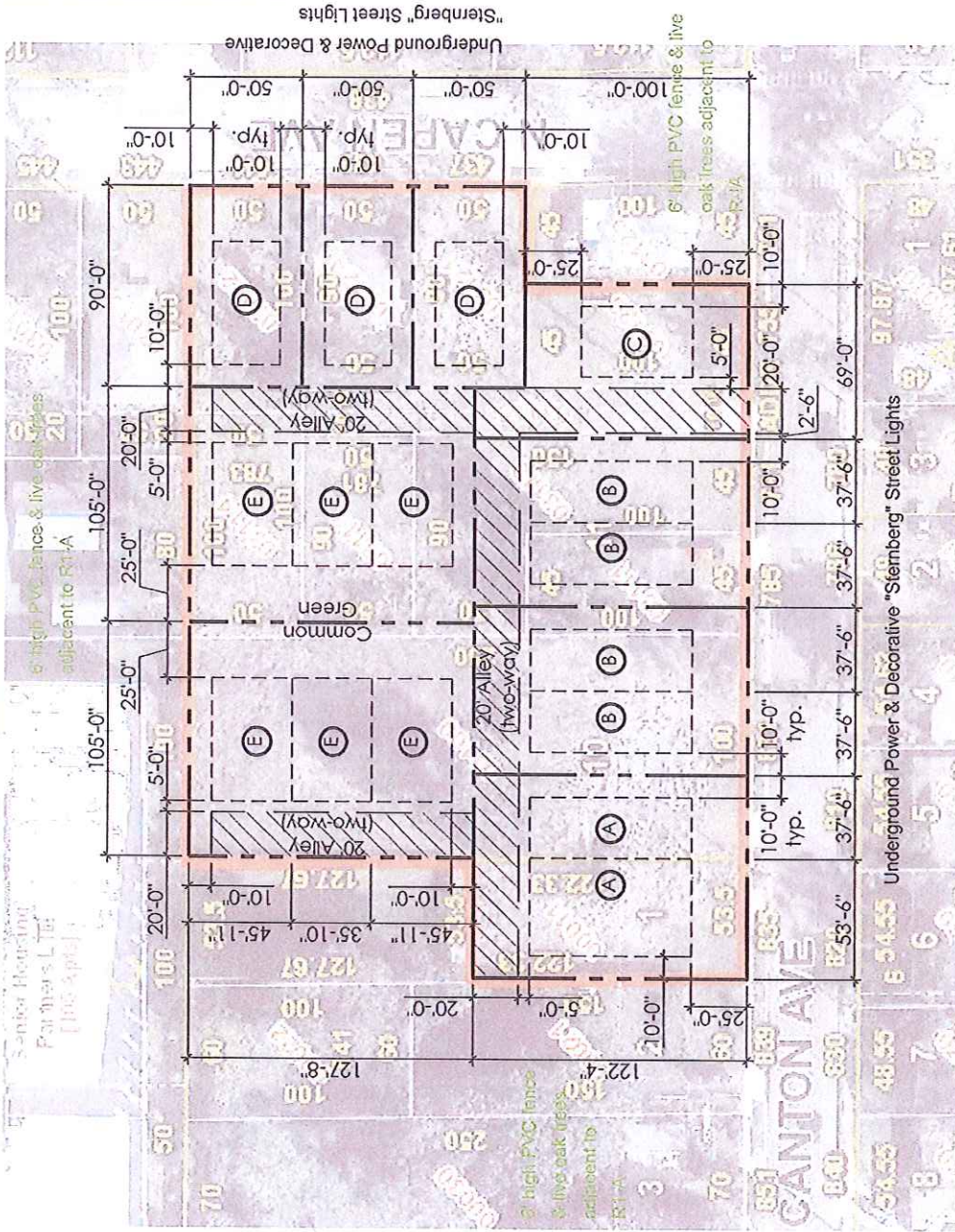
Acknowledged before me this _____ day of September, 2014, by Daniel B. Bellows, President of The Winter Park Redevelopment Management Company, a Florida corporation, the general partner for The Winter Park Redevelopment Agency, Ltd, a Florida limited partnership and Morney Partnership, Ltd a Florida Limited Partnership, who is personally known to me or has produced _____ (type of identification) as identification

Notary Public, State of Florida

Print, Type or Stamp Commissioned Name of
Notary Public

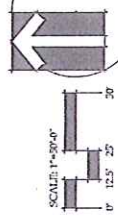
R2 Zoning	Unit Types				
	A	B	C	D	E
Setbacks	25	25	25	25	25
Front - 1st Floor	30	30	30	30	30
Front - 2nd Floor	10	10	10	10	10
Rear - 1st Floor	25	25	25	25	25
Rear - 2nd Floor	10	10	10	7	10
Side - 2nd Floor	10	10	10	10	10
Bldg. Max. Stories	2	2	2	2	2

"Sternberg" Street Lights



Legend

- (A) Duplex 1 - 11,132 sf Lot
5,566 sf Land/Unit, 2,505 sf Unit (0.45 FAR)
2 Units
 - (B) Duplex 2 - 9,175 sf Lot
4,587 sf Land/Unit, 2,523 sf Unit (0.55 FAR)
4 Units
 - (C) Single Family 1 - 7,402 sf Lot
7,402 sf Land/Unit, 4,071 sf Unit (0.55 FAR),
1 Unit
 - (D) Single Family 2 - 4,500 sf Lot
4,500 sf Land/Unit, 2,475 sf Unit (0.55 FAR)
3 Units
 - (E) Cluster - 13,405 sf Lot
4,468 Land/Unit, 2,456 sf Unit (0.55 FAR)
6 Units
- 16 Units TOTAL



WINTER PARK, FLORIDA
 PREPARED FOR:
 DAVID WEEKLEY HOMES
 CONCEPTUAL COMMUNITY PLAN

2014.127

Bd

June 23, 2014

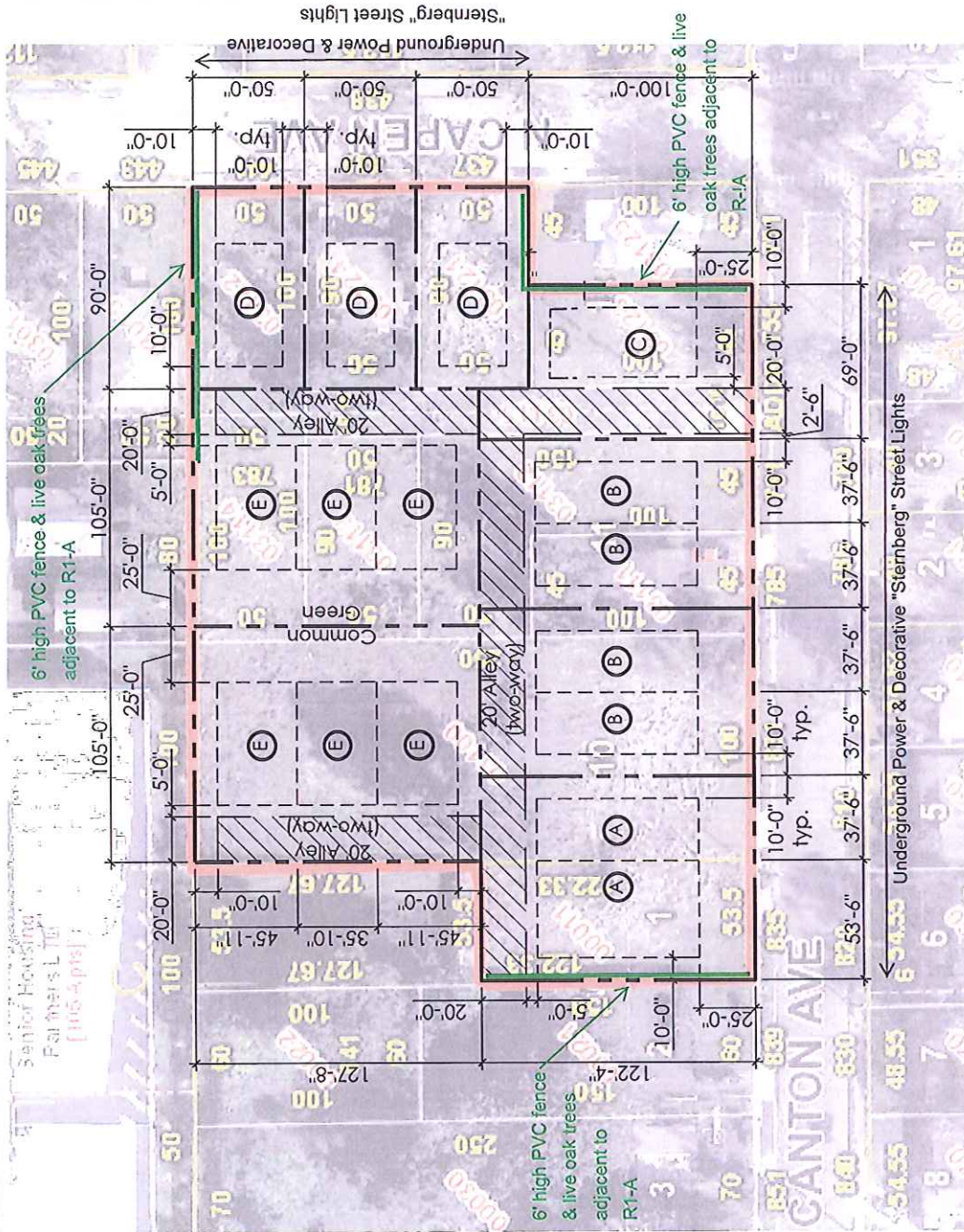
BONNETT design group, llc
 landscape architecture, community planning
 LLC 200024
 451 Circle Drive, Maitland, FL 32751
 407.884.1111
 www.bonnettdesigngroup.com

Exhibit "A"

R2 Zoning		Unit Types				
Setbacks		A	B	C	D	E
Front - 1st Floor		25	25	25	25	25
Front - 2nd Floor		30	30	30	30	30
Rear - 1st Floor		10	10	10	10	10
Rear - 2nd Floor		25	25	25	25	25
Side - 1st Floor		10	10	10	7	10
Side - 2nd Floor		10	10	10	10	10
Bldg. Max. Stories		2	2	2	2	2

Legend

- (A) Duplex 1 - 11,132 sf Lot
5,566 sf Land/Unit, 2,505 sf Unit (0.45 FAR)
2 Units
 - (B) Duplex 2 - 9,175 sf Lot
4,587 sf Land/Unit, 2,523 sf Unit (0.55 FAR)
4 Units
 - (C) Single Family 1 - 7,402 sf Lot
7,402 sf Land/Unit, 4,071 sf Unit (0.55 FAR),
1 Unit
 - (D) Single Family 2 - 4,500 sf Lot
4,500 sf Land/Unit, 2,475 sf Unit (0.55 FAR)
3 Units
 - (E) Cluster - 13,405 sf Lot
4,468 Land/Unit, 2,456 sf Unit (0.55 FAR)
6 Units
- 16 Units TOTAL



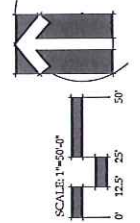
WINTER PARK, FLORIDA
PREPARED FOR:
DAVID WEEKLEY HOMES

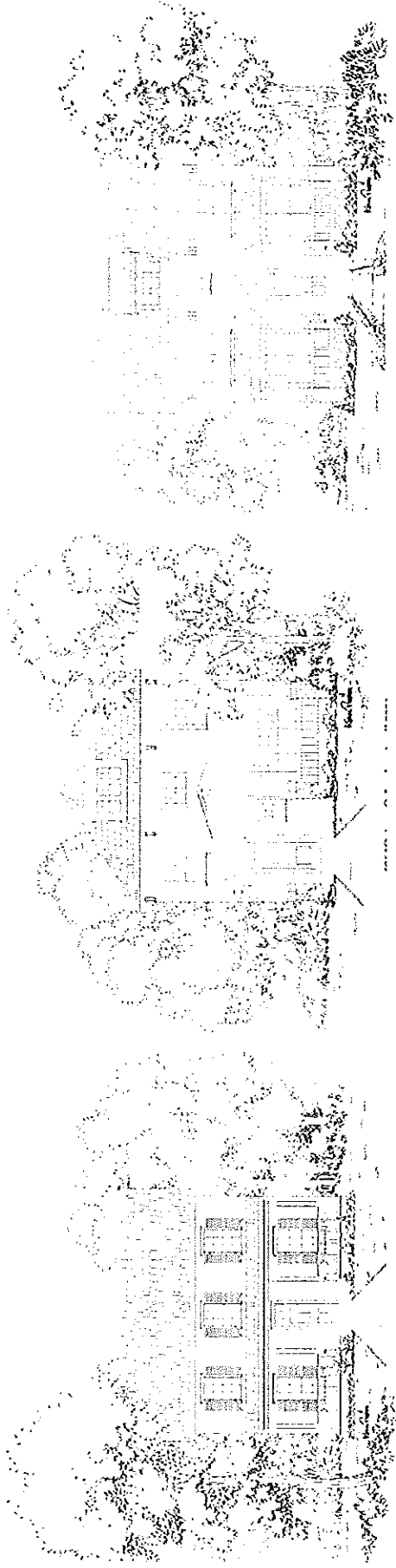
CONCEPTUAL COMMUNITY PLAN

June 23, 2014

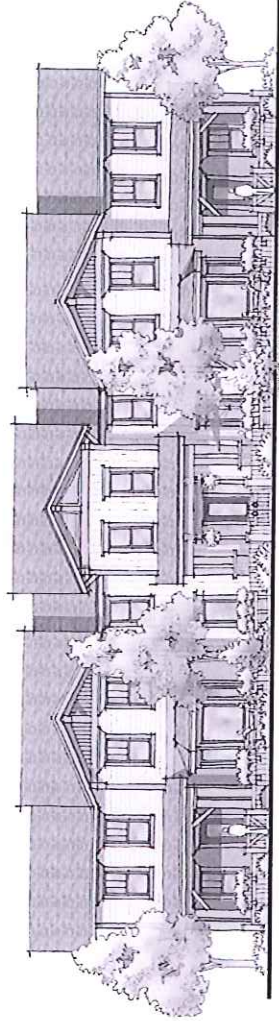
Bd
BONNETT design group, llc
 landscape architecture • community planning
 FL IC 26090241
 151 Circle Drive • Maitland, FL 32751
 407.622.1588 ext. 407.358.5300 fax
 www.bonnettdesigngroup.com

2014.127



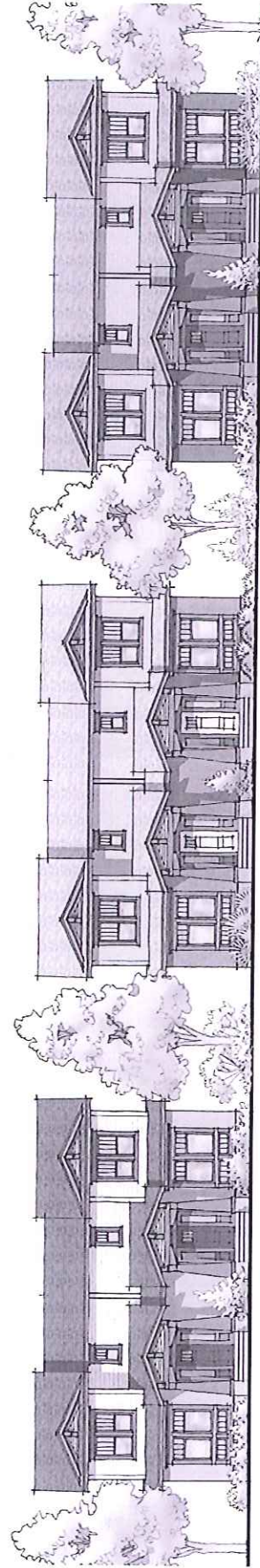


SINGLE FAMILY HOMES – CONCEPTUAL FRONT ELEVATIONS
(representative of the intended architectural style & scale, specific home design TBD)



TRIPLEX UNIT BUILDING - CONCEPTUAL FRONT ELEVATION

SCALE: 1:15



DUPLEX UNIT BUILDING - CONCEPTUAL STREETScape ELEVATION

SCALE: 1:15

PROJECT:
WINTER PARK
CANTON AVENUE



STREETScape- ELEVATION STUDIES
CONCEPT DESIGN 1

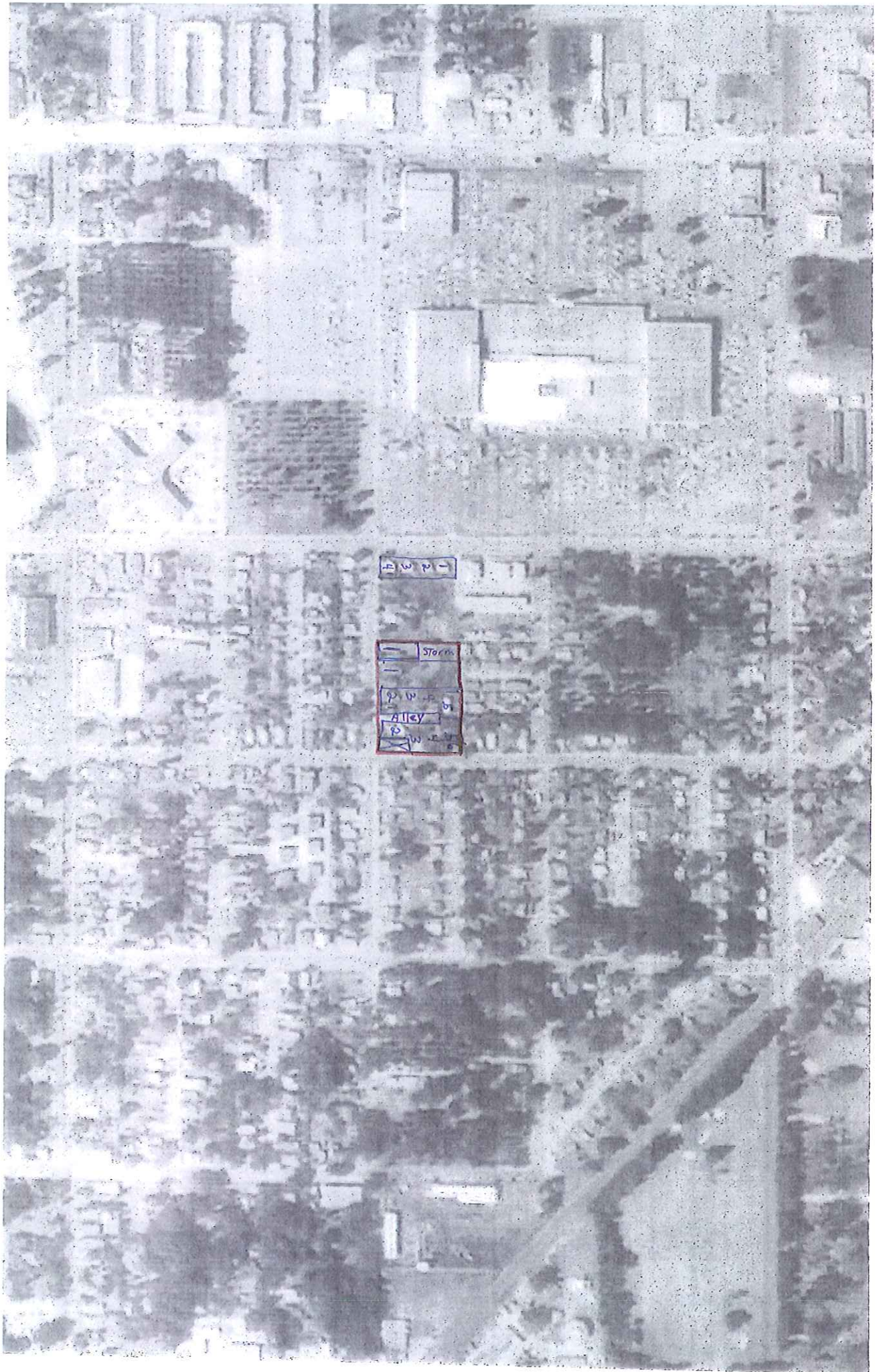
C-1

JOB No.: 214048.10

DATE: 08.16.14

SHEET: 01/01

canin ASSOCIATES
architectural planning & design
200 S. Bay Street, Suite 2000, 48722, MI, US
www.canin.com copyright (c) 2014 canin associates, inc.



1
2
3
4

Storm
Alicy
W

RECEIVED

AUG 25 2014

CITY OF WINTER PARK
PLANNING DEPARTMENT

22 August 2014

City of Winter Park Planning & Zoning Board Members
c/o Lisa Clark, Senior Staff Assistant
401 South Park Avenue
Winter Park, Florida 32789

- RE: (1) REQUEST OF THE SYDGAN CORP. TO AMEND THE FUTURE LAND USE MAP DESIGNATION FROM SINGLE-FAMILY RESIDENTIAL TO LOW DENSITY RESIDENTIAL ON PROPERTIES AT 755/781/783/785/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE.
- (2) REQUEST OF THE SYDGAN CORP. TO CHANGE ZONING CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (R-1A) TO LOW DENSITY RESIDENTIAL (R-2) ON PROPERTIES AT 755/781/783/785/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE.
- (3) REQUEST TO CONSOLIDATE THE PROPERTIES AT 755/781/783/785/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE PARCEL.
- (4) REQUEST FOR CONDITIONAL USE APPROVAL OF CLUSTERING PROVISIONS TO REDEVELOP THE PROPERTIES AT 755/781/783/785/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE AS TWO-STORY TOWNHOUSE RESIDENTIAL CONSISTING OF FOUR SINGLE-FAMILY RESIDENTIAL BUILDINGS, THREE DUPLEX TOWNHOUSE BUILDINGS, AND TWO TRIPLEX TOWNHOUSE BUILDINGS.

Dear Ms. Clark:

We are residents and property owners within the Hannibal Square Neighborhood and have been elected by residents as their spokespersons to convey their opposition to the all changes requested by the Sydgan Corp. that would affect the properties at 755/781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue. We oppose the requested changes because they are incompatible with the single-family character and scope of the Hannibal Square Neighborhood; inconsistent with the City of Winter Park's *Comprehensive Plan* and Community Redevelopment Agency's (CRA) *Strategic Plan*; and not supported by adequate data and analysis, as required by §163.3177(1)(f), Florida Statutes, demonstrating potential impacts to the Hannibal Square Neighborhood, nor Winter Park Code of Ordinances minimum requirements for comprehensive plan amendments. The changes proposed by the Sydgan Corp. are inconsistent with the *Community Planning Act*, *Code of Ordinances*, *Comprehensive Plan* and the CRA's *Strategic Plan*. We have identified the specific provisions of the Plans with which the requested changes conflict, they are included as Appendix A.

We request this letter be included in the official record for all actions related to the aforementioned properties, which the Planning & Zoning Board will consider at its 02 September 2014 meeting or, in the event any or all actions are rescheduled, the meeting at which they are collectively or

individually heard. In addition, we request the letter's inclusion in the record for any subsequent public meetings of the City Commission regarding the requested changes.

The Hannibal Square Neighborhood has undergone tremendous changes that have created new housing and economic development opportunities, but this redevelopment has also displaced many homeowners and residents. The City, through its *Comprehensive Plan* and the CRA's *Strategic Plan*, recognizes the need to maintain the traditional character of the Hannibal Square Neighborhood. The Neighborhood's character is primarily anchored by detached, single-family residential development especially along interior Local Streets, which the City has designated Canton and Capen Avenues.

The requested changes seek authorization to introduce 12 two-story townhouses (as five attached dwellings) and four two-story houses. The Applicant has submitted Conceptual Community Plan, but it is not supported by any relevant data and analysis. The Conceptual Community Plan indicates:

- Two townhouses at 2,505 square feet;
- Four townhouses at 2,523 square feet;
- Six townhouses at 2,456 square feet;
- Three houses at 2,475 square feet; and
- One house at 4,071 square feet.

The Applicant's proposal should be denied because it is not supported by data and analysis as required by the Florida Legislature and Department of Economic Opportunity¹ and fails to meet any of the basic requirements adopted into the Winter Park Land Development Code for comprehensive plan amendments. These are:

- a. The need and justification for the change.
- b. When pertaining to the future land use designation of land, the effect of the change, if any, on the participating property and surrounding properties.
- c. When pertaining to the future land use designation of land, the undeveloped land in the general area in the area having the same classification as that requested.
- d. The relationship of the proposed amendment to the goals, objectives and policies text of the city's comprehensive plan, with appropriate consideration as to whether the proposed change will further, or at least not be contrary to the comprehensive plan.²

An analysis of undeveloped land in the general area would facilitate an understanding of whether the requested change is compatible with the surrounding community.

The Applicant's request undermines the city's intent and purpose for establishing its official zoning map as expressed in the Code of Ordinances. Section 58-61(a)(2), states:

The city is primarily a residential community but has the elements of a true city. The primary goals of the city, upon which the comprehensive plan was developed, are to preserve the natural beauty, pleasant environment and unique character of the city; to

¹ Section 163.3177(1)(f), Fla. Stat.

² Chapter 58-6(2), Winter Park Code of Ordinances.

retain the quality of our existing residential neighborhoods by encouraging the residents to maintain and improve their property and protect these areas from the encroachment of detrimental and noncompatible land uses; and to insure that future residential areas are well planned and provided with full and adequate urban services. The intent of this zoning article is to insure that these goals are pursued and to insure that other necessary and desired land uses are located and regulated to encourage the development of the city toward the city's adopted goals. [Emphasis added]

The Applicant's request is incompatible with the intent and purpose of the R-1A District. Section 58-66(a) states:

The regulations enumerated for this district are designed to encourage and promote the construction of and the continued use of the land for single-family dwellings, to promote and encourage a suitable environment for family life, to prohibit uses of the land which would substantially interfere with development or continuation of single-family dwellings in the districts, and to prevent use of the land for purposes which would overburden the public facilities. [Emphasis added]

The type, amount, and scale of the development requested under the Low-Density Residential Future Land Use Map designation and R-2 zoning classification presented in the Applicant's Conceptual Community Plan are not compatible with the one-story, detached single-family residential character present on Canton Avenue, between Denning Drive and Capen Avenue, and Capen Avenue, between Canton and Swoope Avenues. The requested changes, if approved, also would create an immediate precedent for future requests for similar non-single-family, two-story, detached residential development on the Southside of Canton Avenue, between Denning Drive and Capen Avenue, and on the Westside and Eastside of Capen Avenue, between Canton and Swoope Avenues. The domino effect of this precedential change is the elimination of the exiting, contiguous, single-family units throughout the Hannibal Square Neighborhood, which contrary to the adopted Comprehensive Plan. The elimination of affordable housing, including housing for workforce families, is inconsistent with the Housing Element requirements of the Community Planning Act.³

In order to achieve its development program, Sydgan Corp. requests the consolidation of nine lots into one parcel. The request would be greater than 150% of the dimensional standards for adjacent and abutting properties. Section 58-392 of the Code of Ordinances requires as a condition of approval that consolidations exceeding 150% of an area's dimensional standards "not be out of scale with the existing street or with the neighborhood character." The request is not in scale nor consistent with the single-family, detached character of the Hannibal Square Neighborhood.

Sydgan Corp. requests conditional use approval to cluster development and construct townhouses. Section 58-90 of the Code of Ordinances outlines the procedures for Conditional Use approval, which include plans being available to the Planning and Zoning Board. Sydgan Corp.'s plans were

³ Section 163.3177(6(f)(1), Fla. Stat..

not available for timely public review; therefore, conditional use approvals should not be approved.

Maintaining existing and developing new workforce housing is critical to viability of an economically diverse community. It allows city employees, emergency responders, teachers and professors, and nurses, to name a few occupations, homeownership opportunities, which lead to their patronage of local businesses. The square footage of the units proposed in the Conceptual Community Plan would not be affordable to for workforce families.

The requested changes also conflict with the intent of and investments in the Hannibal Square Community Land Trust, which is “dedicated to preserving the quality and affordability of housing within the Winter Park Community Redevelopment Area⁴” and Habitat for Humanity, which brings people together to build homes, communities and hope⁵. The proposed increase in residential densities combined with the large square foot units will trigger similar requests within the Hannibal Square Neighborhood. The elimination of single-family opportunities affordable for workforce families to purchase within the Neighborhood will increase demands on the Land Trust and Habitat for Humanity while prematurely increasing land costs. The City and its CRA are valuable partners of the Land Trust and Habitat for Humanity. The City should not approve changes that undermine its investments and partnerships.

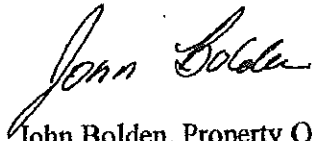
The City’s *Comprehensive Plan* represent a holistic approach to maintaining the overall village character of Winter Park and piecemeal changes, which the Sydgan Corp.’s application embodies, undermines the integrity of the *Comprehensive Plan* and the confidence of residents that they are accepted partners in the future of Winter Park. If there are concerns that the *Comprehensive Plan* is not serving the needs of residents, property and business owners, and potential investors, then the proper approach would be to convene the interested parties to discuss consensus-driven solutions. The residents of Hannibal Square Neighborhood would welcome the opportunity to undertake such a process.

⁴ “About Hannibal Square Community Land Trust.” http://hannibalsquareclt.org/?page_id=8

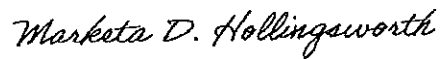
⁵ Winter Park 0 Maitland, Florida Habitat for Humanity; www.habitatwpm.org

Once again, we oppose all of the proposed changes and request the Planning and Zoning Board deny Sydgan Corporation's application in total.

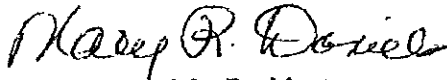
Sincerely,



John Bolden, Property Owner
541 North Capen Avenue



Marketa Clark, Resident
646 West Comstock Avenue



Mary R. Daniels, Resident
650 West Canton Avenue



Tony B. Robinson, Property Owner
810 West Canton

APPENDIX A
COMPONENTS OF CITY OF WINTER PARK COMPREHENSIVE PLAN AND
COMMUNITY REDEVELOPMENT AGENCY STRATEGIC PLAN WITH WHICH
SYDGAN CORP. REQUESTED CHANGES CONFLICTS

The Community Planning Act (Chapter 163, Part II, Florida Statutes) Requirements

Section 163.3177(1)(f), Fla. Stat.: All mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

Section 163.3177(6)(f)(1), Fla. Stat.: A housing element consisting of principles, guidelines, standards, and strategies to be followed in:

d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.065(3)(h), housing for low-income, very low-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities.

Winter Park Code of Ordinances

Section 58-6(2): All proposed comprehensive plan text or map amendments shall be submitted to the planning and zoning board for study and recommendation. The planning and zoning board shall study such proposals to determine:

- a. The need and justification for the change.
- b. When pertaining to the future land use designation of land, the effect of the change, if any, on the participating property and surrounding properties.
- c. When pertaining to the future land use designation of land, the undeveloped land in the general area in the area having the same classification as that requested.
- d. The relationship of the proposed amendment to the goals, objectives and policies text of the city's comprehensive plan, with appropriate consideration as to whether the proposed change will further, or at least not be contrary to the comprehensive plan.

Future Land Use Element:

GOAL 1-2: FUTURE LAND USE MAP. The City of Winter Park Comprehensive Plan Future Land Use Map (FLUM) series shall delineate adopted policy for managing of future land use, growth and development. Land use designations on the FLUM have been allocated pursuant to Goals, Objectives, and Policies established in the Comprehensive Plan and are based on the Comprehensive Plan Data, Inventory, and Analysis. Nothing in this section shall preclude necessary community facilities from locating within any future land use designation when such activity satisfies established criteria of this plan and the City's Land Development Code.

OBJECTIVE 1-2.1: FUTURE LAND USE MAP DENSITIES AND INTENSITIES DEFINED. The designations in the Future Land Use Map (FLUM) series shall be defined by the policies herein. The FLUM series, Maps 1-1 through 1-5b, shall allocate future land uses and include the following:

Future Land Use Map Series:

- 1) Map 1-1, Existing Land Use Map
- 2) Map 1-2, Future Land Use Map*
- 3) Map 1-3, Maximum Height Map
- 4) Map 1-4, City Jurisdictional Map
- 5) Map 1-5a, Historic Resources Map
- 6) Map 1-5b, National Register of Historic Listed Properties

*The Future Land Use Map Designation Density/ Intensity Table” denotes the maximum range of density and maximum floor area ratios (intensity), within each of the non-residential FLUM designations and shall be used in conjunction with the Future Land Use Map, Maximum Height Map and Map Series to determine the permitted density and intensity of development. The Future Land Use Map Series can be found at the end of this Future Land Use Element in this Comprehensive Plan and continues at the end of each related element following the final policy of that element.

Policy 1-2.1.5: Maximum Building Height Defined. “Map 1-3: Comprehensive Plan Maximum Building Heights” designates graphically the maximum threshold for such building heights by stories. The height thresholds do not include ancillary structures regulated by the land development code, including respective floor to floor heights, parapets, mechanical and elevator/stair components, and architectural appendages. The Maximum Height Map is intended to be used together with the Future Land Use Map and designations to determine the maximum density and intensity (floor area ratio) permitted to be developed within the City of Winter Park. The combination is detailed in the Maximum Future Land Use Map Designation Density/ Intensity Table.

Table 2 Future Land Use – Zoning Compatibility Chart

Future Land Use Designation	Compatible Zoning Districts
Single Family Residential	R-1AAA, R-1AA, R-1A, PURD
Low Density Residential	R-2, PURD
Medium Density Residential	R-3
High Density Residential	R-4
Commercial	C-3, C-3A, C-1, O-1, O-2

Office and Professional	O-1, O-2
Central Business District	C-2
Industrial	I-1, C-3, O-1, O-2
Institutional	PQP
Open Space and Recreation	PR
Medium Density Planned Development	PD 1
High Density Planned Development	PD 2

OBJECTIVE 1-2.2: RESIDENTIAL FUTURE LAND USE DESIGNATIONS. The residential Future Land Use Map designations shall be established as defined herein. Compatible supportive community facilities and accessory land uses which are designated as conditional use may be located within areas designated for any type of residential land uses. The Land Development Code shall provide regulations for managing such community facilities and accessory land uses. This objective shall be measured through implementation of the following policies.

Policy 1-2.2.1: Single-Family Residential. This Future Land Use Map designation is designed to indicate areas to be developed for single-family residential uses and the compatible zoning districts for such future land use designation are the R-1AAA, R-1AA, R-1A and PURD zoning districts. The residential uses intended for these areas include single-family detached housing, accessory units and attached townhouse units. The overall density range shall be up to five (5) dwelling units (DU) per acre except in the approved PURD areas where the density of single-family, zero lot line or townhouse development maybe increased to eight (8) DUs to the acre but is mediated by the provision of readily usable open space areas. The maximum floor area ratio shall be set at 0.38 (38%) with potential bonus of 5%to reach a maximum of 0.43 (43%) upon satisfaction of meeting design incentives and shall include the floor area of above grade, attached and unattached garages.

GOAL 1-3: IMPLEMENTING LAND USE GOALS AND OBJECTIVES. CONTINUE TO MONITOR AND EVALUATE DEVELOPMENT AND RESOURCE CONSERVATION WITHIN THE CITY PURSUANT TO GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT AND CARRY OUT AN EFFECTIVE IMPLEMENTATION PROGRAM.

OBJECTIVE 1-3.1: IMPLEMENT THE FUTURE LAND USE ELEMENT. The City of Winter Park shall maintain, enforce and implement a Future Land Use Element of the Comprehensive Plan as contained herein, which includes all information, future land use categories, maps, analyses, standards and measurable objectives necessary to conform to the requirements of Chapter 163.3177(6) (a) Florida Statutes.

Policy 1-3.1.1: Enforce the Future Land Use Element. The Future Land Use Element of this Comprehensive Plan and the other Elements shall provide the foundation, basis and rationale for all of the City's land development regulations and the Future Land Use Element shall take precedence in establishing land development policies, regulations and the categories of land use within the City.

Policy 1-3.1.2: Land Development Code to Implement the Future Land Use Element. The Future Land Use Element shall govern and the City's land development regulations shall implement the Comprehensive Plan.

Policy 1-3.1.3: Compatibility between Adjacent Land Uses. The City shall promote compatibility between adjacent land uses by regulating new development or redevelopment in the following ways:

j. **Compatibility of Infill Development.** When considering changes in land use designations, zoning, lot consolidations or lot splits, or conditional use approvals, the City shall restrict mass and establish setbacks to insure new development is compatible with the scale and placement of structures on surrounding properties.

Policy 1-3.1.8: Implement Affordable/ Workforce Housing Program. The City shall take a proactive position to maintain the ethnic and economic diversity of its population by implementing the affordable/ workforce housing program outlined within the Housing Element wherein the City shall use affordable housing linkage fees and other sources to purchase land and fund the construction of housing units affordable to very low, low, or moderate income families and individuals so that 5% of all new housing construction in the City is of affordable/workforce housing. (New housing means new net housing units and excludes demolitions and rebuilding of units).

OBJECTIVE 1-3.3: IMPLEMENT THE CRA PLAN. The City shall implement the intent of the CRA Plan, which shall serve as the City's policy for redevelopment of the designated areas. However, in any situations where conflicts occur between the CRA Plan and the Comprehensive Plan or Land Development Code, the priority shall be as established by Policy 1.1.1.4.

OBJECTIVE 1-3.6: PRESERVE THE QUALITY AND CHARACTER OF WINTER PARK'S RESIDENTIAL NEIGHBORHOODS. Protect and conserve the diverse range of residential opportunities, ranging from lakefront estates to high rise apartments. Maintain the single-family neighborhoods within the City, including the variety of housing styles and values; the older neighborhoods that have a combination of historic homes and new development; as well as other neighborhoods comprised of modest homes on small interior lots as well as areas where large lakefront estates are predominant. Preserve opportunities for multifamily lifestyles, including duplex, townhouse garden apartment and high rise apartment living as well as a variety of group housing including retirement homes, nursing homes, and adult congregate living facilities.

Policy 1-3.6.1: Maintain the Scale and Character of Neighborhoods. New development and redevelopment shall occur in a manner that preserves the elements of the existing neighborhood character that provide the attractiveness and unique character of each individual neighborhood. The City shall accommodate redevelopment activity in a manner that does not produce new residences which substantially alter the scale or character of a street. The aim shall be to restrict home sizes so they do not visually overpower the natural features or amenities in a neighborhood, but instead complement those features. The City shall regulate the degree and scale of development on single-family properties through the use of the tools of setbacks, height limits, lot coverage restrictions and impervious coverage restrictions, floor area ration, limiting wall heights at side yard setbacks, reducing heights along sensitive edges, second floor step backs on front and side, establishing maximum wall plane lengths that reflect the traditional width of buildings along the street, roof pitches, and alignment of front setbacks. Winter Park applies and shall continue to apply a floor area ratio in managing the size, building mass, and design features of single-family and townhouse buildings. Pursuant to the City's strategic plan, the City shall review its residential development standards as new issues are confronted in maintaining a proper scale and intensity among adjacent uses in order to retain Winter Park's "village" character.

Policy 1-3.6.2: Maintain the Quality and Character of Single-Family Residential Neighborhoods. Maintaining the character and quality of life for these neighborhoods shall continue to be a major policy of the Comprehensive Plan. The City shall maintain the quality and attractiveness of public infrastructure and public property such as streets, sidewalks, parkways, street canopies, and plants on public property. Pursuant to the City's strategic plan, the City shall review and revise its Land Development Code within one year of adoption of this Comprehensive Plan, to ensure that the scale and character of new development/redevelopment is compatible with existing single-family neighborhoods. The City Planning Commission and City Commission shall continue to develop more stringent land development codes as needed to avoid the adverse impacts of increased Commercial and/or High-Density Residential development adjacent to historically Single-Family or Low-Density Residential neighborhoods. The City shall protect Single-Family neighborhoods from all impacts of development that are not compatible with Low-Density and Single-Family environments and shall prohibit parking garages abutting Single-Family and Low Density Residential development. The City shall prohibit above grade parking garages within 100 feet of a single family or low density residential property.

OBJECTIVE 1-3.8: DEVELOPMENT/REDEVELOPMENT OF MULTI-FAMILY RESIDENTIAL, COMMERCIAL, OFFICE, AND MIXED USE AREAS. The City shall provide for development and redevelopment of its commercial and office areas when compatible with the scale and character the surrounding area context.

Policy 1-3.8.4: Encourage Single-Family Detached Homes. The City shall encourage single family detached homes as opposed to apartments and condominiums by strongly discouraging Future Land Use Map amendments from Single-Family Residential or Low-Density Residential to Medium or High-Density Residential. The intent of this policy is to provide a smooth transition of density/ intensity of land use. However, the sole exception to this policy shall be with respect to an existing residential elderly housing development that is larger than 10 acres, the parcel to be

changed is internal to the development, being at least 200 feet from Low Density or Single Family in other ownership, and there is a step down in intensity towards the perimeter of the development.

GOAL 1-4. PRESERVE THE CHARACTER OF THE WINTER PARK'S NEIGHBORHOODS, THE CBD, AND FOSTER PLANNED REDEVELOPMENT INITIATIVES.

OBJECTIVE 1-4.1: PRESERVE THE INTEGRITY AND CHARACTER OF PLANNING AREAS. Land use decisions and development approvals shall be guided by the policies delineated within the planning areas mapped and identified as Planning Areas A through L. The following Future Land Use policies are unique to specific planning areas within the City of Winter Park. The Comprehensive Plan Data Inventory and Analysis includes a detailed description of each Planning Area and identifies major planning confronting each respective Planning Area. The policies identified below were generated by citizens active in the review of the Comprehensive Plan. The citizens were particularly concerned with preserving the village character of the City of Winter Park and preserving the special character of neighborhoods comprising the cityscape. Below the Planning Areas are identified by title and specific policies are stated. A Future Land Use Map that depicts the boundaries and future land use pattern within each of the respective Planning Areas is also presented. The Citywide Goals, Objectives and Policies of the Future Land Use Element apply to the Planning Areas. The supplementary objective and policies of each planning area provide additional guidance on future zoning and land use issues.

The planning areas are as follows:

- PLANNING AREA A Temple/Howell Branch Planning Area
- PLANNING AREA B Osceola/Lakeview Planning Area
- PLANNING AREA C Winter Park Hospital Planning Area
- PLANNING AREA D Waterbridge/Brookshire Planning Area
- PLANNING AREA E Glen ridge/Lake Sue
- PLANNING AREA F Mead Garden, Virginia Heights & College Quarter
- PLANNING AREA G Downtown/Rollins College
- PLANNING AREA H Hannibal Square Neighborhood
- PLANNING AREA I North Park Avenue
- PLANNING AREA J U. S. Highway 17-92 Corridor
- PLANNING AREA K Lee Road Planning Area
- PLANNING AREA L West Fairbanks Avenue Planning Area

Policy 1-4.1.H.10: Rezoning Single-Family Property to = 7,500 sq. ft. Lots Deemed Inconsistent with Comprehensive Plan. The rezoning of any single-family property of 50 foot by 150 foot (7,500 sq. ft.) or smaller to low-density (R-2) residential for additional density shall be deemed in conflict with the Comprehensive Plan (single-family to duplex, for example).

Policy 1-4.1.H.11: Density for Workforce/Affordable Housing. Notwithstanding other policies of this Comprehensive Plan, the City may approve density increases for projects of the Hannibal

Square Land Trust, Habitat for Humanity or the Winter Park Housing Authority when such projects exclusively include workforce/affordable housing.

Housing Element:

OBJECTIVE 3-1.2: SUPPORT AND PROTECT AFFORDABLE HOUSING. The City shall establish programs and activities intended to discourage loss of existing affordable housing and to initiate construction of new affordable housing. The City shall direct its resources to maintain and preserve the housing stock within the affordability range for households with income levels at or below the low/moderate income level as indexed by the Orange County Housing and Community Development Division. The following policies shall be used to measure the protection and provision of affordable housing.

OBJECTIVE 3-1.5: CONSERVE NEIGHBORHOOD QUALITY AND EXISTING HOUSING STOCK. The useful life of existing housing stock shall be conserved through effective implementation of laws, ordinances, and programs directed toward preserving neighborhood quality, including conservation of natural and historic resources, maintenance of community facilities, and code enforcement activities. This objective shall be achieved through the implementation of the following policies.

Policy 3-1.5.6: Compatibility of New Residential Development. Winter Park shall continue to ensure compatibility of proposed development with adjacent and surrounding residential uses. The City shall not permit any development that is inconsistent, in terms of residential unit type, lot sizes, housing size, tenure status (i.e., short-term rentals) and setbacks, with that allowed by the Winter Park Comprehensive Plan or the LDC.

Policy 3-1.5.10: Protection of Established Neighborhoods. The City shall formalize a process for neighborhood planning to address traffic, parking, infrastructure and utility needs, land use and density ranges consistent with neighborhood character, natural and historic features, and public facilities to serve the area.

Transportation Element:

Policy 2-3.5: Transportation Impact Analysis Submittal Requirements. The City has Transportation Impact Analysis criteria within the Land Development Code that requires new development to submit detailed studies addressing traffic, transit, bicycle, and pedestrian impacts. The studies will include mitigation measures to address the impact of the new development on the existing transportation network. . These studies, the cost of which are to be borne by the developer, shall be undertaken after a conference with the city staff where the study scope shall be reviewed and determined as sufficient by the City. The study then shall identify all development improvements required due to direct and indirect access, as well as the development's related transportation improvements to meet concurrency. The costs of the identified improvements and the development's proportionate fair share costs shall be determined from the Transportation Impact Analysis.

Community Redevelopment Agency Strategic Plan:

These strategic goals help us focus our attention and efforts. Each addresses a desired outcome and is accompanied with a specific action plan for achievement.

3| PRESERVATION OF THE HISTORICAL INTEGRITY OF CRA AREA
NEIGHBORHOOD
AND COMMERCIAL DISTRICTS

Preservation of the historical integrity of the CRA area neighborhoods and commercial districts is the number three goal identified in the goal-setting process. Historic preservation is not just about saving homes or buildings; it is about protecting community character. Preservation creates better communities, injecting vitality into traditional neighborhoods and commercial corridors, and providing alternatives to large scale development. Steps to achieve this goal include implementing the Partnership with the Code Enforcement Program, establishing historic or conservation districts and creating an educational outreach program on property rights. (p. 14)



PUBLIC NOTICE

NOTICE is hereby given that a public hearing will be held by the **Planning and Zoning Commission** of the City of Winter Park, Florida on **Tuesday, September 2, 2014 at 6:00 p.m.** and by the **City Commission** on **Monday, September 22, 2014 at 3:30 p.m.** in the Commission Chambers of City Hall at 401 S. Park Avenue, Winter Park, Florida, 32789 to consider the following **PUBLIC HEARINGS**:


REQUEST OF MR. JOSEPH PASSALACQUA FOR: AN AFTER-THE-FACT SUBDIVISION OR LOT SPLIT APPROVAL SO THAT 1252 LAKEVIEW DRIVE, ZONED R-1AAA, WILL BE DETERMINED TO BE A BUILDABLE LOT. THE PROPOSED LOT WOULD HAVE 52.2 FEET OF FRONTAGE ON LAKEVIEW DRIVE; 70 FEET OF FRONTAGE ON LAKE VIRGINIA AND HAVE 9,858 SQUARE FEET OF LOT AREA. VARIANCES ARE REQUESTED FOR THESE LOT DIMENSIONS IN LIEU OF THE MINIMUM REQUIREMENTS FOR LOT SIZES WITHIN THIS R-1AAA ZONING OF 150 FEET OF FRONTAGE ON THE STREET AND LAKE AND 25,000 SQUARE FEET OF LOT AREA.

REQUEST OF THE SYDGAN CORP. FOR: AN ORDINANCE AMENDING CHAPTER 58 'LAND DEVELOPMENT CODE', ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY TO LOW DENSITY RESIDENTIAL FUTURE LAND USE ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

REQUEST OF THE SYDGAN CORP. FOR: AN ORDINANCE AMENDING CHAPTER 58 'LAND DEVELOPMENT CODE', ARTICLE I, ZONING AND THE OFFICIAL ZONING MAP SO AS TO CHANGE SINGLE FAMILY RESIDENTIAL (R-1A) ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

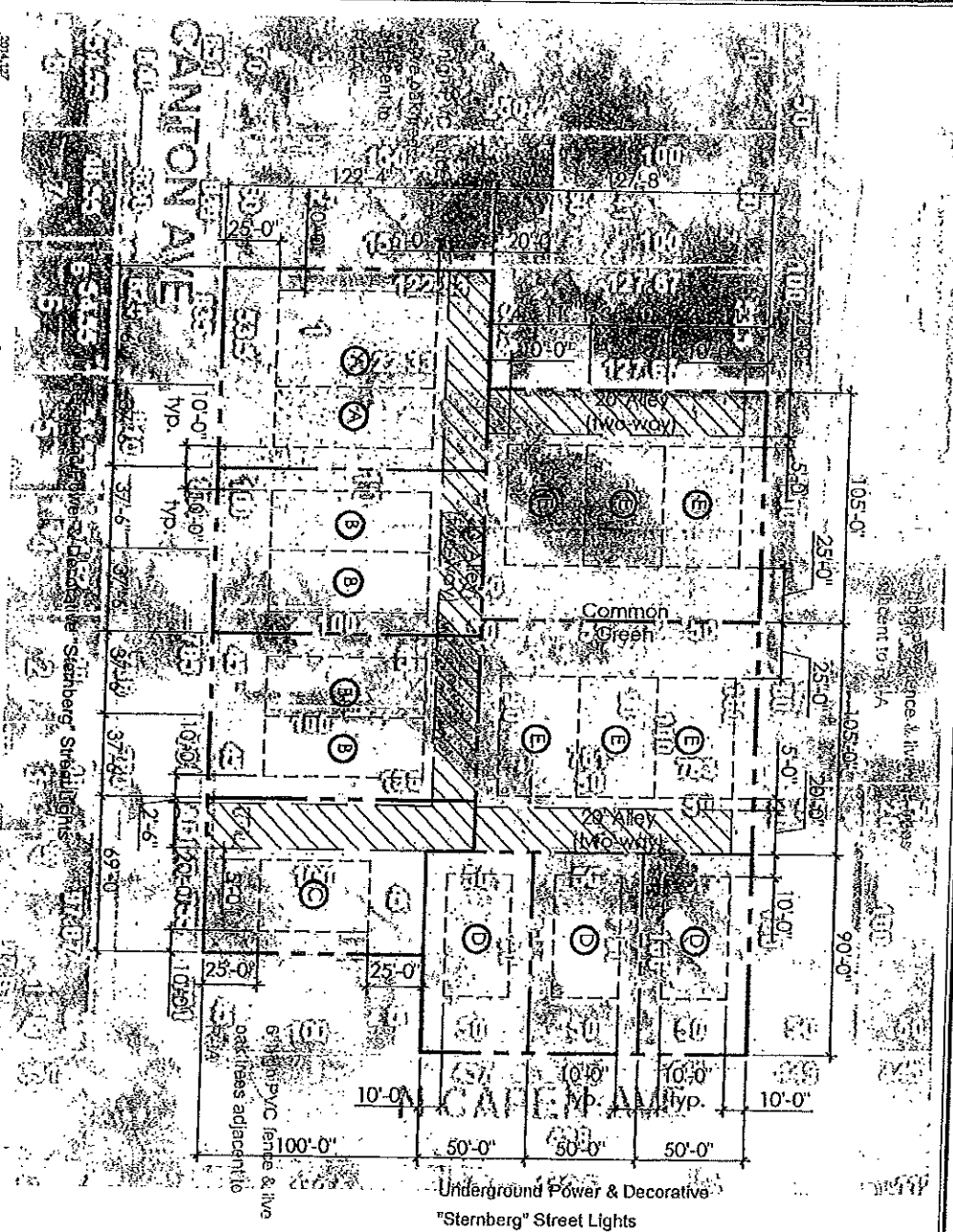
REQUEST OF THE SYDGAN CORP. FOR: A LOT CONSOLIDATION UNDER SECTION 58-392 OF CHAPTER 58 "LAND DEVELOPMENT CODE" SO AS TO COMBINE THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE CONSOLIDATED PARCEL FOR A UNIFIED RESIDENTIAL DEVELOPMENT, SUBJECT TO CONDITIONAL USE SITE PLAN APPROVAL BY THE CITY.

REQUEST OF THE SYDGAN CORP. FOR : CONDITIONAL USE APPROVAL UNDER THE CLUSTER HOUSING PROVISIONS OF R-2 ZONING TO REDEVELOP THE PROPERTIES AT 755/781/783/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO ONE CONSOLIDATED PARCEL FOR A RESIDENTIAL DEVELOPMENT OF 16, TWO STORY TOWNHOUSE RESIDENTIAL UNITS CONSISTING OF FOUR SINGLE FAMILY BUILDINGS, THREE DUPLEX TOWNHOME BUILDINGS AND TWO TRIPLEX TOWNHOME BUILDINGS WITH A TOTAL PROJECT SIZE OF APPROXIMATELY 41,334 SQUARE FEET.


Bd
BONNETT design group, llc
landscape architecture, community planning
 151 Oak Drive, Maitland, FL 32751
 407.222.7248 fax: 407.235.4243
 www.bonnettdesigngroup.com

March 23, 2014

WINTER PARK, FLORIDA
 PREPARED FOR:
DAVID WEEKLEY HOMES
CONCEPTUAL COMMUNITY PLAN

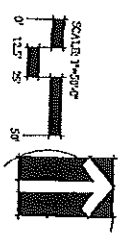


Underground Power & Decorative
 "Sternberg" Street Lights

R2 Zoning	Unit Types				
	A	B	C	D	E
Setbacks					
Front - 1st Floor	25	25	25	25	25
Front - 2nd Floor	30	30	30	30	30
Rear - 1st Floor	10	10	10	10	10
Rear - 2nd Floor	25	25	25	25	25
Side - 1st Floor	10	10	10	7	10
Side - 2nd Floor	10	10	10	10	10
Bldg. Max. Stories	2	2	2	2	2

Legend

- (A)** Duplex 1 - 11,132 sf Lot
 5,566 sf Land/Unit, 2,505 sf Unit (0.45 FAR)
 2 Units
 - (B)** Duplex 2 - 9,175 sf Lot
 4,587 sf Land/Unit, 2,523 sf Unit (0.55 FAR)
 4 Units
 - (C)** Single Family 1 - 7,402 sf Lot
 7,402 sf Land/Unit, 4,071 sf Unit (0.55 FAR),
 1 Unit
 - (D)** Single Family 2 - 4,500 sf Lot
 4,500 sf Land/Unit, 2,475 sf Unit (0.55 FAR)
 3 Units
 - (E)** Cluster - 13,405 sf Lot
 4,468 Land/Unit, 2,456 sf Unit (0.55 FAR)
 6 Units
- 16 Units TOTAL**



AUG 25 2014

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

CITY OF WINTER PARK
PLANNING DEPARTMENT

APPLICANT: Sydgan Corporation
 PARCELS: 759781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue
 PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential to medium density residential; (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2 consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood, inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §163.3177(1)(f), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
Marketa Hollingsworth	606 W. Comstock Ave, 32789	Jan.03.2009@gmail.com	773-255-4472
Sueann Hollingsworth	"	Reckie247@fnetworld.com	773-457-5022
John Balder	541 Agua Ave 32789	thequinn@ol.com	(407) 282-9335
Mary Ann Balder	650 W. Canton Ave.	silviam@earthlink.net	407-202-4845
Faye Fitzgerald	691 SOMERS AVE		407-649-9692
Steph C. Johnson	516 W. Canton Ave.		407-649-3421
Wendy Johnson	516 W. Canton Ave		407-308-6579
Michael W. Lee	850 N. Dunning Dr.		407-312-3417
Melissa Q. Roberts	1120 W. Seeger Place	Mrob709183@aol.com	407/649-5658
MARIE ROBERTS	725 W. Swore Ave	N/A	" "
SUZANNE TON MASSILLIE	1308 ALBIONA DR.	LTCMASSILLIE@HOTMAIL.COM	386-949-3576
Madeline Williams	660 Carter Ave		409-644-0702
REE EBLEY	151 N. ORLAND AVE #12, W.P. 32789	Ree@lebley.com	407-247-5394

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 7551781/783/785/831/835 West Canton Avenue and 4371/439/441 North Capen Avenue
 PARCELS: (1) Amend Future Land Use Map designation from single family residential to low-density residential, to medium density residential, (2) Change zoning classification from R-1A to R-2.
 PROPOSED CHANGES:

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2, consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood, inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan, and not supported by adequate data and analysis, as required by §163.3177(1)(G), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
THOMAS MASSELINE	1308 ALBERTA DR WP 32787	LTC@STWCHOTMAIL.COM	386-717-5665
SUE MASSELINE	1308 ALBERTA DR WP 32789	LTC.MASSELINE@HOTMAIL.COM	356-711-3870
Bartlene Williams	660 Canton Ave		907.644-0272
Mattie Bryant-Hally	333 1104 Sydgan/Chas. 32789	mbhall555@verizon.net	407-698-9847
Jean Kelly	1615 Rowland Dr. W.P. 32789		407-677-0908
Vanessa Felix	633 N. Pate Ave. WP 32789	vanessafelix@yahoo.com	407-340-8310
Jeani Oason	1915 WINDROSE DR WP 32790	jeaniason@earthlink.net	407.644.0438
Billie Scott	510 CANTON AVE		
Quinia O'McElmurry	1531 BOLIVIA DR. 32789	lodypwaynard@aol.com	407-622-1653
Lee MAYNARD	1531 BOLIVIA DR. 32789	N/A	407 622 6653
Sharon Bellard	921 Canton Ave W.P. 32789	ChapSharon@sykoo.com	321-362-6011
Charles Everett	341 East Abster Ave W.P. 32789	chasebeverett@gmail.com	407-756-3379
Bill Carter	RanKeez Ave 32789		

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydean Corporation
 755/781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue
 PARCELS:
 PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential. (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2; consolidation of the parcels.

We oppose Sydean Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood; inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §163.317(1)(D), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
THADDEUS SEYMOUR	1704 SW WINTERFIELD RD WP 32792	seymourthadp@gmail.com	407-644-1150
Jennifer Anderson	1621 Roundelay Ln WP 32789	jenniferandersonwp@gmail.com	407/647-7376
BARBARA GREGORY	347 N. Capen Ave. WP 32789		
Indefatigable Washington	381 N. Capen Ave. WP 32789	indefatigablewashington@gmail.com	407-644-9282
PAULINA & TAYLOR	841 W. Canton Ave WP 32789	PaulinaTaylor-wm@gmail.com	904-629-6353
Vera Clark	855 English Ct WP FL 32789	RSEHIVR000@GMAIL.COM	407 647 6105
Doris Beacham	484 W. Canton Ave. WP FL 32789		407-740-5087
William Beacham	484 W. Canton Ave. WP FL 32789		407-740-5087
Rebecca Dennis	730 DuBouillon St WP		407 628-7957
Penny Carter	1500 Gay Rd WP 32789	PennyCarter@gmail.com	407 951 8078
Linda Walker	794 Coosack Av.	can.yeah@gmail.com	407 625-1533
HAZEL WALKER	710 IN NEW ENGLAND DR		
L.S. Champelle	794 Comstock Av WP 32789		

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 PARCELS: 755/781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue
 PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential; (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2 consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood; inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §165.3177(1)(f), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
J. Martin Sullivan	901 Georgia Ave. W.P. 32789	jsullivan2@flnr.com	407-629-4648
Maura Smith	901 Georgia Ave. 32789	jsullivan2@flnr.com	407-629-4648
Meyovic Builders	767 Autonne Circle W.P. 32787	magic32789@aol.com	407-697-2722
Nad Koske	1822 Summerfield Road W.P. 32792	imhs77@gmail.com	407-647-8362
Leo Eberhart	341 E. WEBSTER AVE. W.P. 32789	L1345EVERETT@GMAIL.COM	407-644-0887
GARY BARKER	1024 McKEAN CIRCLE W.P. 32789	gbaron76@aol.com	407-629-1749
Mark Miller	1399 Aloma Av W.P. 32789	markmiller@me.com	407-628-8081
Dennis Akers	1399 Aloma Av W.P. 32789	markmiller@me.com	407-628-8081
FRANK ROTTIER	1360 GIBBONS RD W.P. 32789	patrick@small.com	407-645-1892
ARRICA McDONALD	2348 SUMMERFIELD RD 32792	patmcdonald@flnr.com	407-539-3025
Barry E. Greenstein	2348 Summerfield Rd. 32792	Barrygreenstein@flnr.com	407-539-3025
Sher Silver (Sher Silver)	735 Pansy Ave 32789	JS	407-63871123
Sher Silver (Sher Silver)	1400 Highland Rd 32789	flimulants@aol.com	407-647-7206

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 755/781783/785/831/835 West Canton Avenue and 437/439/441 North Copen Avenue
 PARCELS:
 PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential (2) Change zoning classification from R-1A to R-2

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2, consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hammett Square Neighborhood; inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §165.317(1)(b), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hammett Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
Magaret Powell	2401 Spahn Ave. Winter Park, FL 32789	Margaret.Powell@ymail.com	407-271-2347
Joseph NGUYEN	924 Bishop Park Dr. Winter Park, FL 32789	SCARPER@Yahoo.com	407-646-3523
Ernest Manning	108 S. Interlaced Ave. #210 Winter Park, FL 32789	erfmanning@gmail.com	
FREDRICKSON, HANKEBERG	731 CAITHAN ST. WPT 32789	N/A	
Ernestine LANGR	678 Callahan St WPT 32789		
Deirda Pittman	663 Callahan St WPT 32789	dardapittman@gmail.com	
STEVE FELLER	850 OLD ENGLAND WPT 32789	5R5R@AOL.com	
Tanna H. Anderson	304 S. Copen Ave. Winter Park, FL 32789		407-647-0171
ALBERT ANDERSON	304 S. COPEN AVE. WINTER PARK, FL 32789		407-647-0171
Mary Jo Shultz	402917 Tanager Tr. Winter Park, FL 32789	Ches21M@CFL.RR.CORP	407-271-2347
Ann Kasel	700 Melissa Ave. F-2 WPT, FL 32789	annkasel82@gmail.com	407-646-3523

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 755/781/783/785/831/835 West Cantor Avenue and 437/439/441 North Capen Avenue
 PARCELS: (1) Amend Future Land Use Map designation from single family residential to low-density residential to medium density residential; (2) Change zoning classification from R-1A to R-2.
 PROPOSED CHANGES:

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2 consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood; inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §165.3177(1)(f), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
LETT STEPHENS	500 N PENNSYLVANIA AVE #4	lethstephens@a1.w.com	321 432 5800
MARCELL STEPHENS	500 N PENNSYLVANIA AVE #4	marzen.stephens@ymail.com	
LINDA ERIKSSON	535 N HIGHLANDEN #303	LERIKSSON@gnad.com	407 637 1507
AND MILER	437 Wynn Place	andymiler@ymail.com	407 622 6806
John P. Matus	287 Penn Place	johnp.matus@gmail.com	407 622 6806
John Skoldfeld	758 Uthoria Ave	john@skoldfeld.com	721-228-3990
Mary K. Randall	1200 S. Kentuck Ave, 32789	maryrandall@yahoo.com	407-620-6010
Larry Conneling	1000 S. Kentucky Ave 32789		904-202-1076
DEBORAH WILSON	5412 E. 54th Ave 32789		407-622-6557
Sharon Apple	484 W. Lynn Ave 32787	N/A	321-527-6147
Benny Jusini	404 W. Lynn Ave 32789	N/A	321-527-6147
John Skoldfeld	315 Spinn Ave 32108	N/A	407-446-9685
Sharon Apple	315 Spinn Ave 32789	N/A	407-446-9685

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 755/81783/785/831835 West Canton Avenue and 437/439/441 North Capen Avenue
 PARCELS:
 PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential; (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2, consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood, inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §163.317(1)(f), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
Maria Bayat	450 S Virginia Ave, WP	maribay@earthlink.net	
Handetta Carter	811 Douglas Av		407-448-6553
Alton Carter	811 Douglas Av		
Kathy Wallace	817 Constock Av		
Firetha Walker	Railroad Av		
Pauline Archer	Railroad Av		
Donna Carter	317 W. Lyman Ave WP		409-6415-3907
Robert Carter	317 W. Lyman Ave WP		407-645-3907
Loann Allen	315 W. Lyman Ave WP		
Shirine Chapman	464 W Lyman Ave	shirine@earthlink.net	
Jackie Ellis	441 S. Virginia Ave	jackie@earthlink.net	407-752-2568
Jackie Ellis	445 S. Virginia Ave.	jackie@earthlink.net	407-463-2653

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 755/781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue
 PARCELS:
 PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential; (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2, consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hammit Square Neighborhood, inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan, and not supported by adequate data and analysis, as required by §163.317(1)(D), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hammit Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
DAVE ELLIOTT	880 N. DENVER	DAVE.ELLIOTT@DENVER.PA	407-647-9990
PHILIP RICHARDSON	880 N. DENVER	PHILIP.RICHARDSON@DENVER.PA	407-647-9990
STACEY SPOONER	707 WEST RD.	STACEY.SPOONER@GMAIL.COM	407-718-1629
STACEY SPOONER	676 DESS	STACEY.SPOONER@GMAIL.COM	407-718-1629
MARLBOROUGH	530 CHEROKEE AVE	MARLBOROUGH@COL.COM	407-458-461
MARLBOROUGH	855 D. RYAN AVE	MARLBOROUGH@COL.COM	407-458-461
TYLER PIERCE	249 W LYMAN AVE	TYLER.PIERCE@GMAIL.COM	256-990-5377
KATHARINA PIERCE	849 W LYMAN AVE	K.PIERCE@GMAIL.COM	321-505-1894
KATHARINA PIERCE	690 W STORAGE AVE	K.PIERCE@GMAIL.COM	321-304-0078
TOMMIE STRIBLING	462 W LYMAN AVE	TOMMIE.STRIBLING@GMAIL.COM	407-782-1529
HOPPE L. SNEED	464 W LYMAN AVE	HOPPE.L.SNEED@GMAIL.COM	407-272-7633

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 755/781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue
PARCELS:
PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential to medium density residential; (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2, consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood, inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan, and not supported by adequate data and analysis, as required by §163.317(1)(f), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
Val Hallen	411 N. W. W. Ave		407-684-2934
Demonda Walker	891 Colby Street	quakka2734@live.com	407-644-7132
Denise Blalock	691 Colby Street		407-684-2132
Brendy Burtons	658 W. Canton Ave	godditali4me@yahoo.com	(407) 879-4593
Gregory Newman	658 W. Canton Ave		407-879-4572
Keith	654 W. Canton Ave	kentersfor@gmail.com	407-921-0864
Michelle Kogan	670 W. Canton		
Debbie Jay on	670 W. Canton		
Shirley Wolfe		SWOLF1944@gmail.com	
Heather Hillard	177 W. Canton Ave		
Heather Steg	677 W. Winter Ave		
Deanna Taylor	710 N. Canton Ave	DeannaTaylor@gmail.com	407-645-3275
Ally Spinning	751 W. Canton Ave	eleonorichina@yahoo.com	407-678-5297
Deanna Spinning	751 W. Canton Ave		407-678-5297
Stewart Spinn	820 W. Canton Ave		407-628-8839
Beverly N. Spinn	736 W. Canton Ave	psalm371931@yahoo.com	407-274-5991

PETITION TO OBJECT TO COMPREHENSIVE PLAN AMENDMENTS, REZONING, AND LOT CONSOLIDATION

APPLICANT: Sydgan Corporation
 755/781/783/755/831/835 West Canton Avenue and 437/439/441 North Capen Avenue
PARCELS:
PROPOSED CHANGES: (1) Amend Future Land Use Map designation from single family residential to low-density residential; to medium density residential; (2) Change zoning classification from R-1A to R-2.

We, the undersigned residents of Winter Park, Florida, do hereby oppose any modifications to the City of Winter Park's Comprehensive Plan that change the Future Land Use Map designation for the listed parcels from single-family residential. We also oppose any change from R-1A zoning classification to R-2; consolidation of the parcels.

We oppose Sydgan Corporation's application because the requested changes are incompatible with the single-family character and scope of the Hannibal Square Neighborhood; inconsistent with the City of Winter Park's Comprehensive Plan and Community Redevelopment Agency Plan; and not supported by adequate data and analysis, as required by §163.317(1)(f), Florida Statutes, and Winter Park Code of Ordinances Section 58-61(a)(2) requiring an analysis of potential impacts to the Hannibal Square Neighborhood and the City of Winter Park.

NAME	ADDRESS	EMAIL	TELEPHONE
Cheryl Woodard	510 - Calandra		
Sally Hbone	526 Hopyell Lane Winter Park, FL		
Caroline Pymon	413 Carlelane Ave		407-240-0476
Caroline Pymon	413 Carlelane Ave		407-240-0476
HONORAR PETER	854 English Ct. Winter Park, FL		407-480-2832
CLARENCE Beckard	570 Conschock Ave		407-480-3705
Paula Blumhard	825 English Ct		407-860-1555
Doirise Jucker	821 English Ct		407-879-8684
Barb & King	871 English Ct		407-558-7671
Robert L King	821 English Ct		407-692-5587
Annae Maynard	791 English Ct		407-539-3925

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

**Staff Report
September 2, 2014**

REQUEST OF UP FIELDGATE US INVESTMENTS – WINTER PARK

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

UP Fieldgate US Investments is requesting “final” conditional use approval for their Whole Foods project pursuant to the “preliminary” conditional use approved by the Planning Board on June 3, 2014 and by the City Commission on June 23, 2014, on the properties at properties at 1000/1050 N. Orlando Avenue and 1160 Galloway Drive and 967 Cherokee Avenue, zoned C-3.

The City Commission approved the “preliminary” conditional use with same conditions as recommended by P&Z that are listed below plus #7 that they added. The “blue” text indicates what has been done to respond to those conditions as follows:

1. **The project being limited to monument signage for all ground signs in lieu of pole signs.**
This is being accomplished and the sign design is included in this packet.
2. **That for the final conditional use review, the applicant review opportunities for preservation of two major live oak trees on-site.**
The two live oak trees are shown as being able to be saved. Staff will require added buffer around those trees so they survive, as a condition of approval.
3. **That for the final conditional use review, the city and applicant negotiate for a proportionate share of funding for traffic signal timing improvements.**
The proportionate share of this smart signal technology for the three intersections impacted by the project is \$28,125. This will be a condition of approval.
4. **That for the final conditional use review, a location in the rear of the project be provided for a sanitary sewer lift station, as may be required for this project.**
It has been determined that an on-site sewer lift station is not needed.
5. **That there be architectural conformity on the design of the out-parcel developments. This shall be administered by staff with the option of the applicant to appeal to P&Z/City Commission to resolve any design issues.**
This will be continued as a condition of this final CU approval.
6. **That the building and mechanical permits be designed and operate at all times under a maximum of 55 decibels at the property line from any air**

conditioning or other mechanical equipment to address sound containment of the AC and mechanical equipment and that there be certification as to such design by the engineer of record and any subsequent violation of the specific 55 decibel level shall be grounds for enforcement by the City and compliance by the property owner and/or tenant.

[This will be continued as a condition of the final CU approval.](#)

7. **That the setback be increased to 20 feet for the Whole Food building from the adjacent residential properties to the south.**

[This modification has been made to the site plan.](#)

The Approval Process:

Per city code, the public hearings advertised for the conditional use review and approval in June were for the “preliminary” CU approval per code. The “final” CU approval per code is the action to review compliance with the conditions of approval and to review the final civil, landscaping, drainage and lighting details.

The New Plan Submittals:

This “final” conditional use provides four new plan details for review:

1. Landscape Plan – the specific landscape plan for the project is attached. There are no quantities indicated but there are a substantial number of new trees being added to the site both along the street frontages, within the parking lot and along the Lee Road extension. In order to insure the survival of the mature live oaks within the parking lot in front of the Whole Foods store, the two parking spaces immediately east of that northern most tree island and the one space on the west side of the southernmost tree island also need to be removed in order to provide added protection and minimize root damage.
2. Storm Water Drainage Plans – the specific method of meeting the City and St. Johns River Water Management District drainage criteria is primarily via storm water retention areas located in the rear of the project and to the south of the Lee Road extension but some areas in the rear of the major retail buildings will also be used for underground storm water exfiltration in order to achieve the required volumes.
3. Site Lighting – The plan contains the site lighting plan and photometrics which meet code and comply with out maximum 16 foot lighting pole height. The project is using the more attractive Sternberg type light fixtures.
4. Civil Plan – There is not a final civil site and grading plan at this time but since underground exfiltration is not being used there should be no unusual changes in grade and our Code prohibits and increase in grade greater than two feet.
5. Final Site Plan – One change for this final site plan is the modification of the formerly proposed stamped concrete to be used for the main entrance drive from Orlando Avenue to a paver block (bricks) material as was discussed by P&Z and the City Commission. Details are also included on the cross

section changes to the Orlando Avenue right-of-way pursuant to the FDOT permitting of the Lee Road traffic light. Further design has provided more left turn stacking room or length to the curing for the main entrance drive thus necessitating the closing of the median for Dixon Avenue.

The developer of Ravaudage remains concerned that the use of the median for left hand turns into this project uses up the median space that they need for left hand turn stacking, headed north, for a future traffic light at Glendon Parkway or Solana Avenue. P&Z and City Commission had asked and this applicant had promised to include Ravaudage in their discussions with FDOT but that has not happened. So the City is faced with opposition to this plan from the developer of Ravuadage and the City is forced to try to mediate a solution on a decision that is FDOT's to make and not the City's decision to make. Thus, the best the staff can do at this point is to bring in the City's traffic consultant to help mediate this issue. Thus we must condition this approval accordingly.

6. Lee Road Extension – these plans show the new roadway and include cross sections throughout its length. This is a new significant 86 foot wide right-of-way for a boulevard which provides space for landscape medians, ample parkway space for planting live oak street trees along both sides of the new roadway and eight foot wide sidewalks on both sides of the new boulevard for pedestrian and bicycle mobility. However, the applicant tells us verbally that they would like to reduce the sidewalk to 5 feet on one side.
7. Site Signage - these plans include the detail for the monument signage for Whole Foods which meet the design parameters shown at the preliminary CU approval. What is unanswered is what monument signage (other than wall/awning signs) that the three outparcel buildings will be entitled to. Will they get their own individual monument signs and what monument signage will be provided for the other major retail store(s)? From what has been presented, the other major retailer will use the monument sign at the corner of Dixon and Orlando and the out-parcels are not entitled to their own individual monument signs.
8. Architectural Conformity – the Development Agreement will outline this requirement, how it is implemented, options for appeal and in particular, the attention that will need to be paid to screening the street views of the service and side walls of the other major retailer.

Development Agreement:

There needs to be a Development Agreement prepared and executed (following approval by the City Attorney) to incorporate the approvals granted, the conditions of approval and enforcement methods for those conditions as outlined.

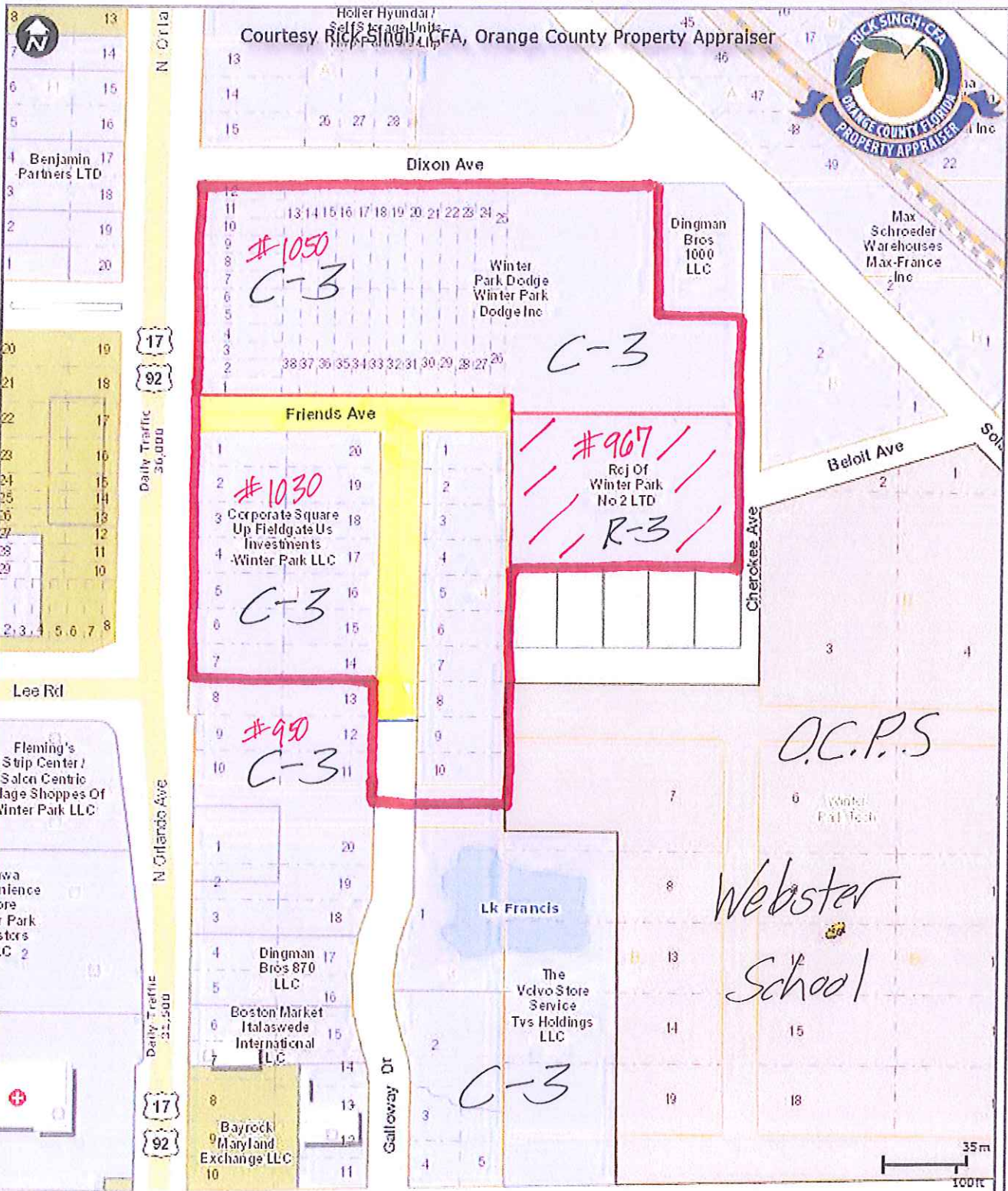
STAFF RECOMMENDATION IS FOR APPROVAL OF THE "FINAL" CONDITIONAL USE pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) to incorporate the approvals granted, the variances permitted, the conditions of approval and enforcement methods for those conditions as outlined below:

- 1. That the site plan be modified to remove the parking spaces for added buffer for the live oak trees to be preserved.**
- 2. That the Development Agreement incorporate the conditions, as discussed regarding project signage, architectural conformity, architectural review of the future buildings, contribution to the smart signal technology and noise control.**
- 3. That this final Conditional use approval does not grant any approval or consent from the City for the use of the Orlando Avenue median other than exclusively for the left hand storage for the traffic light and the City shall partner with this developer, the developer of Ravaudage and FDOT to strive for a solution that meets the traffic safety and turning movement needs of both projects.**

OCA Web Map

- Florida Turnpike
- Interstate 4
- Toll Road
- Major Road
- Public Road
- Gated Road
- Road Under Construction
- Proposed Road
- Brick Road
- Rail Road
- Proposed SunRail
- Block Line
- Lot Line
- Residential
- Agriculture
- Commercial/Institutional
- Governmental/Institutional/Misc Commercial/Industrial/Vacant Land
- Agricultural Curtilage
- Hydro
- Waste Land
- County Boundary
- Park
- Golf Course
- Lakes and Rivers
- Building
- Hospital

Courtesy Rick Singh, CFA, Orange County Property Appraiser

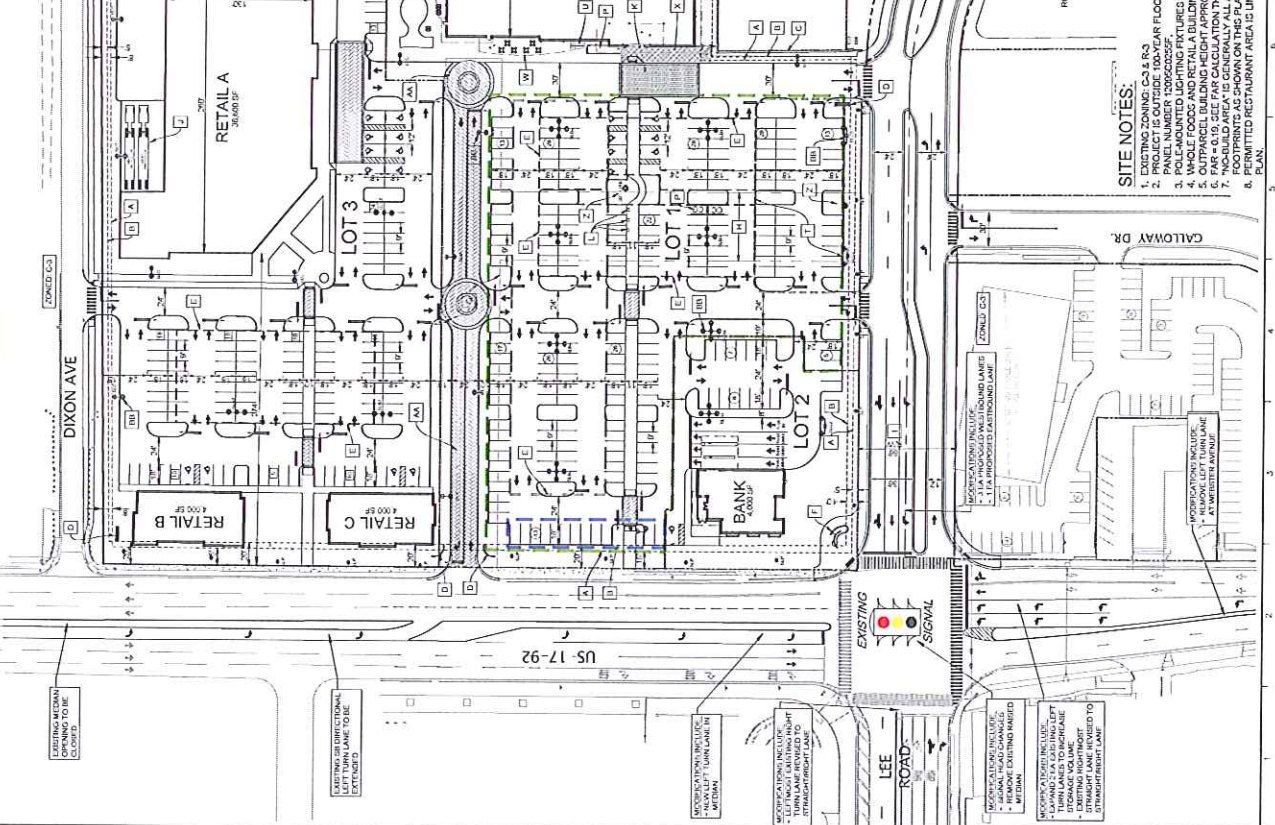


PARKING RATIO		BLDG. SFT.	NO. of SPACES	Ratio
WHOLE FOODS	41,136	234	5.7 / 1000	
RETAIL A	35,000	171	2.8 / 1000	
RETAIL B	4,000	18	4.5 / 1000	
RETAIL C	4,000	18	4.5 / 1000	
BANK	4,000	18	4.5 / 1000	
CITY OF WINTER PARK REQUIREMENT: 1 SPACE PER 200 SF.				
H SPACES PER 1,000 SF: 1				

LAND COVERAGE TABLE		DESCRIPTION	ACRES	%
BUILDINGS	2.00	19%		
VEHICLE USE AREA	6.10	57%		
SIDWALK / HARDSCAPE	0.40	5%		
OPEN SPACE	2.00	19%		
TOTAL	10.65	100%		

ACREAGE SUMMARY		LOT 1	LOT 2	LOT 3	TOTAL
LOT 1	3.09 AC	3.09 AC	4.30 AC	13.69 AC	
LOT 2	3.75 AC				
LOT 3	4.30 AC				
TOTAL	11.14 AC				

FAR CALCULATION		WHOLE FOODS MARKET	41,136 SF
RETAIL A	35,000 SF		
RETAIL B	4,000 SF		
RETAIL C	4,000 SF		
BANK	4,000 SF		
TOTAL FLOOR AREA	47,000 SF		
PER POLICY 1-2.1.4	480,290 SF		
TOTAL SITE	480,290 SF		
PARK	0.19		



- ### LEGEND
- A REQUIRED C-3 ZONING SETBACK
 - B REQUIRED LANDSCAPE BUFFER
 - C #1 HIGH MASONRY WALL
 - D PROPOSED MONUMENT SIGNAGE
 - E PROPOSED UNDERGROUND EXFILTRATION STORMWATER TREATMENT TANK (SEE PLAN FOR TANK LOCATION AND VOLUME)
 - F MANHOLE SIGNAGE
 - G COMPACTOR
 - H PROPOSED VACATION OF GALLOWAY DR. RW
 - I PROPOSED VACATION OF FRIENDS AVENUE RW
 - J PERMITTED EVENTS AREA
 - K BICYCLE RACK
 - L VEHICLE CALMING TABLE
 - M ELECTRIC VEHICLE CHARGING STATION
 - N REMOVABLE EMERG. GEN. TRAILER PAD AREA
 - O ELECTRIC TRANSFORMER
 - P WALK KEY INTERFACE
 - Q CART CORRAL
 - R PROPOSED VACATION OF FRIENDS AVENUE RW
 - S 100VA BACKUP GENERATOR
 - T RAINWATER HARVESTING TANK
 - U PERMITTED EVENTS AREA
 - V BICYCLE RACK
 - W WHOLE FOODS OUTSIDE RESTAURANT AREA
 - X CANOPY AWNING
 - Y SIDEWALK AREA
 - Z SANITARY LIFT STATION IF REQUIRED
 - AA EXISTING LIVE OAK TREES TO REMAIN IF FEASIBLE
 - BB PAPER BLOSSOM
 - CC SITE LIGHT POLES
 - DD ADJACENT PARKING AREA
 - EE EMPLOYEE PARKING AREA

- ### SITE NOTES:
1. EXISTING ZONING: C-3 & R-3
 2. PROJECT IS OUTSIDE 100-YEAR FLOOD PLAIN ELEVATION PER FEMA FIRM MAP 15-502-A
 3. UNLAWFUL LIGHTING FIXTURES SHALL MEET CITY CODE SECTION 15-326.4
 4. WHOLE FOODS AND RETAIL BUILDING HEIGHT CITY CODE SECTION 15-326.4
 5. OUTPARCEL BUILDING HEIGHT APPROX. 20 FEET WITH 27' ENTRY FEATURE
 6. UNLAWFUL LIGHTING FIXTURES SHALL MEET CITY CODE SECTION 15-326.4
 7. "NO-BUILD" AREA IS GENERALLY ALL AREAS NOT ENCOMPASSED BY BUILDING FOOTPRINTS AS SHOWN ON THIS PLAN.
 8. PERMITTED RESTAURANT AREA IS LIMITED TO RETAILS B & C AS SHOWN ON THIS PLAN.

MODIFICATIONS INCLUDE:
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE

MODIFICATIONS INCLUDE:
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE

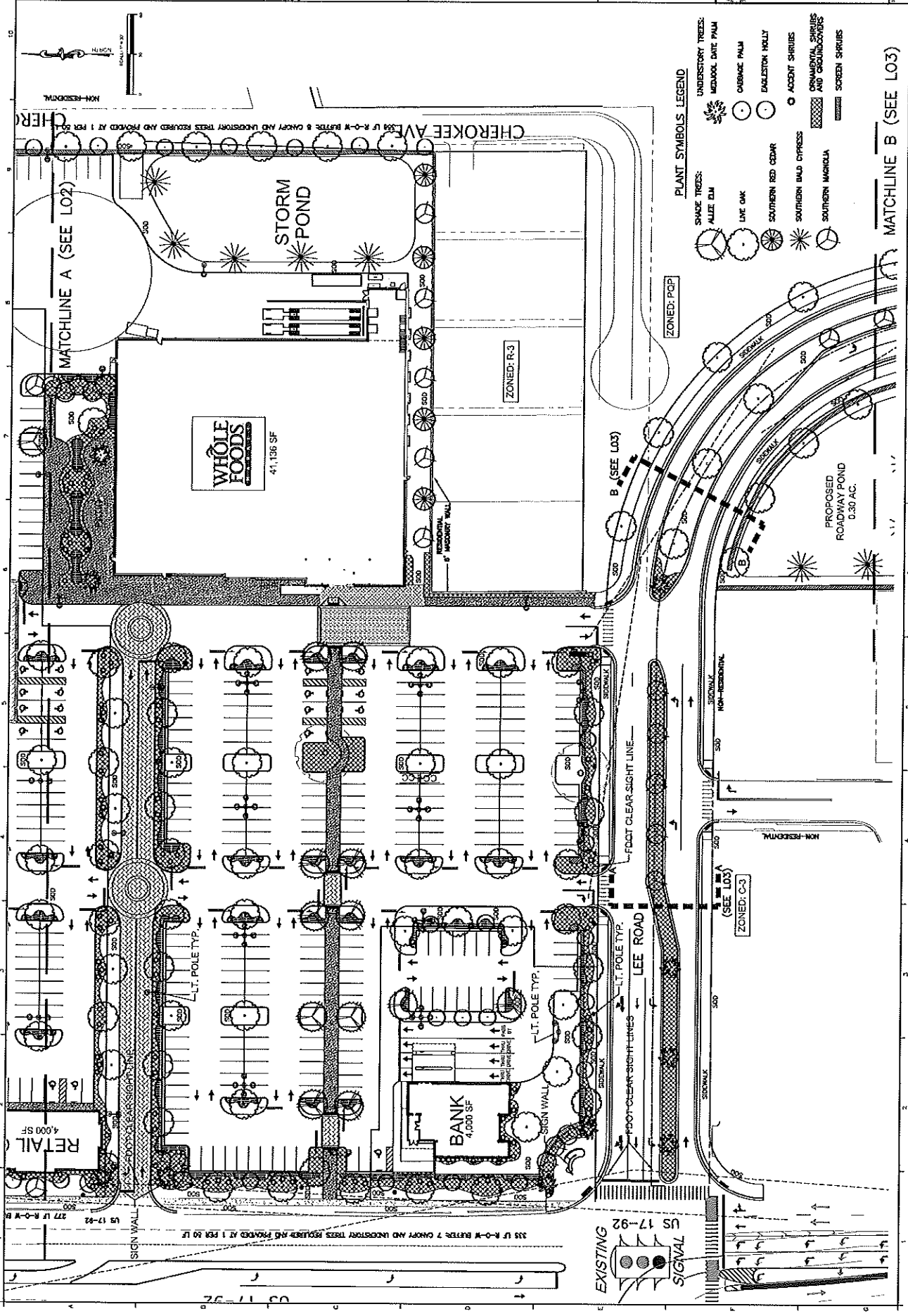
MODIFICATIONS INCLUDE:
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE

MODIFICATIONS INCLUDE:
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE
 - REMOVAL OF EXISTING HATCH SIGNAGE

RECORD DRAWING

NO.	DATE	DESCRIPTION

LANDSCAPE ARCHITECT
 1979-2018
 1979-2018



- PLANT SYMBOLS LEGEND**
- SHADE TREES:** ALICE OAK, DUNE OAK, SOUTHERN RED CEDAR, SOUTHERN BIRD CYPRESS, SOUTHERN MAGNOLIA
 - UNDERSTORY TREES:** COCONUT PALM, ELEGANT HOLLY, ACCENT SHRUBS, ORNAMENTAL SHRUBS AND SUBSPROUTS, SCREEN SHRUBS
 - OTHER:** CASCARA PALM, SOUTHERN PALM

315 LF R-O-W BARRIER 7' CONCRETE & CONCRETE TIES REQUIRED AND PROVIDED AT 1 PER 50 LF

550 LF R-O-W BARRIER 8' CONCRETE & CONCRETE TIES REQUIRED AND PROVIDED AT 1 PER 50 LF

NON-RESIDENTIAL

NON-RESIDENTIAL

NON-RESIDENTIAL

NON-RESIDENTIAL

NON-RESIDENTIAL

NON-RESIDENTIAL

MATCHLINE B (SEE LO3)

LO1

All Plans, Notes, Amendments and Exhibits shall be the property of the Client. They are loaned to the Consultant for use in connection with the project and shall not be used, reproduced, or distributed for any other purpose without the written consent of the Consultant. If the Client or any other party wishes to use any of the information contained herein for any other purpose, the Client shall obtain the written consent of the Consultant. All rights reserved.

A. S. R. I. T. E. R. S., P. L. L.
 1001 West Loop South, Suite 200
 Irving, TX 75039
 Phone: 972.380.0000
 Fax: 972.380.0000
 Website: www.asriters.com

T. L. L. I. M. E. R. S., P. L. L.
 1101 West Loop South, Suite 200
 Irving, TX 75039
 Phone: 972.380.0000
 Fax: 972.380.0000
 Website: www.tl-limers.com

CONSULTANT

Mark Adams, AIA
 1101 West Loop South, Suite 200
 Irving, TX 75039
 Tel: 972.380.0000

T. Limer, AIA
 1101 West Loop South, Suite 200
 Irving, TX 75039
 Tel: 972.380.0000

ELEVEN 18

T. L. Limer, AIA
 1101 West Loop South, Suite 200
 Irving, TX 75039
 Phone: 972.380.0000
 Fax: 972.380.0000
 Website: www.tl-limers.com

Principal Address:
 1101 West Loop South, Suite 200
 Irving, TX 75039
 Phone: 972.380.0000
 Fax: 972.380.0000
 Website: www.tl-limers.com

REVISIONS

#	DATE	DESC.

PROJECT NAME:
**WINTER PARK
 RETAIL**
 WINTER PARK, FL

DRAWING NO.	DATE	SCALE

DRAWING NO.	DATE	SCALE

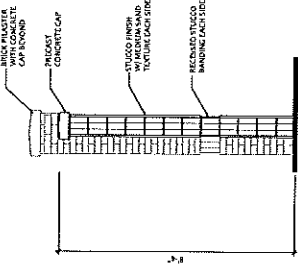


PERSPECTIVE - ENTRANCE AT 1792

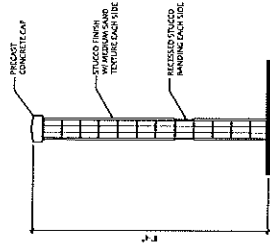


PERSPECTIVE - LEE RD & 1792

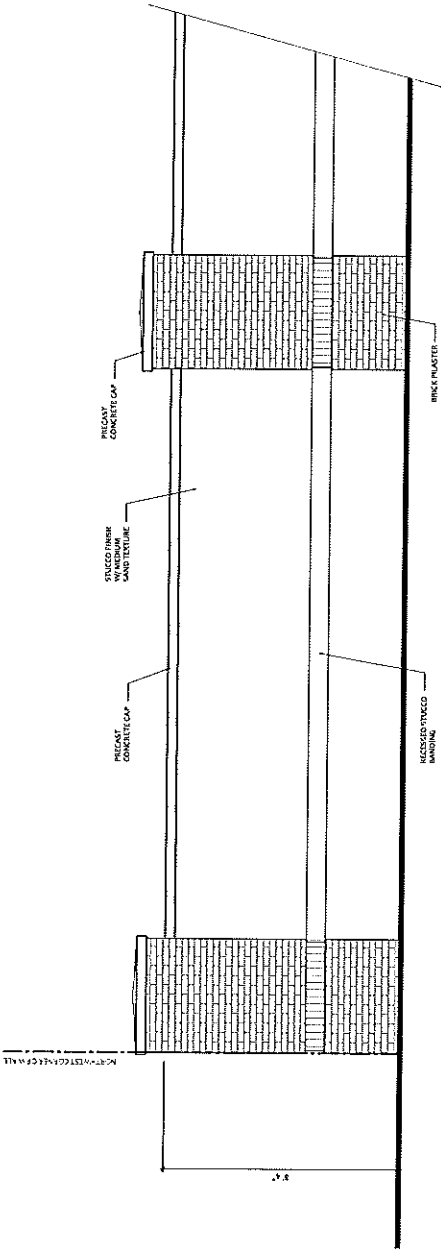
All items, methods, materials and dimensions are subject to change without notice. It is the responsibility of the contractor to verify all dimensions and materials before construction. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The contractor shall be responsible for ensuring that all construction complies with all applicable codes and regulations. The contractor shall be responsible for ensuring that all construction is completed within the specified time frame. The contractor shall be responsible for ensuring that all construction is completed to the satisfaction of the architect. The contractor shall be responsible for ensuring that all construction is completed in accordance with the contract documents. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable laws and regulations. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable standards and specifications. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable industry practices and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable local, state and federal laws and regulations. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable building codes and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable safety regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable environmental regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable health and safety regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable fire and safety regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable electrical and plumbing regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable mechanical and HVAC regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable structural and foundation regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable exterior and interior finish regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable accessibility regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable energy efficiency regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable sustainability regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable quality control regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable risk management regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable project management regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable communication regulations and standards. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable legal and regulatory requirements. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable contract terms and conditions. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable dispute resolution procedures. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable arbitration and mediation procedures. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable litigation and dispute resolution procedures. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable legal and regulatory requirements. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable contract terms and conditions. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable dispute resolution procedures. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable arbitration and mediation procedures. The contractor shall be responsible for ensuring that all construction is completed in accordance with the applicable litigation and dispute resolution procedures.



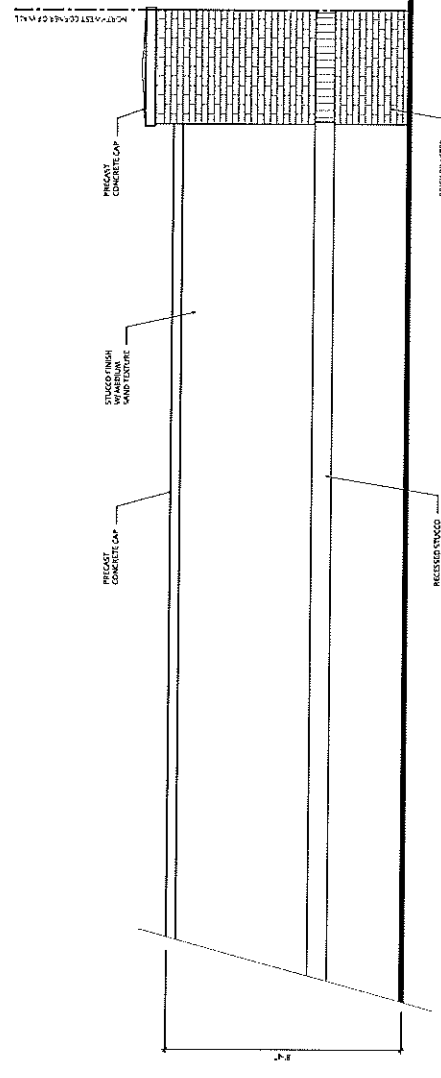
SECTION 3
1/4" = 1'-0"



SECTION 4
1/4" = 1'-0"



01 PARTIAL SCREEN WALL - WEST ELEVATION
1/4" = 1'-0"



05 PARTIAL SCREEN WALL - NORTH ELEVATION
1/4" = 1'-0"

NOT FOR CONSTRUCTION CONSULTANTS

NOT FOR CONSTRUCTION CONSULTANTS



FLORIDA ARCHITECTS
 Meeting Address:
 15000 BAYVIEW BLVD, SUITE 100
 MIAMI, FL 33187
 www.floridarchitects.com

Principal Address:
 15000 BAYVIEW BLVD, SUITE 100
 MIAMI, FL 33187
 407.745.5500

REVISIONS	
#	DATE

PROJECT NAME:
 WINTER PARK RETAIL
 WINTER PARK, FL

DRAWN BY: JANAY JIM	CHECKED BY: EM
DATE: 11/11/2023	SCALE: AS SHOWN
A-6	

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

**Staff Report
September 2, 2014**

REQUEST OF MR. DREW HILL FOR: CONDITIONAL USE APPROVAL TO DEVELOP A FOUR UNIT, TWO STORY TOWNHOUSE PROJECT ON THE PROPERTIES AT 1003 AND 1009 S. PENNSYLVANIA AVENUE, ZONED R-3.

Mr. Drew Hill is the recent purchaser of the vacant property at 1003 & 1009 S. Pennsylvania Avenue, which is the southwest corner of Pennsylvania and Minnesota Avenues. This request is for Conditional Use approval to develop a four unit townhouse project on this property zoned R-3. This is a Conditional use because the building size exceeds 10,000 square feet.

Site and Zoning Parameters: This is an 18,415 square foot property (0.423 acres) which based on 17/units per acre maximum density would potentially allow seven (7) units versus the four (4) units requested. These will be sold fee simple with a Homeowners Association for maintenance of the common elements.

Proposed Project: The project consists of four townhouses that will each be two stories in height. The total project size is 16,122 sq. ft. which is a FAR of 87.5% which is within the maximum R-3 FAR of 110%. The maximum lot coverage is 40% and the project is at 40.85% which thus requires a variance for the 0.85% of excess lot coverage which is an insignificant 156 sq. ft. above Code. The maximum impervious coverage is 70% and this project is just under at 69.79%. Building height is shown at 35 feet per Code. A portion of the roof is a flat roof element which then allows roof mounted AC units so those are not visible on the ground. There are no existing trees on this property.

A common rear entry driveway off Minnesota Avenue works to hide the cars from view and present an attractive building image on the two streets. Two car garages serve each unit and to meet the 2.5 spaces per unit parking requirement, there are two outside parking spots. The four foot tall privacy courtyard wall on the Minnesota Avenue frontage will need to be extended to screen that parking space, per Code. There also will need to be a vinyl privacy fence or wall constructed to screen the driveway and parking from the two adjacent neighbors.

Storm Water Retention: This site is lower than the street so the site grade will need to be raised equal to the sidewalk height. A retaining wall will then need to be constructed along the portions of the adjacent properties that are lower. By raising the grade it also provides space for underground storm water exfiltration system for storm water retention which also has the benefit of eliminating an overflow of runoff onto the adjacent properties as now occurs.

Comprehensive Plan policy criteria: There is a specific Comprehensive Plan policy for this neighborhood study area as shown below:

Policy 1-4.1.F.15: Restriction on Building Stories to Preserve Neighborhood Character. *The area bound by Minnesota, Pennsylvania, Melrose and Azalea Lane, zoned R-3 is deemed incompatible for three story buildings given the existing predominant character of one and two story buildings. While the density and intensity permitted by the medium density residential future land use designation and R-3 zoning of this area is compatible, future development shall be limited and restricted within this area to no more than two stories.*

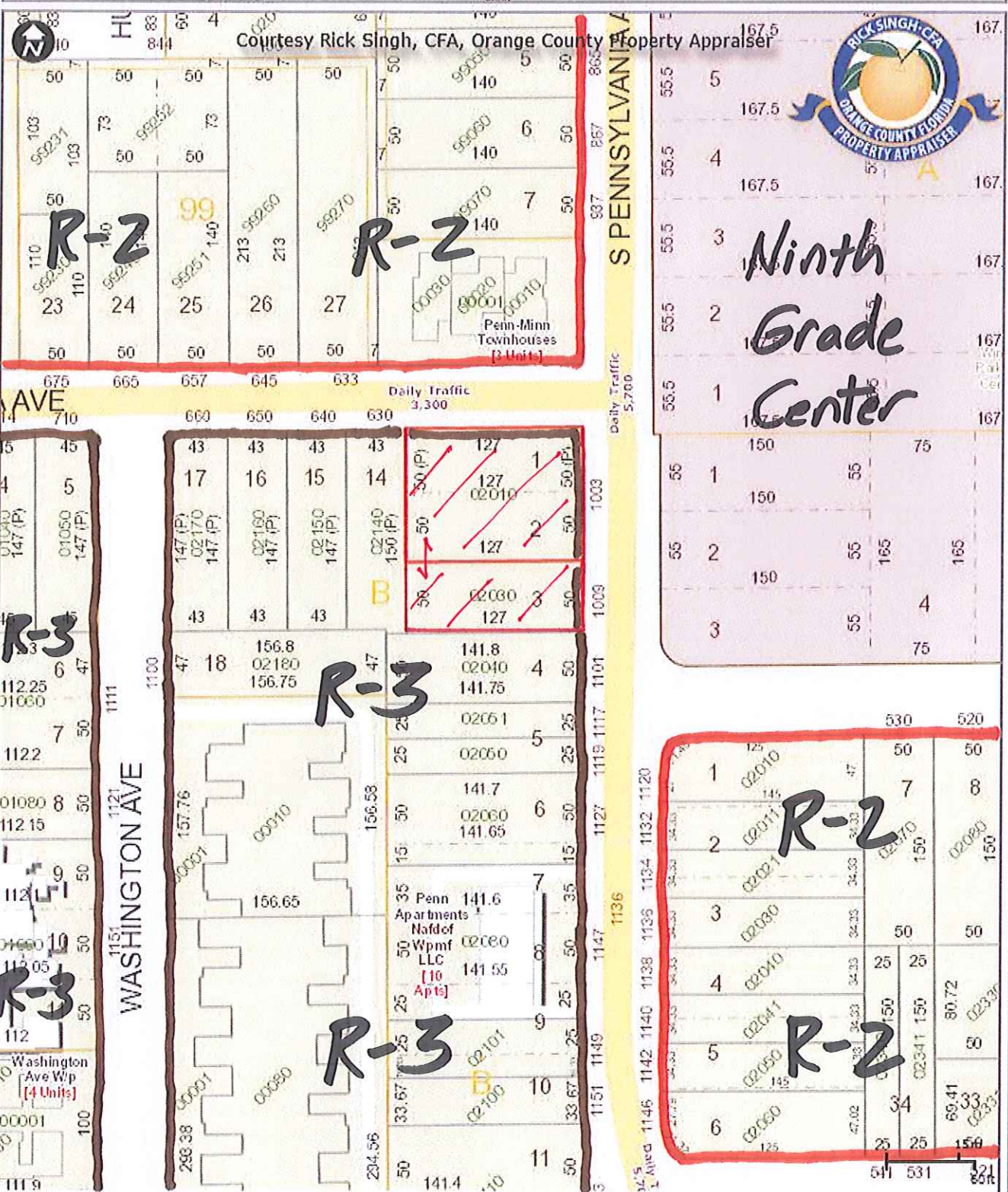
While other recent projects, such as the 400 West project on West Swoope Avenue have built a third floor within the roof slope, this project conforms to the two story Comprehensive Plan policy parameters. However, that is why there is the minor variance for the extra 156 sq. ft. of building lot coverage.

Summary: The request appears to meet all the Comprehensive Plan and Zoning Code requirements except for the minor variance for lot coverage. It is an attractive architectural appearance with garages/cars screened from view.

Staff Recommendation is for Approval

OCPA Web Map

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



Ninth Grade Center

R-2

R-2

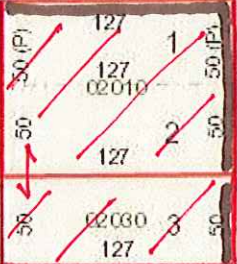
R-3

R-3

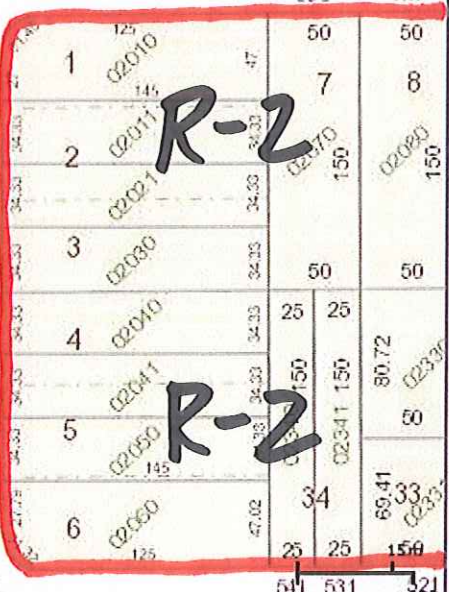
R-3

R-2

R-2



B



OCPA Web Map

	Major Roads		Proposed Road		Residential		Commercial/Industrial Vacant Land		Parks	6	Lot Number
	Florida Turnpike		Public Roads		Brick Road		Agriculture		Lakes and Rivers	05060	Parcel Number
	Interstate 4		Garage Roads		Block Line		Commercial/Institutional		Building	3106	Parcel Address
	Toll Road		Road Under Construction		Lot Line		Governmental/Institutional/Misc.		Block Number	111.9	Parcel Dimension

Courtesy Rick Singh, CFA, Orange County Property Appraiser




Created: 8/18/2014

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

NO.	DATE	REVISIONS

SLOCUM PLATTS ARCHITECTS, P.A.

630 NORTH ORLAND AVENUE, SUITE 1001 PALM BEACH, FL 33480
 TEL: (407) 645-3019 FAX: (407) 645-2271
 WWW.SLOCUMPLATTS.COM



LOT 4 PLATTS #232

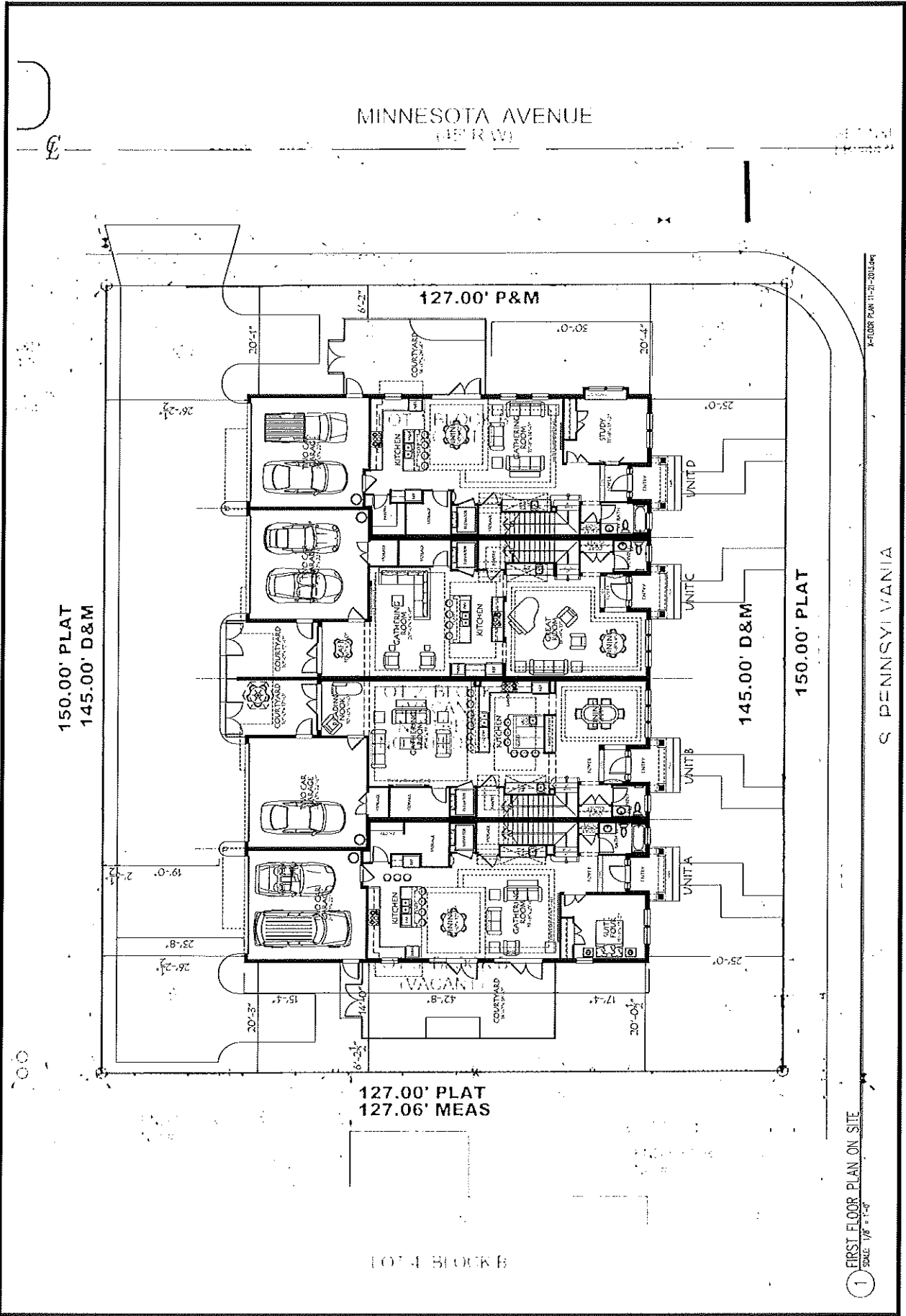
PROPOSED FLOOR PLAN - ON SITE

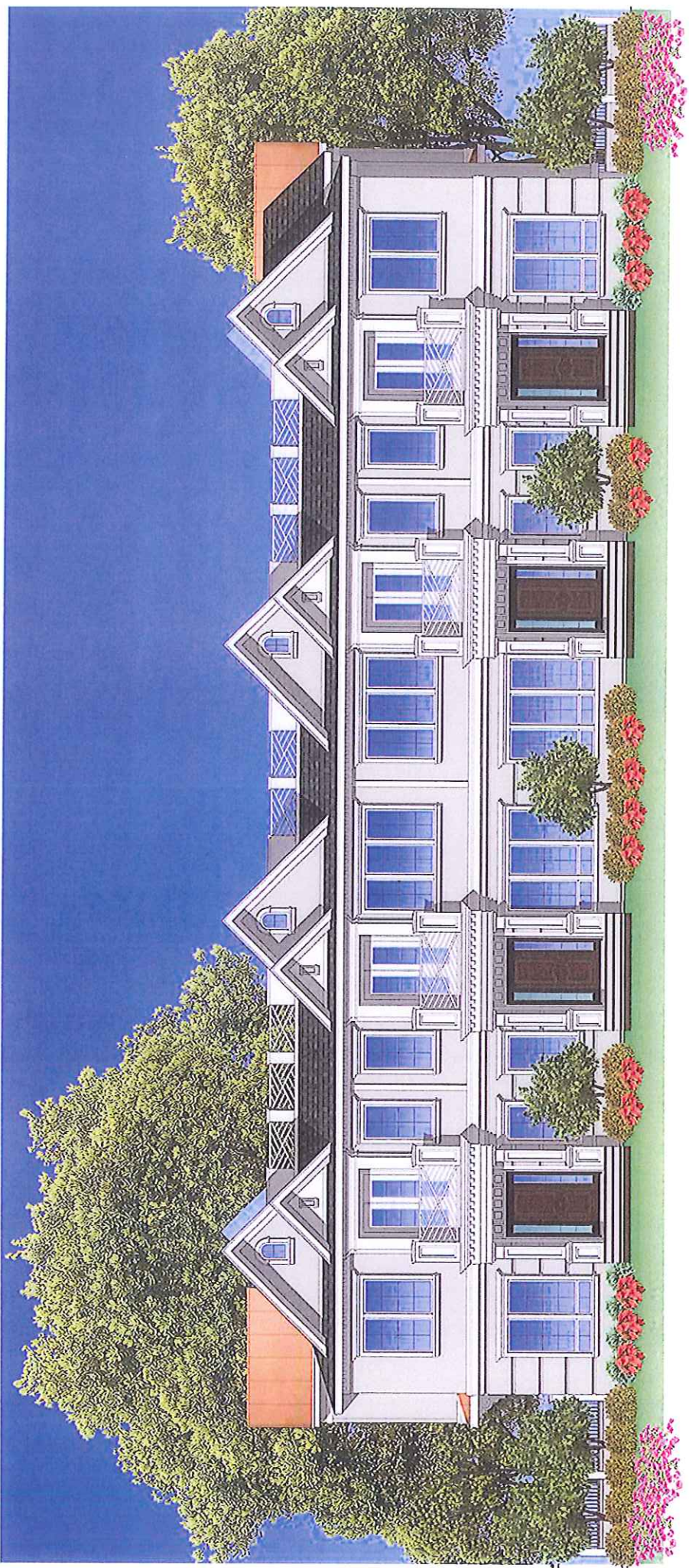
PENNSYLVANIA - MINNESOTA TOWNHOMES

FLORIDA

WINTER PARK

DATE: 08-11-2014
 SCALE: NOTED
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO.: 14-028
 SHEET: A1.0





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

**Staff Report
September 2, 2014**

REQUEST OF LAKESIDE WINTER PARK LLC TO: AMEND THE CONDITIONAL USE SITE PLAN APPROVAL AND DEVELOPMENT AGREEMENT FOR THE LAKESIDE WINTER PARK PROJECT AT 111 N. ORLANDO AVENUE, ZONED C-3, TO SUBSTITUTE THE REQUIRED OFF-SITE PARKING FROM 271 SOUTH ORLANDO AVENUE TO 110 S. ORLANDO AVENUE.

At the March 24, 2014 City Commission meeting, the request for the Blue Cross/Blue Shield medical building at the Lakeside (Trader Joe's) project with off-site parking at 271 S. Orlando Avenue was approved with the condition that the City Commission approve the off-site parking lot plan which was done on April 14, 2014. As you may be aware, UniCorp did not complete the purchase of the Sweet Lodge property at 271 S. Orlando Avenue. Thus, they need approval for a new off-site location for the 21 parking spaces required for the Blue Cross/Blue Shield business.

Their attached letter outlines their proposal which is to provide those spaces within the redevelopment proposed for the Mt. Vernon Inn. Those spaces will be employee parking spaces which we have found works in reality since employees of Trader Joe's were parking at the Civic Center and now are parking at the K-Mart Shopping Center and walking down.

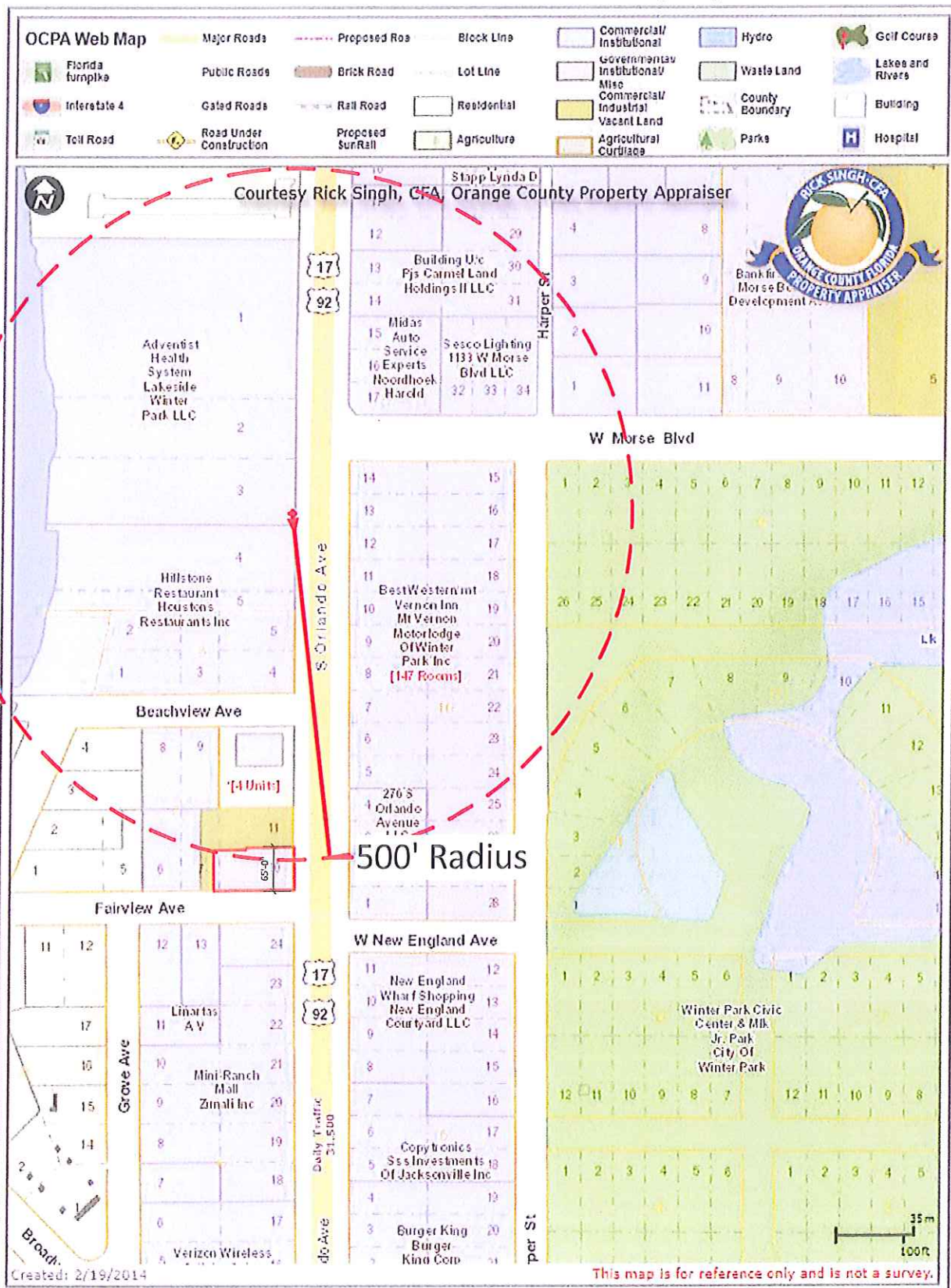
The obvious issue is that UniCorp does not own the Mt. Vernon property at this time but it is under contract with planned closing in November. Both UniCorp and Blue Cross/Blue Shield know that they will not be able to occupy the medical building without this off-site parking. They also know that they will not be able to open for business until such time as the off-site parking is available to be used for their needs. There is still a distance variance but staff believes this location is close enough to be usable by employees.

Development Agreement:

The Development Agreement executed for this project will need to be amended (pending approval by the City Attorney) to incorporate the approvals granted and the variance as well as any new conditions of approval such as a binding lot agreement so this off-site property may not be subsequently conveyed without the approval of the City. That work will result from the decision on this request.

STAFF RECOMMENDATION is for APPROVAL

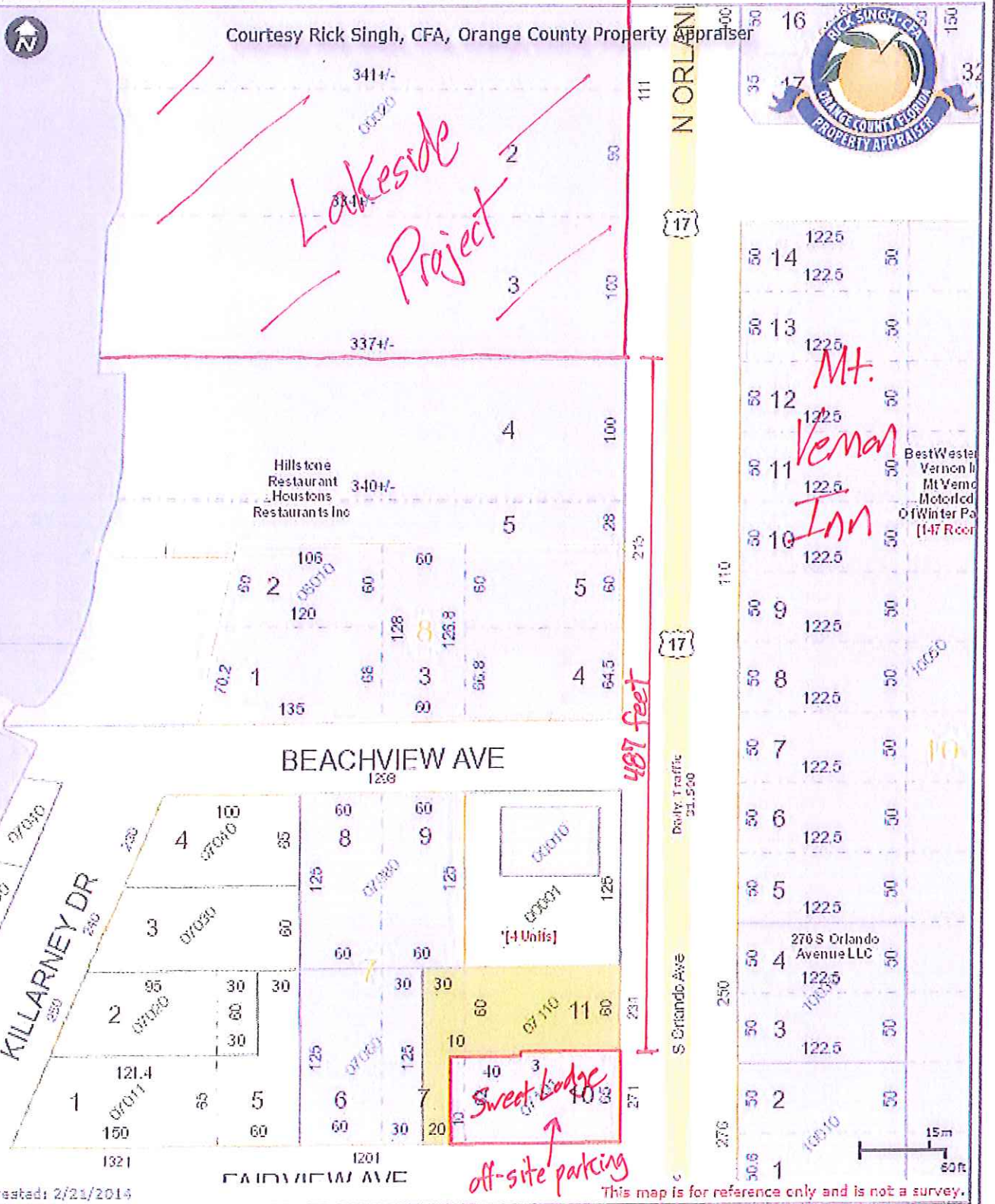
Lakeside Winter Park, LLC Off Site Parking Exhibit I - Radius from Property



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

OCPA Web Map

- Major Roads
- Proposed Road
- Residential
- Commercial/Industrial/Vacant Land
- Florida Turnpike
- Public Roads
- Brick Road
- Agriculture
- Agricultural Curtilage
- Interstate 4
- Galad Roads
- Block Line
- Commercial/Institutional
- Hydro
- Toll Road
- Road Under Construction
- Lot Line
- Governmental Institutions/Misc
- Waste Land
- Parks
- Lakes and Rivers
- Building



Created: 2/21/2014

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



UNICORP
NATIONAL DEVELOPMENTS, INC.

July 24, 2014

Mr. Jeff Briggs
Planning Manager
City of Winter Park
401 South Park Avenue
Winter Park, FL 32789

Re: Lakeside – Substitute Off-Site Parking

Dear Mr. Briggs,

We are submitting for consideration by the City of Winter Park a request to approve a substitute off-site parking location in lieu of the currently location as approved by the Winter Park City Commission.

Lakeside Winter Park, LLC is proposing that the off-site parking required by the Development Agreement and the Restrictive Covenant Agreement be provided at the Mt. Vernon Inn, on which Unicorp, a related entity of the Lakeside Winter Park, LLC, is schedule to close on the acquisition on November 1, 2014. The distance from the Lakeside property to the Mt. Vernon Inn property is substantially closer (approx. 90 feet) than the currently approved site (approx. 487 feet) (see attached aerial photo). At the time of our acquisition of the Mt. Vernon Inn, we will allocate the required 21 spaces required to satisfy the on-site parking variance (see attached calculation).

Please note that the purchase agreement for the Mt. Vernon Inn is not subject to having any PD approvals for the Mt. Vernon Inn property. And, in the event Unicorp in unsuccessful in obtain the PD approvals it is seeking, the Mt. Vernon Inn property will be developed as strip retail as allowed under the current zoning, which development will include the 21 spaces.

As always, we appreciate the support and service all branches of Winter Park government have given to our development of Lakeside.

Sincerely,

Chuck Whittall
Manager, Lakeside Winter Park, LLC

LAKESIDE WINTER PARK, LLC
REPLACEMENT OFF-PARKING



LAKESIDE WINTER PARK, LLC

PARKING (REQUIRED)

Retail - 1 Parking Space per 250 SF

Restaurant - 1 Parking Space per 3 Seats

Office - 1 Parking Space per 200 SF

Total Retail On Site = 28,630 SF

$28,630 \text{ SF} \times 1 \text{ space}/250 \text{ SF} = 115 \text{ Parking Spaces}$

Total Restaurant On Site = 3,500 SF (Total) 110 Seats

$110 \text{ Seats} * 1 \text{ Space}/3 \text{ Seats} = 37 \text{ Parking Spaces}$

Total Office On Site = 7,000 SF

$7,000 \text{ SF} \times 1 \text{ space}/200 \text{ SF} = 35 \text{ Parking Spaces}$

Total Spaces Required: 187

Accessible Spaces Required: 6

Standard Stall Size = 9' x 16'

HC Stall Size = 12' x 16'

PARKING (PROPOSED)

Standard Parking Spaces = 160

HC Spaces = 6

Total Parking Spaces = 166

Variance Required = 21 Spaces

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

**Staff Report
September 2, 2014**

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING" SECTIONS 58-68; 58-69; 58-72; 58-75; 58-76 AND 58-79 AS WELL AS WITHIN ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS", SECTION 58-214 SO AS TO REMOVE THE REQUIREMENT FOR SUPERMAJORITY VOTES FOR THE APPROVAL OF CERTAIN CONDITIONAL USES.

On July 14, 2014, following review by the Florida Dept. of Economic Opportunity, the City Commission adopted Comprehensive Plan policy amendments to remove three Policies in the Comprehensive Plan which impose the supermajority requirement for the approval of certain Conditional Uses.

Zoning Implementation:

This Zoning Code amendment seeks to implement these Comp. Plan policy changes by modifying the Zoning Code to remove the instances where Conditional Uses require a supermajority to be approved.

City Charter Conflict with the Supermajority Vote:

The City Attorney, Larry Brown, has previously prepared a legal opinion indicating that the City Charter sets forth that all Ordinances are adopted by the affirmative vote of a majority of the City Commission. As such, the Code sections that required either four votes or a supermajority of the City Commission to adopt an "Ordinance" were in conflict with the City Charter.

As a result, in April, 2013 the City Commission adopted Ordinance 2909-13 which repealed the Policies in the Comprehensive Plan to remedy and remove those conflicts that required supermajority vote requirements needed for the adoption of Ordinances.

At that time it was made clear that this conflict with City Charter only related to the adoption of Ordinances. There are other Policies of our Comprehensive Plan that require a supermajority for the adoption of certain types of conditional uses. The intent of the Comprehensive Plan amendments and this Ordinance is to achieve consistency of majority rule by also changing the rules which require supermajorities for the approval of certain Conditional Uses.

Amendment of Zoning and Flood Plain Regulations:

There are two types of Conditional Uses which require a supermajority vote for approval that are being amended:

1. Construction of three story buildings within the Central Business District. This supermajority requirement is listed in all the applicable zoning districts applicable to the CBD so this Ordinance amends that requirement in the R-3, R-4, O-1, C-2, C-3 and PQP zoning districts.
2. Construction within the stream floodways and floodplains of the City. This relates to the two stream floodplain areas between Lake Sue and Lake Virginia and the north of Lake Maitland. It is being amended with Article V of the Land Development Code.

STAFF RECOMMENDATION IS FOR APPROVAL in order to be consistent with Comprehensive Plan policies, as recently amended and to achieve consistency in land development approvals.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING" SECTIONS 58-68; 58-69; 58-72; 58-75; 58-76 AND 58-79 AS WELL AS WITHIN ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS", SECTION 58-214 SO AS TO REMOVE THE REQUIREMENT FOR SUPERMAJORITY VOTES FOR THE APPROVAL OF CERTAIN CONDITIONAL USES, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the City Commission desires to implement recently amended policies in the Comprehensive Plan; and

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

WHEREAS, the City Staff recommends this Ordinance, and the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at their August 5, 2014 meeting; and

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

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

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

SECTION 1. That Chapter 58 "Land Development Code", Article III, "Zoning" Section 58-68 "Medium density multiple-family Residential (R-3) District", subsection (c) "Conditional uses"; paragraph (8) is hereby amended and modified as follows:

Sec. 58-68. Medium Density Multiple Family Residential (R-3) District.

(c) *Conditional uses.* The following uses may be permitted after review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90. Conditional Uses.

(8) Buildings with a third floor within the central business district, ~~which requires the affirmative votes of four city commissioners to be approved;~~

SECTION 2. That Chapter 58 "Land Development Code", Article III, "Zoning" Section 58-69 "Multifamily (high density R-4) District", subsection (c) "Conditional uses"; paragraph (8) is hereby amended and modified as follows:

Sec. 58-69. Multifamily (high density R-4) District.

(c) *Conditional uses.* The following uses may be permitted after review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90. Conditional Uses.

(8) Buildings with a third floor within the central business district, ~~which requires the affirmative votes of four city commissioners to be approved;~~

SECTION 3. That Chapter 58 "Land Development Code", Article III, "Zoning" Section 58-72 "Office (O-1) District", subsection (d) "Conditional uses"; paragraph (7) is hereby amended and modified as follows:

Sec. 58-72. Office (O-1) District.

(d) *Conditional uses.* The following uses may be permitted after review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90. Conditional Uses.

(7) Buildings within the Central Business District with a third floor up to forty (40) feet in height, ~~which requires the affirmative votes of four (4) city commissioners to be approved.~~

SECTION 4. That Chapter 58 "Land Development Code", Article III, "Zoning" Section 58-75 "Commercial (C-2) District", subsection (c) "Conditional uses"; paragraph (3) is hereby amended and modified as follows:

Sec. 58-75. Commercial (C-2) District.

(c) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this C-2 district section only. See Sec. 58-90 Conditional Uses.

(3) Buildings with a third floor and up to forty (40) feet in height, ~~which requires the affirmative votes of four (4) city commissioners to be approved as a conditional use;~~

SECTION 5. That Chapter 58 "Land Development Code", Article III, "Zoning" Section 58-76 "Commercial (C-3) District", subsection (c) "Conditional uses"; paragraph (1) (o) is hereby amended and modified as follows:

Sec. 58-76. Commercial (C-3) District.

(c) *Conditional uses.*

(1) The following uses may also be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this Article. See Sec. 58-90 Conditional Uses.

(o) Buildings with a third floor within the Central Business District up to forty (40) feet in height; ~~which requires the affirmative votes of four (4) city commissioners to be approved;~~

SECTION 6. That Chapter 58 "Land Development Code", Article III, "Zoning" Section 58-79 "Public and quasi-public (PQP) District", subsection (d) "Conditional uses"; paragraph (6) is hereby amended and modified as follows:

Sec. 58-79. Public and quasi-public (PQP) District.

(d) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this C-2 district section only. See Sec. 58-90 Conditional Uses.

(6) Buildings with a third floor and up to forty (40) feet in height, ~~which requires the affirmative votes of four (4) city commissioners to be approved as a conditional use;~~

SECTION 7. That Chapter 58 "Land Development Code", Article V, "Environmental Protection" Division 3 "Flood Plain Regulations", Section 58-214 "Flood hazard regulations", subsection (d) is hereby amended and modified as follows:

Sec. 58-214. Flood hazard regulations.

(d) Located adjacent to the flood ways designated in section 58-212 are flood plain areas for the city's two streams: the portion of Howell Branch Creek between Lake Sue and Lake Virginia, and the Howell Branch Creek north of Lake Maitland. Within these streams flood plain areas that are below the base elevations, no adding of soil or other fill materials shall be permitted. In addition, the use of these areas for any structure shall be permitted only as a conditional use. ~~Provided further, any conditional use shall be granted only upon the affirmative vote of four members of the city commission.~~ The criteria utilized to evaluate such conditional use requests shall include, but not be limited to: the effect on flood storage capacity; environmental impacts on the wetland areas from the construction process; the loss of environmentally sensitive areas and the precedent for similar construction in such areas including conformance to the comprehensive plan.

SECTION 8. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 9. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 10. Effective Date. This Ordinance shall become immediately effective 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 of _____, 2014.

Mayor

Attest:

City Clerk

*Ord. adopted by C.C.
Supermajority text removed*

ORDINANCE NO. 2971-14

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA; ARTICLE I "COMPREHENSIVE PLAN" BY AMENDING THE GOALS, OBJECTIVES AND POLICIES TEXT WITHIN THE FUTURE LAND USE ELEMENT RELATED TO REPEALING THE REQUIREMENT FOR A SUPERMAJORITY VOTE OF THE CITY COMMISSION TO APPROVE CERTAIN CONDITIONAL USES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2.08(d) of the Charter of the City of Winter Park ("Charter") provides that a quorum of the City Commission shall exist when a majority of the Commissioners are present; and

WHEREAS, Section 2.01 of the Charter provides that the City Commission consists of five (5) members, and therefore, a majority of the City Commission consists of three (3) members; and

WHEREAS, Section 2.11 of the Charter provides that a proposed ordinance shall be adopted when it 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; and

WHEREAS, when only three (3) Commissioners are in attendance at a meeting of the City Commission, an ordinance may pass on two (2) votes of the Commissioners that are physically present;

WHEREAS, the City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09 and desires to modify the Policies regarding the procedures for the approval of conditional uses specified in the Comprehensive Plan that were adopted by Ordinance 2793-10, and

WHEREAS, the City Commission via the adoption of Ordinance 2909-13 on April 22, 2013 resolved the conflict between the Charter and the Comprehensive Plan by removing Policies requiring a supermajority (four votes) needed for the adoption of Comprehensive Plan amendment ordinances; and

WHEREAS, the City Commission seeks to achieve conformity for the approval of conditional uses by removing policies in the Comprehensive Plan requiring a supermajority (four votes) needed for the approval of certain conditional uses; and

WHEREAS, the goal of the City Commission is to remove conflicts that exist between those provisions of the Charter and Comprehensive Plan which require an affirmative vote of a supermajority of the Commissioners in order to pass an ordinance or conditional uses, and Section 2.11 of the Charter, which requires only a majority of the

Commissioners physically present in order to pass an ordinance; and

WHEREAS, the municipal charter is the paramount law of the municipality; and

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

Section 1. Incorporation of Recitals as Legislative Findings. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Commission. The City Commission finds and determines that there is competent substantial evidence to support the findings and determinations made in this Section.

Section 2. Revisions to Comprehensive Plan Policy 1-1.1.3. That the Comprehensive Plan is hereby amended so as to repeal and re-adopt Policy 1-2.6.2; Policy 1-3.2.2 and Policy 1-3.8.9 in the Future Land Use Element of the Goals, Objectives and Policies to read as follows and revising that subsection to read as follows:

Policy 1-2.6.2: Conservation (CON). The FLUM shall designate lands that are natural and conservation resources as "CON." It is the intent of the "CON" land use designation to provide for the long-term protection and preservation of environmentally sensitive natural resource systems. The Conservation Future Land Use Map designation is designed to indicate the specific areas, of wetland floodways and the 100-year flood plain, for the Howell Branch Creek areas between Lakes Sue and Virginia and north of Lake Maitland that shall be conserved in their natural condition so that the physical and biological functions of the land may be optimized. No development other than structures that benefit the general public, such as boardwalks or access way for maintenance, are permitted on this land and/or stream front wetland floodplain areas. Access is limited so that these areas may also serve as a safe haven area for wildlife. The City shall have the option of obtaining a conservation easement from the property owner(s) to protect sum lands. The only exception and intensity of use potentially permitted is a boardwalk or gazebo for the passive enjoyment of this natural area provided the construction and use is non-intrusive and non-disruptive to the primary purpose as a natural conservation area.

Policy 1-3.2.2: Maintain the Character and Scale of the Central Business District: The City shall maintain the character and scale of the Central Business District (CBD), including the Park Avenue Corridor as one of the premier downtown retail shopping districts in Florida, by reinforcing attributes that underlie its ambiance and special character, including its pedestrian scale, the relationship of its buildings and their orientation to the street, the eclectic mix of architectural styles, the open space vistas of Central Park, and the predominance of small distinctive specialty shops. This Comprehensive Plan imposes a two story and 30' height limit throughout the Central

Business District as depicted on the Winter Park Central Business District Boundary Map located in the Definitions section of this Comprehensive Plan. These height restrictions may be increased to a maximum 3 stories and a 40' height limit if the development is approved by the City Commission as a Conditional Use and conforms to the Maximum Height Map. Third floors approved by conditional use in the CBD must be setback on street frontages equal to their height of a one foot setback for each one foot height of the third floor. Properties designated low density residential, and other properties identified as limited to two stories on the Maximum Height Map are not candidates for the 3 story and 40 foot height Conditional Use. The maximum floor area ratio within the CBD shall include private parking garages which are either at grade or elevated in calculations of floor area. Subterranean parking garages and public parking garages may be excluded from floor area calculations by the City Commission.

Policy 1-3.8.9: Preserve the Pedestrian Scale and Orientation of the CBD and Restrict Building Height. The City shall preserve the pedestrian scale and orientation of the Winter Park Central Business District Boundary Map, as defined in the Definitions section of this Comprehensive Plan, by limiting development for any property to two stories in height (30 feet) or three stories (40 feet) (including any mezzanine levels) on a case by case basis via conditional use approval by the City Commission for any third floor. The pedestrian orientation is also protected by prohibiting new drive-in businesses within the C-2 zoning locations east of Virginia Avenue. Approvals or other variances for more than three stories are prohibited. Third floors approved by conditional use must be setback on street frontages equal to their height on a one foot setback for each one foot height of the third floor. Properties designated low density residential and properties limited to two stories on the Maximum Height Map are not candidates for the 3 story and 40' height conditional use.

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

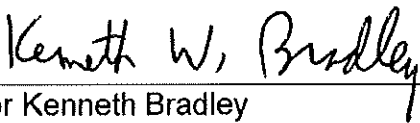
Section 4. Codification. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

Section 5. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 6. Effective Date Of Ordinance. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state


land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administrative Commission, this amendment may nevertheless be made effective by the adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 14th day of July, 2014.



Mayor Kenneth Bradley

Attest:



Cynthia Bonham, MMC, City Clerk

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

**Staff Report
September 2, 2014**

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE RELATING TO MEDICAL MARIJUANA TREATMENT CENTERS, WHETHER FOR MEDICAL OR RECREATIONAL USE; ESTABLISHING REGULATIONS FOR MEDICAL MARIJUANA TREATMENT CENTERS TO BE CODIFIED AS ARTICLE III, OF CHAPTER 54, HEALTH AND SANITATION, OF THE CITY CODE; AMENDING SECTION 58-78, LIMITED INDUSTRIAL AND WAREHOUSE (I-1) DISTRICT, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING TO ALLOW “MEDICAL MARIJUANA TREATMENT CENTERS” AS A PERMITTED USE BY SETTING FORTH SITING STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA TREATMENT CENTERS; AMENDING SECTION 58-95, DEFINITIONS, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING.

The City Commission will soon be reviewing an Ordinance to establish regulations of the location and operation of medical marijuana treatment centers within the City. The proposed regulations are patterned after and are similar to the regulations adopted in 2012 for pain management clinics.

The reason this is on a Planning Board agenda is that this proposed Ordinance establishes (again similar to pain management clinics) that they are permitted uses with the I-1 zoning district, subject to separation distances. Only those Section 3 and 4 of the attached Ordinance are relevant to P&Z and the only sections of the Ordinance requiring P&Z recommendation. Any amendment to the Zoning Code requires a P&Z recommendation. The entire Ordinance is attached but the relevant Sections are outlined as follows:

SECTION 3. Section 58-78, Limited Industrial and Warehouse (I-1) District, of Chapter 58, Land Development Code, Article III, Zoning is hereby amended to read as follows:

Sec. 58-78. Limited industrial and warehouse (I-1) district.

* * *

(b) *Permitted uses.* All uses of land located within this district must not be obnoxious by reason of sound, fumes, repulsive odors and the like whether the same constitutes an actual nuisance or not, and the uses shall not, in any way, detract from the desirability of the city as a residential community. Permitted uses include:

* * *

(14) Medical marijuana treatment center, subject to the following requirements:

- a. No medical marijuana treatment center shall be located within one thousand (1,000) feet of any school or church, or within one hundred (100) feet of any residentially zoned property, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center structure (be it a building or leased space in a building) to the closest property line or edge of leased space (whichever is closer) of the school, church or residentially zoned property.

- b. Any parking demand created by a medical marijuana treatment center shall not exceed the parking spaces located or allocated on site, as required by the city's parking regulations. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical marijuana treatment center will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center, based upon a current traffic and parking study prepared by a certified professional.

* * *

SECTION 4. Section 58-95, Definitions, of Chapter 58, Land Development Code, Article III, Zoning, is hereby amended to read as follows:

Sec. 58-95. Definitions.

* * *

Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the state Department of Health and regulated under Article III of Chapter 54 of the City Code of Ordinances.

The area properly zoned I-1 and potentially open for these businesses would be the area along Solana Avenue between Denning Drive and Orlando Avenue. Unless there is an area where such businesses can be located within the City, the Ordinance would not be valid.

No one knows if the Constitutional Amendment will pass and if it does how it will be implemented by the Florida Legislature. Some states have successfully implemented the availability of medical marijuana without impact on the character and quality of business districts and other states have not done so. So to be prudent at this time, the potential locations are limited pending the outcome of implementation by the State of Florida.

Staff Recommendation is for Approval

ORDINANCE NO.: _____

AN ORDINANCE AFFECTING THE USE OF LAND IN THE CITY OF WINTER PARK, FLORIDA RELATING TO MEDICAL MARIJUANA TREATMENT CENTERS, WHETHER FOR MEDICAL OR RECREATIONAL USE; ESTABLISHING REGULATIONS FOR MEDICAL MARIJUANA TREATMENT CENTERS TO BE CODIFIED AS ARTICLE III, OF CHAPTER 54, HEALTH AND SANITATION, OF THE CITY CODE; AMENDING SECTION 58-78, LIMITED INDUSTRIAL AND WAREHOUSE (I-1) DISTRICT, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING TO ALLOW "MEDICAL MARIJUANA TREATMENT CENTERS" AS A PERMITTED USE BY SETTING FORTH SITING STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA TREATMENT CENTERS; AMENDING SECTION 58-86, OFF-STREET PARKING AND LOADING REQUIREMENTS, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING; AMENDING SECTION 58-95, DEFINITIONS, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING; AMENDING SECTION 94-43, SCHEDULE, OF CHAPTER 94, TAXATION, ARTICLE II, BUSINESS TAX; PROVIDING FOR CONFLICTS; CODIFICATION, SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, a ballot initiative has been scheduled for state wide vote in November 2014 to allow the dispensing and use of marijuana for medical purposes by persons with debilitating diseases; and

WHEREAS, the City Commission of the City of Winter Park has determined that, in the event the State of Florida legalizes medical marijuana, it is in the best interests of the citizenry and general public to regulate the location of medical marijuana treatment centers; and

WHEREAS, it has also been determined that if this ordinance is approved by the City of Winter Park City Commission, this ordinance would not take effect or be enacted until after the State of Florida does in fact legalize the sale of marijuana, whether for medical or recreational uses, and

WHEREAS, the City Commission has the responsibility and authority to determine what uses are best suited to particular zoning categories as well as land use categories within the City; and

WHEREAS, the City Commission has heard testimony from the Winter Park Police Department regarding the impacts of medical marijuana treatment centers would have on the surrounding area; and

WHEREAS, the Planning and Zoning Board has recommended allowing medical marijuana treatment centers as a permitted use in the Limited Industrial and Warehouse (I-1) District zoning category; and

WHEREAS, the City Commission of the City of Winter Park has determined that given the potential impact on the surrounding area, that medical marijuana treatment centers should only be permitted within the Limited Industrial and Warehouse (I-1) District zoning category in the City; and

WHEREAS, the City Commission of the City of Winter Park has determined that it is advisable and in the public interest to set certain distance and other siting standards in regard to the location and operation of medical marijuana treatment centers; and

WHEREAS, the City Commission approves the addition of Article III, to Chapter 54, Health and Sanitation, and the revision of Sections 58-78, 58-86, and 58-95 of the Land Development Code, to regulate the operation of medical marijuana treatment centers and minimize the negative secondary effects of such centers on the surrounding properties; and

WHEREAS, the City Commission of the City of Winter Park finds that this ordinance promotes the general welfare; and

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

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

SECTION 1. Recitals. The foregoing recitals are hereby adopted and confirmed.

SECTION 2. Creation of Medical Marijuana Treatment Centers. Chapter 54, Health and Sanitation is hereby amended to add a new Article III, Medical Marijuana Treatment Centers to read as follows:

Sec. 54-XX. Definitions.

For purposes of this article, the following terms, whether appearing in the singular or plural form, shall have the following meanings.

Debilitating Medical Condition means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis

C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis or other conditions for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

Department means the state Department of Health or its successor agency.

Identification card means a document issued by the Department that identifies a person who has a physician certification or a personal caregiver who is at least twenty-one (21) years old and has agreed to assist with a qualifying patient's medical use of marijuana.

Marijuana has the meaning given cannabis in Section 893.02(3), Florida Statutes (2013).

Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the state Department of Health.

Medical use means the acquisition, possession, use, delivery, transfer, or administration of marijuana or related supplies by a qualifying patient or personal caregiver for use by a qualifying patient for the treatment of a debilitating medical condition.

Personal caregiver means a person who is at least twenty-one (21) years old who has agreed to assist with qualifying patient's medical use of marijuana and has a caregiver identification card issued by the Department. A personal caregiver may assist no more than five (5) qualifying patients at one time. An employee of a hospice provider, nursing, or medical facility may serve as a personal caregiver to more than five (5) qualifying patients as permitted by the Department. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use by the qualifying patient.

Physician means a physician who is licensed in Florida.

Physician certification means a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination of the patient and a full assessment of the patient's medical history.

Qualifying patient means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months

after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

Sec. 54-XX. Registration and operational regulations for medical marijuana treatment centers.

(a) *Registration required.* Upon adoption of this article and annually thereafter, medical marijuana treatment centers shall register with the city by completing and submitting to the city manager, or his/her designee, a registration form that is obtained from that official.

(b) *Persons responsible.* A physician shall be designated as responsible for complying with all requirements related to registration and operation of the medical marijuana treatment centers. The designated physician and all other persons operating the medical marijuana treatment center shall ensure compliance with the following regulations. Failure to so comply shall be deemed a violation of this article and shall be punishable as provided in section 54-XX.

(c) *Supplemental regulations.* All registered medical marijuana treatment centers shall be subject to the supplemental regulations provided in this subsection.

(d) *Display of state registration.* Any medical marijuana treatment center shall be validly registered with the State of Florida, if required, and with the city, and shall prominently display in a public area near its main entrance copies of all state licenses, city licenses, and local business tax receipt, and the name of the owner and designated physician responsible for compliance with state and city law. A medical marijuana treatment centers shall register with the city by completing and submitting to the city manager, or his/her designee, a registration form that is obtained from that official.

(e) *Controlled substances.* The on-site sale, provision, or dispensing of controlled substances (other than those types of marijuana approved for sale by the Department) at a medical marijuana treatment center shall be prohibited except as is specifically set forth in applicable federal or state law.

(f) *On-Site consumption of marijuana and/or alcoholic beverages.* No consumption of marijuana or alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks or rights-of-way. The persons responsible for the operation of the medical marijuana treatment center shall take all necessary and immediate steps to ensure compliance with this paragraph.

(g) Adequate inside waiting area required. No medical marijuana treatment center shall provide or allow outdoor seating areas, queues, or customer waiting areas. All activities shall be conducted within the building and adequate indoor waiting areas shall be provided for all patients and business invitees. The medical marijuana treatment centers shall not direct or encourage any patient or business invitee to stand, sit (including in a parked car), gather, or loiter outside of the building where the clinic operates, including in any parking area, sidewalk adjacent, right-of-way, or neighboring property for any period of time longer than that reasonably required to arrive and depart. The medical marijuana treatment centers shall post a conspicuous sign stating that no loitering is allowed on the property.

(h) Queuing of Vehicles. The persons responsible for the operation of medical marijuana treatment center shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical marijuana treatment center shall take all necessary and immediate steps to ensure compliance with this paragraph.

(i) No Drive-Through Service. No medical marijuana treatment center shall have a drive-through or drive-in service aisle. All dispensing, payment for and receipt of said marijuana shall occur from within or inside the medical marijuana treatment center.

(j) Operating hours. A medical marijuana treatment center may operate only Monday through Friday and only during the hours of 7:00 a.m. to 7:00 p.m.

(k) Monthly business records. Each business day a medical marijuana treatment center shall record, and shall provide to the city manager or his or her designee on a monthly basis, by the fifth day of each calendar month, a sworn summary of certain limited information from the prior calendar month that is prepared by the medical director and/or the person in charge of prescribing the medical marijuana that month. To the extent such information is not otherwise required to be maintained by any other law, the backup for the required monthly summary shall be maintained by the medical marijuana treatment center for at least 24 months. The monthly summary shall include the following information for the previous calendar month:

- (1) The total number of prescriptions for marijuana filled by the medical marijuana treatment center;
- (2) The state of residence of each person to whom marijuana was dispensed.

(l) *Personnel records.* A medical marijuana treatment center shall maintain personnel records for all owners, operators, employees, workers, and volunteers on site at the medical marijuana treatment center, and make those records available during any inspection. The medical marijuana treatment center shall forward a sworn personnel record containing items (1), (2) and (3), below to the city manager, or his/her designee, on a monthly basis by the fifth day of each calendar month for the previous calendar month. Personnel records shall, at a minimum, contain the following information about each of the above-described persons present for any day in the previous calendar month:

- (1) Name and title;
- (2) Current home address, telephone number, and date of birth;
- (3) A state or federally-issued driver's license or other identification number;
- (4) A copy of a current driver's license or a government issued photo identification; and
- (5) A list of all criminal convictions (if any), whether misdemeanor or felony for all persons hired in the previous calendar month, to be updated annually.

(m) *Compliance with other laws.* A medical marijuana treatment center shall at all times be in compliance with all federal and state laws and regulations and the City of Winter Park City Code.

Sec. 54-XX. Landlord Responsibility.

(a) Any landlord, leasing agent or owner of property, upon which a medical marijuana treatment center operates, who knows, or in the exercise of reasonable care should know, that a medical marijuana treatment center is operating in violation of the Winter Park City Code, or applicable Florida law, including the rules and regulations promulgated by the state Department of Health, must prevent, stop, or take reasonable steps to prevent the continued illegal activity on the leased premises.

(b) Landlords who lease space to a medical marijuana treatment center must expressly incorporate language into the lease or rental agreement stating that failure to comply with the Winter Park City Code is a material non-curable breach of the lease and shall constitute grounds for termination of the lease and immediate eviction by the landlord.

Sec. 54-XX. Certification affidavit by applicants for related uses.

(a) *Certification affidavit by applicants for related uses.* Any application for a business certificate under chapter 54, article III, as a medical marijuana treatment center

as defined in section 54-XX, shall be accompanied by an executed affidavit certifying registration with the State of Florida, and the City of Winter Park as a medical marijuana treatment center. The failure of an applicant to identify the business in the application for a business certificate as a medical marijuana treatment center, which meets the definition of medical marijuana treatment center as defined in section 54-XX, will result in the immediate expiration of the business certificate and immediate ceasing of all activity conducted in the medical marijuana treatment center.

(b) Any applicant's application for a business certificate and executed affidavit relating to use as a medical marijuana treatment center, where applicable, shall be provided to the city building division at the time of the proposed use.

Sec. 54-XX. Penalties.

Any person violating any of the provisions of this article shall be deemed guilty of an offense punishable as provided in section 1-7, Article II Code Enforcement Citations, revocation of a business certificate and code enforcement violations referred to the code enforcement board.

SECTION 3. Section 58-78, Limited Industrial and Warehouse (I-1) District, of Chapter 58, Land Development Code, Article III, Zoning is hereby amended to read as follows:

Sec. 58-78. Limited industrial and warehouse (I-1) district.

* * *

(b) Permitted uses. All uses of land located within this district must not be obnoxious by reason of sound, fumes, repulsive odors and the like whether the same constitutes an actual nuisance or not, and the uses shall not, in any way, detract from the desirability of the city as a residential community. Permitted uses include:

* * *

(14) Medical marijuana treatment center, subject to the following requirements:

a. No medical marijuana treatment center shall be located within one thousand (1,000) feet of any school or church, or within one hundred (100) feet of any residentially zoned property, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center structure (be it a building or leased space in a building) to the closest property line or edge of leased space (whichever is closer) of the school, church or residentially zoned property.

b. Any parking demand created by a medical marijuana treatment center shall not exceed the parking spaces located or allocated on site, as required by the city's parking

regulations. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical marijuana treatment center will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center, based upon a current traffic and parking study prepared by a certified professional.

* * *

SECTION 4. Section 58-95, Definitions, of Chapter 58, Land Development Code, Article III, Zoning, is hereby amended to read as follows:

Sec. 58-95. Definitions.

* * *

Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the state Department of Health and regulated under Article III of Chapter 54 of the City Code of Ordinances.

SECTION 5. Section 94-43, Schedule, Chapter 94, Taxation, Article II, Business Tax, is hereby amended to read as follows:

Sec. 94-43. Schedule.

* * *

Professional services—Health:

* * *

Medical Marijuana Treatment Center \$

* * *

SECTION 6. CONFLICTS. All ordinance or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. CODIFICATION. This ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 8. 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 9. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

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

Kenneth W. Bradley, Mayor

ATTEST:

Cynthia S. Bonham, City Clerk

G:\docs\Cities\Winter Park\Ordinances and Resolutions General\Medical Marijuana\medical marijuana ordinance 7-1-14.doc