

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

**Staff Report
January 5, 2016**

REQUEST OF A.J. THOMAS III FOR: SUBDIVISION OR LOT SPLIT APPROVAL TO DIVIDE THE PROPERTY LOCATED AT 2715 WOODSIDE AVENUE, ZONED R-1A, INTO TWO SINGLE-FAMILY BUILDING LOTS.

Mr. A.J. Thomas II (property owner) is requesting subdivision or lot split approval to divide the property located at 2715 Woodside Avenue into two single-family lots. The zoning of this property is R-1A. The property is currently occupied by one single-family home in the northeast portion, which is to be demolished.

During the City's review process of subdivisions or lot split requests, there are two criteria that the lot is required to meet. First is the 'Zoning Test' as to conformance with the zoning criteria. The next is the 'Comprehensive Plan Test' which is conformance to the neighborhood character.

ZONING TEST: This lot is currently 104 feet wide and measures approximately 15,600-square feet in size. The subdivided lots are proposed to be 52 feet wide each, and 7,800-square feet in size. The R-1A zoning requires a minimum of 75 feet of lot width, and a minimum of 8,500-square feet of land area. Thus, this request does not meet the R-1A lot dimension or land area standards, and variances are requested.

COMPREHENSIVE PLAN TEST: There are many neighborhoods in the City that are zoned R-1AA or R-1A, but the existing character may be significantly different than the zoning code minimums. In some cases the typical lots are smaller or larger. The Comprehensive Plan test, or comparison, is a door that swings both ways. In some cases, it can substantiate a relaxation of the minimum lot dimensions, and in other cases it can require larger lot sizes than the minimums.

As a result, the practice outlined in the Comprehensive Plan and the Subdivision Code (attached) is to look at the surrounding neighborhood to compare the standard lot sizes. The Code dictates that the review area is within a 500-foot radius of the subject property, and limited to those in the same zoning.

There are 64 homes within this neighborhood along Parkland Drive, Winter Park Road, and Eastern Parkway, Woodside, Hammerlin and East End Avenues with the R-1A zoning (see attached map). The average lot width is 60.8 feet.

Using the average method is unfair to the applicant in some cases. In this case, the smallest lot size is 50 feet, and the largest lot size is 104 feet. When lot widths double the size of the smallest lot width are averaged, it makes it almost impossible to come up with an average of 50 feet. Another way to compare the lot widths is by looking at the median lot width. From this 64 home survey, the median lot width is

52 feet, and 60% of the homes have lots less than 55 feet. Thus, the proposed lot width (52 feet each) compares favorably to the median lot width of the neighborhood.

The average lot area from this 64 home survey is 8,297-square feet, and the median lot area is 7,582-square feet. Thus, the proposed lot area (7,800-square feet each) compares favorably to the median lot area of the neighborhood.

Furthermore, the applicant submitted the original plat of the Edgewood Subdivision dated 1925, which includes the lot in question. This subdivision boundary has 37 lots that are currently used residentially. There are 29 lots (78%) that are the same 50-54 foot wide lot as when they were originally platted, and only eight (22%) are larger than their original plat.

DEVELOPMENT PLANS: The applicant has provided a generalized front elevation for the types of home that their company builds, and a general site plan for the layout of the proposed homes. They will comply with the normal single-family development standards, setbacks, etc. Per our Subdivision Code, the City can condition any approval upon the subsequent submission, review and approval of house plans, as well as place conditions upon this approval.

APPLICABLE CODES: The applicable Comprehensive Plan policy and Subdivision Code section governing lot splits are on the following page.

SUMMARY: Based on the strict application of the Code, and the traditional method of using the average lot size for Comprehensive Plan comparison purposes, this subdivision request does not conform to the Zoning Test (it needs variances), or the Comprehensive Plan Test of the neighborhood comparison (based on average lot sizes). The Planning and Zoning (P&Z) Board then has the factual justification for denial based on those requirements, and the recognition that these are 52 foot wide lots in terms of usable dimensions. However, the P&Z Board can also recognize and acknowledge that these two proposed lots are the generally the same size (width/area) as 78% of the Edgewood Subdivision, and that a "comparison" per the Comprehensive Plan could be based on the median method (52 feet wide) versus the average method (59 feet wide) of all of the R-1A lots within 500 feet. From Staff's perspective, the lot width and size variances for this request are reasonable given that the proposed lot area compares favorably to the median lot area of this immediate neighborhood, and that 78% of the originally platted Edgewood Subdivision still exists at the same lot width (50-54 feet wide).

In this case, 60% of the homes within the 500-foot radius, zoned R-1A, are on lots 55 feet wide or less. Within the Edgewood Subdivision, 78% of the homes, zoned R-1A, are on lots 50-54 feet wide.

The inherent problem with relying upon the Comprehensive Plan test and not the zoning is that every other existing home on two lots will get to similarly split like this request in the future. While there is currently some "mix" of larger and smaller lots, eventually if all of the larger lots decide to split, there will no longer be larger lots within this neighborhood. Therefore, the decision in this case effectively provides the precedent for approval when 2700 Winter Park Road, 2737 Woodside or 2098 East End Avenue decide to apply for similar variances and a lot split request like this one.

This is the dilemma we face. The argument of "equity" in that "I only want what my neighbors already have," which is homes on a small lot versus the eventual transition and loss of the mix of larger and smaller lots.

Under the Current Rules, Staff Recommendation is for Approval.

RELEVANT COMPREHENSIVE PLAN POLICY:

Policy 1-3.6.8: Subdivision of Land and Lot Splits for Non-Lakefront Single Family and Low Density Multi-Family Property. The City shall consider approving subdivision and lot split applications, which are not lakefront properties and which are not estate lots in areas designated single family, low density or multi-family residential, when the proposed new lots are designed at size and density consistent with the existing conditions in the surrounding neighborhood within a radius of five hundred (500) feet.

ARTICLE VI. - SUBDIVISION AND LOT CONSOLIDATION REGULATIONS

Sec. 58-377. - Conformance to the comprehensive plan.

(a) In the City of Winter Park, as a substantially developed community, the review of lot splits, lot consolidations, plats, replats or subdivisions within developed areas of the city shall insure conformance with the adopted policies of the comprehensive plan as a precedent to the conformance with other technical standards or code requirements.

(b) In existing developed areas and neighborhoods, all proposed lots shall conform to the existing area of neighborhood density and layout. The proposed lot sizes, widths, depths, shape, access arrangement, buildable areas and orientation shall conform to the neighborhood standards and existing conditions. This provision is specifically intended to allow the denial or revision by the city of proposed lot splits, lot consolidations, plats, replats or subdivisions when those are not in conformance with the existing neighborhood density or standards, even if the proposed lots meet the minimum technical requirements of the zoning regulations.

(c) In determining the existing area or neighborhood density and standards, for the consideration of lot splits, plats, replats or subdivision of other than estate lots or lakefront lots, the planning and zoning commission and city commission shall consider the frontage and square foot area of home sites and vacant properties with comparable zoning within an area of 500-foot radius from the proposed subdivision.

(d) In order to implement the policies of the comprehensive plan, the city commission may also impose restrictions on the size, scale, and style of proposed building, structures, or other improvements. This provision shall enable the city commission to impose restrictions on the size, height, setback, lot coverage, impervious area or right-of-way access such that proposed building and other improvements match the dimension and character of the surrounding area or neighborhood.

November 3rd, 2015

To whom it may concern,

My Family owns the home located at 2715 Woodside Avenue. This property consists of lots 71 and 72 in plat book K, Pg 57, subdivision Edgewood of the Orange County Public Records. The parcel ID is 18-22-30-2444-00-710.

Currently there is a small home constructed on lot 71 which we intend to demolish.

We are requesting variance to the R1-A minimum lot width of 75' which would allow us to build one single family residence on lot 71 and one single family residence on lot 72. Please see attached example building plans of the intended home designs.

Please refer to the attached exhibit showing numerous examples of Single Family homes built on lots narrower than 75' the immediate vicinity.

Thank you for your consideration,

Sincerely,

Trace Thomas



Boundary Survey

Legal Description:

LOTS 71 & 72 , EDGEWOOD SUBDIVISION, according to the Map or Plat thereof, as recorded in Plat Book K, page 57, inclusive, of the Public Records of Orange County, Florida.

A B B R E V I A T I O N L E G E N D :

| | | | | |
|---|---|--|--|---|
| P.R.M. - PERMANENT REFERENCE MONUMENT P.O.C. - POINT OF COMMENCEMENT P.C. - POINT OF CURVATURE P.R.C. - POINT OF REVERSE CURVATURE P.C.C. - POINT OF COMPOUND CURVATURE P.T. - POINT OF TANGENCY P.I. - POINT OF INTERSECTION P.C.P. - PERMANENT CONTROL POINT P.O.L. - POINT ON LINE C.B. - CHORD BEARING T.B. - TANGENT BEARING | C.M. - CONCRETE MONUMENT P.B. - PLAT BOOK Pg. - PAGE N.R. - NON-RADIAL RAD. - RADIAL R. - RADIUS L. - ARC LENGTH Δ - DELTA R.P. - RADIUS POINT R/W - RIGHT-OF-WAY Ç - CENTER LINE | EL. - ELEVATION A/C - AIR CONDITIONER TYP. - TYPICAL U.E. - UTILITY EASEMENT D.E. - DRAINAGE EASEMENT F.F. - FINISHED FLOOR B.S. - BUILDING SETBACK C.B.S. - CONCRETE BLOCK STRUCTURE (P) - PLAT (M) - MEASURED (C) - CALCULATED | CONC. - CONCRETE C.L.F. - CHAIN LINK FENCE W.F. - WOOD FENCE C & G - CURB & GUTTER CATV - CABLE TELEVISION RISER TELE - TELEPHONE RISER TRANS - TRANSFORMER PAD L.P. - LIGHT POLE P.P. - POWER POLE EM - ELECTRIC METER R/W - RIGHT OF WAY | W.M. - WATER METER F.H. - FIRE HYDRANT N & D - NAIL AND DISC B.M. - BENCH MARK P.V.M. - PAVEMENT F.B. - FIELD BOOK M.H. - MANHOLE (A) - ACTUAL I.D. - IDENTIFICATION FND - FOUND EOP - EDGE OF PAVEMENT |
|---|---|--|--|---|

Survey Notes:

1. "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER".
2. BEARINGS SHOWN HEREON ARE RELATIVE TO THE NORTH RIGHT-OF-WAY LINE OF WOODSIDE AVENUE, AS BEING N 89°34'52" E AS SHOWN (ASSUMED).
3. THE "LEGAL DESCRIPTION" HEREON PER THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.
4. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OR OPINION OF TITLE. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND/OR OWNERSHIP WERE FURNISHED TO THIS SURVEYOR EXCEPT AS NOTED.
5. ALL BEARINGS AND DISTANCES SHOWN HEREON ARE PER THE DESCRIPTION AND ARE CORRECT AND IN AGREEMENT WITH THE FOUND AND SET MONUMENTS AS MEASURED IN THE FIELD UNLESS OTHERWISE NOTED.
6. ACCORDING TO THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 12095C0255E, EFFECTIVE DATE: SEPTEMBER 25, 2009, THIS PROPERTY LIES IN ZONE "X" LYING OUTSIDE THE FLOOD ZONE.
7. NO UNDERGROUND UTILITIES, FOUNDATIONS OR IMPROVEMENTS, IF ANY, HAVE BEEN LOCATED EXCEPT AS SHOWN.
8. THIS BOUNDARY SURVEY MEETS OR EXCEEDS THE HORIZONTAL CONTROL ACCURACY OF 1/7500 BEING A SUBURBAN SURVEY.

Surveyor's Certification:

I hereby certify that the attached "Boundary Survey" of the hereon-described property is true and correct to the best of my knowledge, information and belief as done under my direction in the field on June 17, 2015. I further certify that this "Boundary Survey" meets the minimum technical standards set forth in chapter 5J-17 of the Florida Administrative Code.

Date: 3/17/15

Project No. 405-AJ-001
Dwg file: 405-AJ-001

NOT VALID WITHOUT SHEET 2

W. C. Elliott, P.S.M.
Professional Surveyor and Mapper
Florida Registration No. 5599

| | | | |
|--|---|--|--|
| DRAWN: WCE APPROVED: WCE DATE: 3/17/15 SCALE: N/A | Boundary Survey A J Thomas III 2715 Woodside Avenue Section 18, Township 22 South, Range 30 East City of Winter Park, Orange County, Florida | KLE Surveying & Mapping, Inc. 121 Burns Avenue Longwood, FL 32750 (407) 402-2331 License Business # 7899 | SHEET 1 OF 2 |
|--|---|--|--|

Boundary Survey
NOT VALID WITHOUT SHEET 1

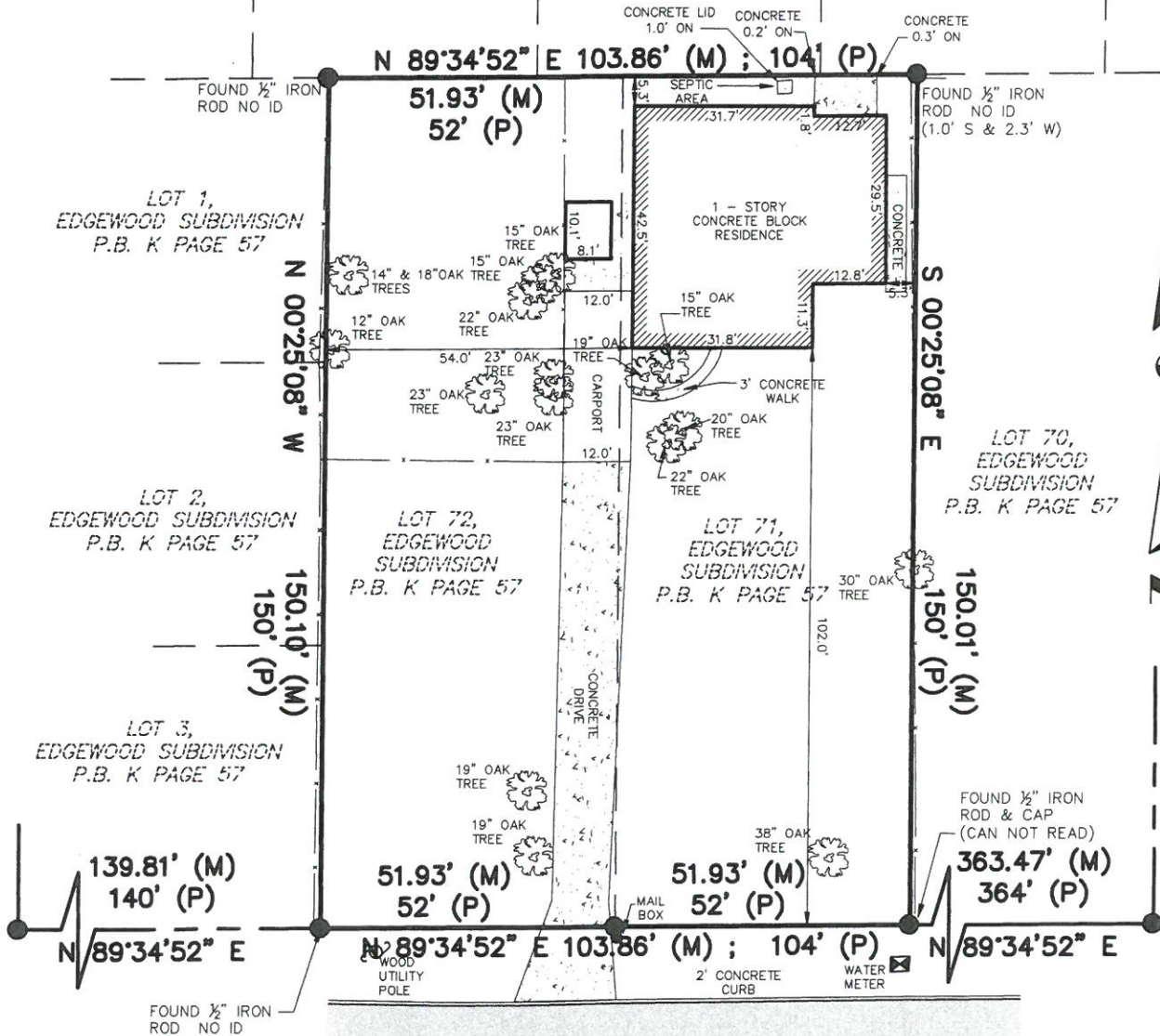
LOT 13,
 PARKLANDO
 P.B. N PAGE 76

LOT 10,
 PARKLANDO
 P.B. N PAGE 76

LOT 9,
 PARKLANDO
 P.B. N PAGE 76

LOT 8,
 PARKLANDO
 P.B. N PAGE 76

LOT 7,
 PARKLANDO
 P.B. N PAGE 76



WOODSIDE AVENUE (FIELD)
OAKLEY AVENUE (PLAT)
 (50' PUBLIC RIGHT-OF-WAY PER PLAT)
 PAVED ROAD

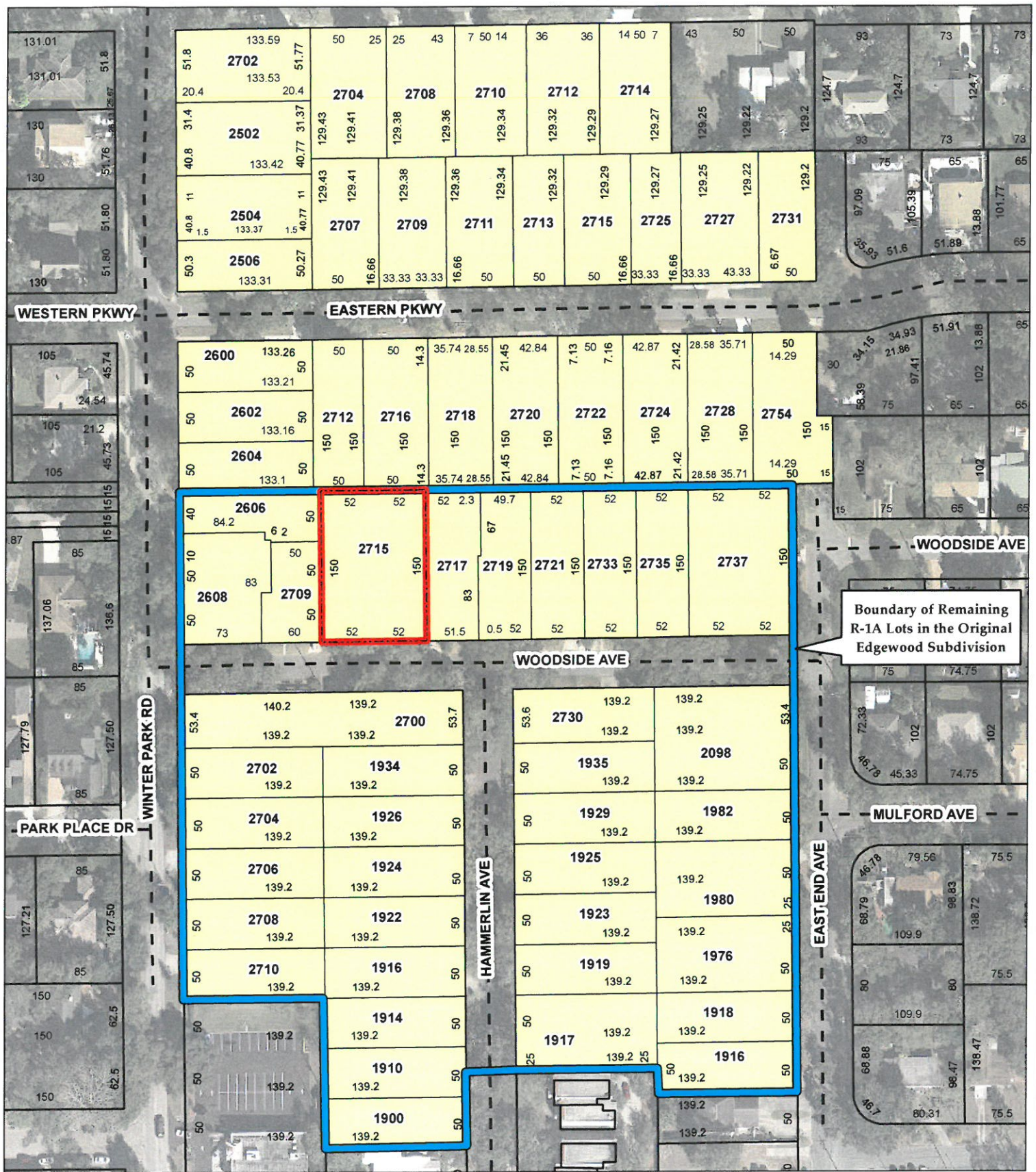
Project No. 405-AJ-001
 Dwg file: 405-AJ-001

| | |
|------------------|----------|
| DRAWN: | WCE |
| APPROVED: | WCE |
| DATE: | 12/10/13 |
| SCALE: | 1" = 30' |

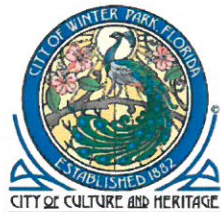
Boundary Survey
 A J Thomas III
 2715 Woodside Avenue
 Section 18, Township 22 South, Range 30 East
 City of Winter Park, Orange County, Florida

KLE Surveying & Mapping, Inc.
 121 Burns Avenue Longwood, FL 32750
 (407) 402-2331
 License Business # 7899

SHEET
2
OF 2

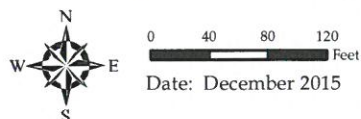


Boundary of Remaining R-1A Lots in the Original Edgewood Subdivision



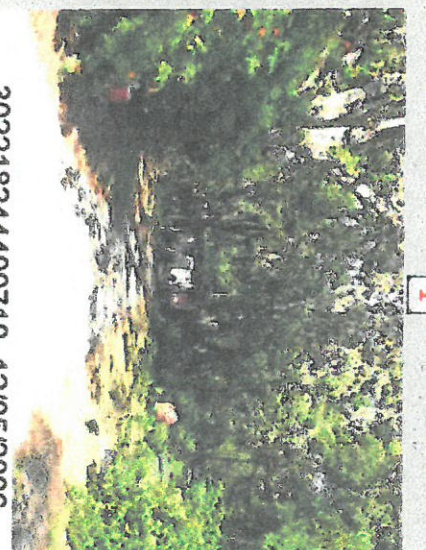
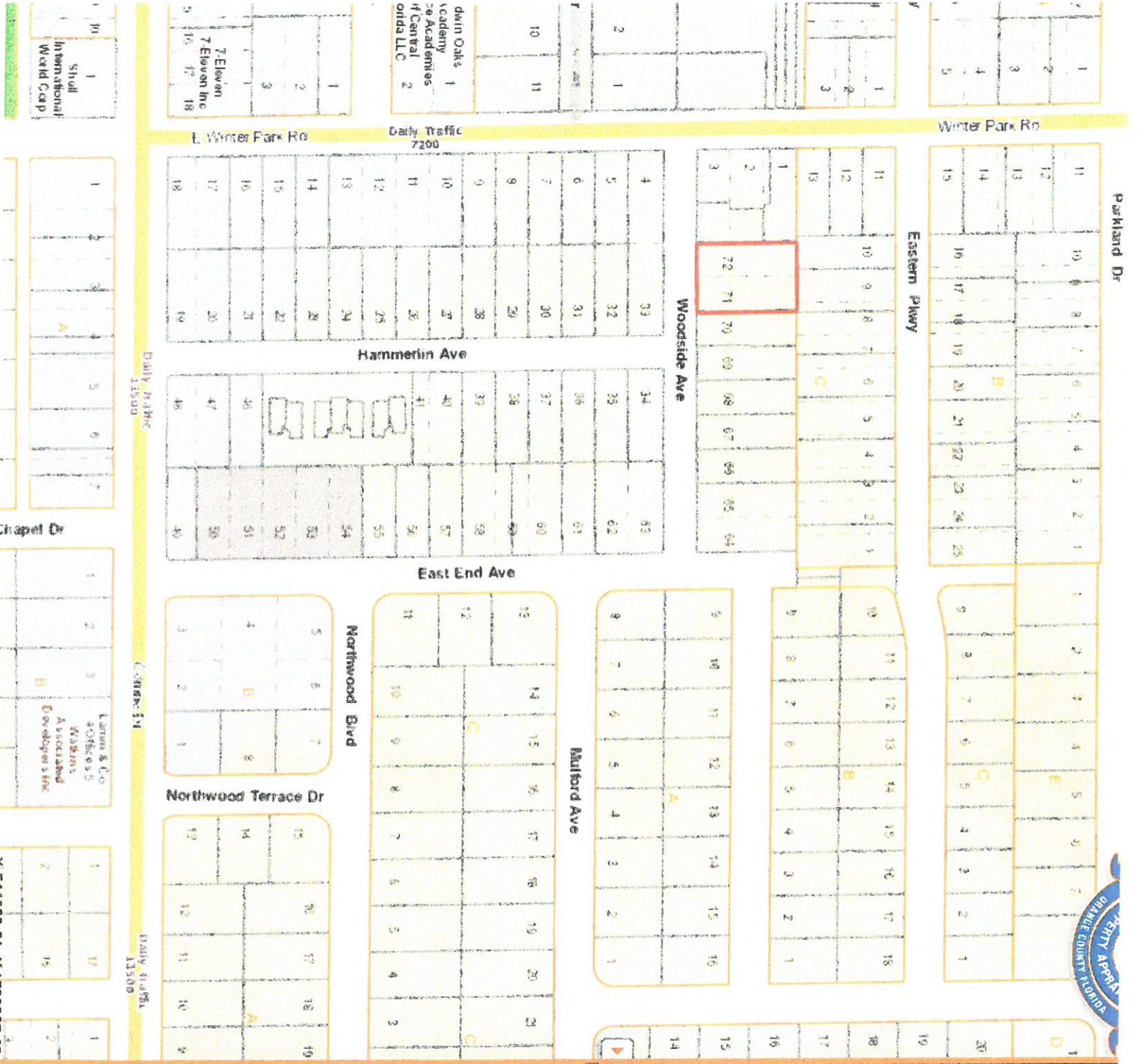
Comprehensive Plan Test

2715 Woodside Avenue Lot Split



NOTES

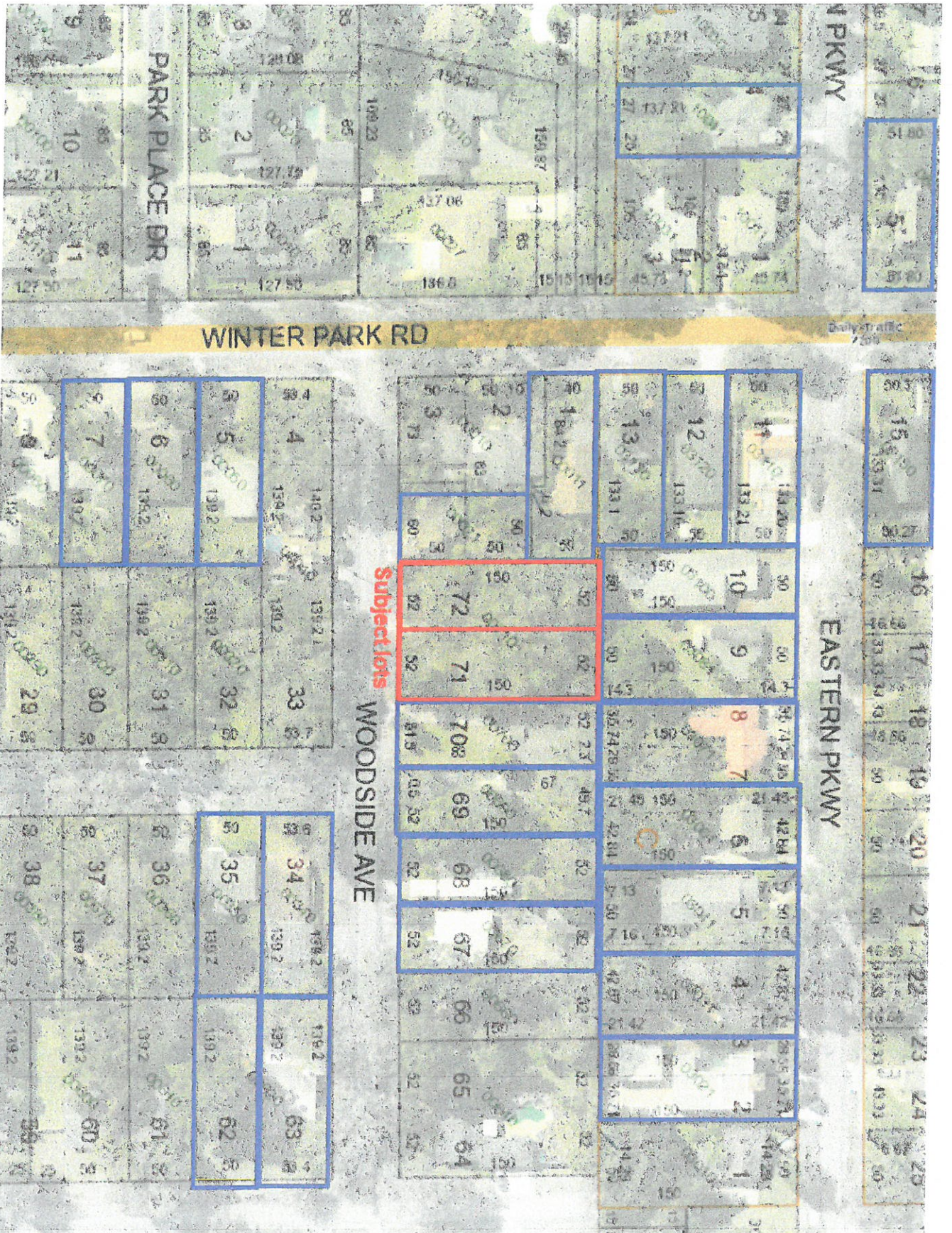
- Subject Site
- Average Lot Width = 59 feet
- Average Lot Size = 8,297 square feet
- 38 Lots are 55' or Less in Width (60%)
- R-1A Lots Within 500' of Site
- Median Lot Width = 52 feet
- Median Lot Size = 7,582 square feet
- 26 Lots are Greater than 55' in Width (41%)



302218244400710 12/05/2006

Hide Pictures(s) 1

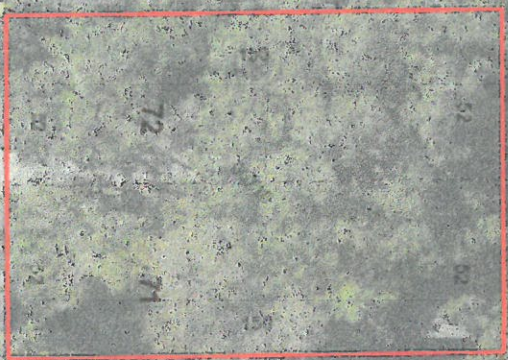
| Info | Values | Building | Land | Location |
|-------------------|------------------------|----------|------|----------|
| PARCEL ID | 18-22-30-2444-00-710 | | | |
| STREET ADDRESS | 2715 WOODSIDE AVE | | | |
| NAME (1) | THOMAS ALVIN J III | | | |
| MAILING ADDRESS | 2024 N COUNTRYSIDE CIR | | | |
| CITY | ORLANDO | | | |
| STATE | FL | | | |
| ZIP CODE | 32804 | | | |
| CITY CODE | WP | | | |
| MILLAGE CODE | 06 | | | |
| PROPERTY USE CODE | 0100 | | | |
| NBHD CODE | 270709120 | | | |
| FEAT CODE | | | | |
| NC FLAG | 0 | | | |
| CONDO FLAG | | | | |
| SI PLANE X-COORD | 545592161 | | | |
| SI PLANE Y-COORD | 1340230 | | | |
| ACREAGE | 0.1551 | | | |
| APPROXIMATE AREA | 0.0000 | | | |

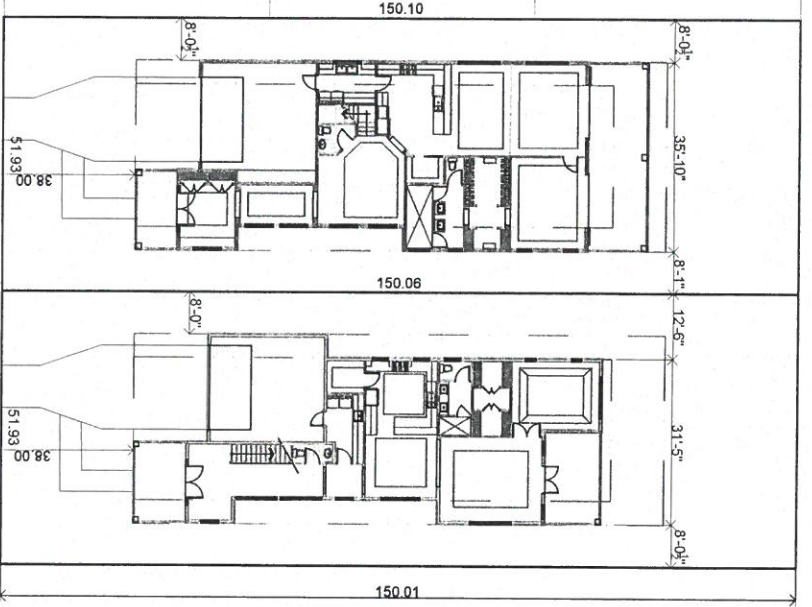


Lots in blue contain 1 single family residence and do not meet the R-1A 75' width and are similar sized lots to the subject lots which are shown here in red.

NTER PARK RD

WOODSIDE AVE





WOODSIDE 72 PLAN TWO-STORY
 WOODSIDE AVENUE
 WOODSIDE 71 PLAN TWO-STORY

LOT 72

GROSS AREA SUMMARY

| | |
|-------------------------|---------|
| LOT AREA | 7800 SF |
| 1ST FLR WITHIN SETBACKS | 3071 SF |
| 2ND FLR WITHIN SETBACKS | 801 SF |
| TOTAL FLOOR AREA | 3872 SF |

GROSS F.A.R. (43% LOT AREA) 3354 SF

F.A.R. ADJUSTMENTS

| | |
|-------------------------|--------|
| 1ST FLOOR | 121 SF |
| OPEN STREET FRONT PORCH | 121 SF |
| 1ST FLOOR | 406 SF |
| OPEN REAR / SIDE PORCH | 406 SF |
| 2ND FLOOR | 0 SF |
| OPEN REAR / SIDE PORCH | 0 SF |

GROSS F.A.R. (43% LOT AREA) 3354 SF
 MAX. EXCLUSION 527 SF

ADJUSTED GROSS F.A.R. 3881 SF
 3872 SF < 3881 SF - MEETS F.A.R. CODE

IMPERVIOUS AREA SUMMARY

| | |
|--|---------|
| LOT AREA | 7795 SF |
| MAX. PERMISSIBLE IMPERVIOUS AREA (TOTAL LOT) = 50% | 3898 SF |
| ACTUAL IMPERVIOUS AREA | 3663 SF |

MAX. PERMISSIBLE IMPERVIOUS AREA (FRONT YARD) = 50%
 ACTUAL FRONT YARD AREA 1702 SF
 1702 x 50% = 851 SF
 ACTUAL IMP. AREA (FRONT) 851 SF
 709 SF < 851 SF - MEETS CODE

LOT 71

GROSS AREA SUMMARY

| | |
|-------------------------|---------|
| LOT AREA | 7800 SF |
| 1ST FLR WITHIN SETBACKS | 2467 SF |
| 2ND FLR WITHIN SETBACKS | 1203 SF |
| TOTAL FLOOR AREA | 3670 SF |

GROSS F.A.R. (39% LOT AREA) 3354 SF

F.A.R. ADJUSTMENTS

| | |
|-------------------------|--------|
| 1ST FLOOR | 153 SF |
| OPEN STREET FRONT PORCH | 153 SF |
| 1ST FLOOR | 187 SF |
| OPEN REAR / SIDE PORCH | 187 SF |
| 2ND FLOOR | 0 SF |
| OPEN REAR / SIDE PORCH | 0 SF |

GROSS F.A.R. (43% LOT AREA) 3354 SF
 MAX. EXCLUSION 340 SF

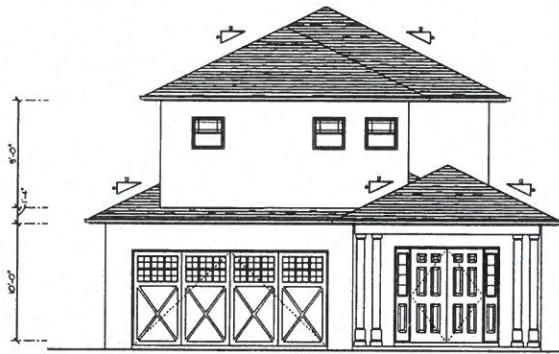
ADJUSTED GROSS F.A.R. 3694 SF
 3670 SF < 3694 SF - MEETS F.A.R. CODE

IMPERVIOUS AREA SUMMARY

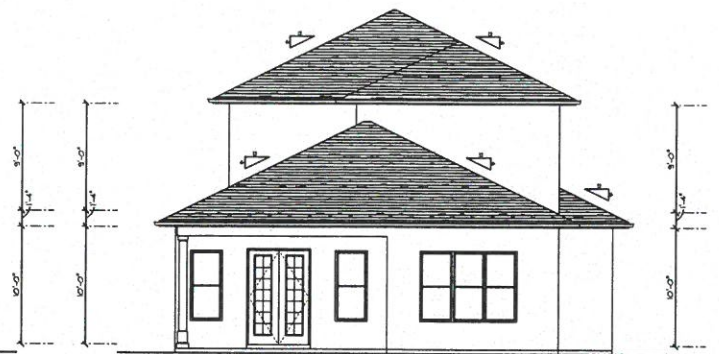
| | |
|--|---------|
| LOT AREA | 7800 SF |
| MAX. PERMISSIBLE IMPERVIOUS AREA (TOTAL LOT) = 50% | 3895 SF |
| ACTUAL IMPERVIOUS AREA | 3072 SF |

MAX. PERMISSIBLE IMPERVIOUS AREA (FRONT YARD) = 50%
 ACTUAL FRONT YARD AREA 1924 SF
 1924 x 50% = 962 SF
 ACTUAL IMP. AREA (FRONT) 962 SF
 758 SF < 962 SF - MEETS CODE

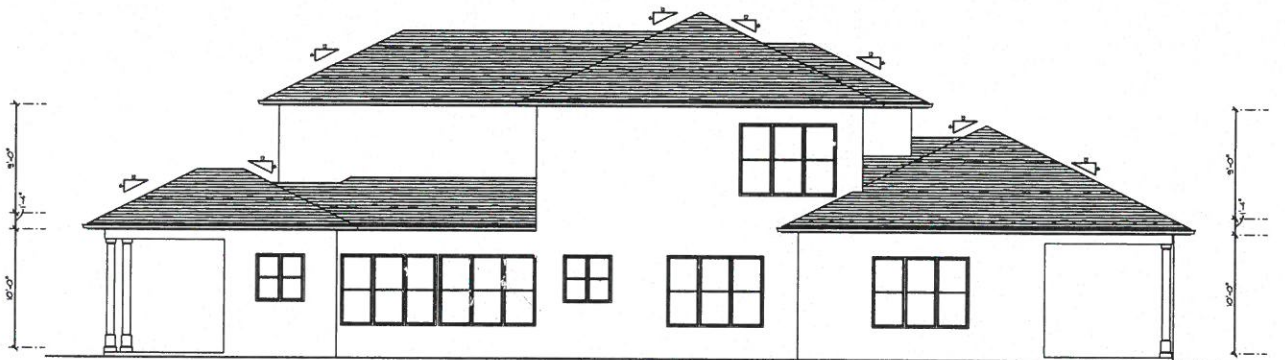
CAM BRADFORD BUILDER
43% VALUES
ADJUSTED FOR
LOT WIDTH
3 NOVEMBER, 2015



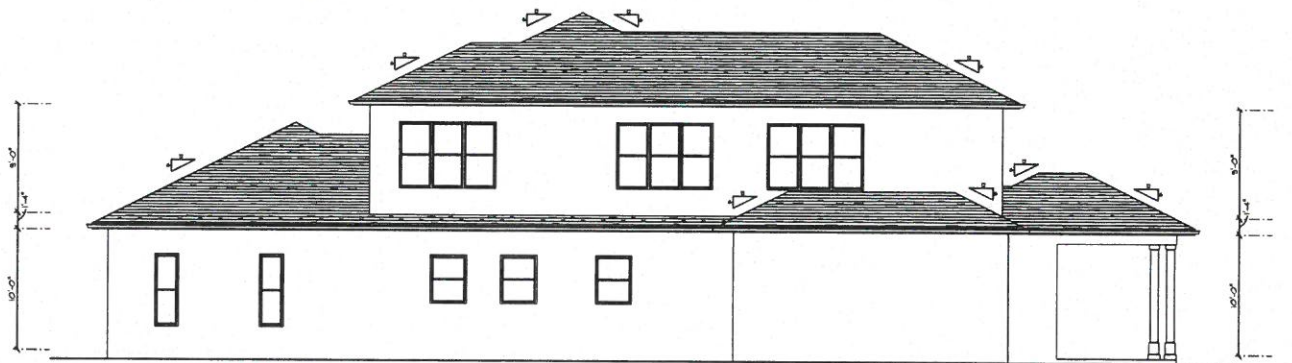
LOT 71 FRONT ELEVATION



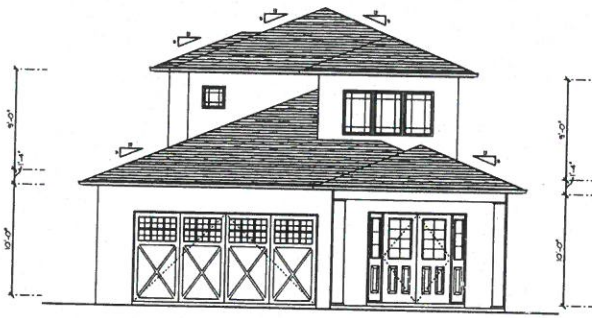
LOT 71 REAR ELEVATION



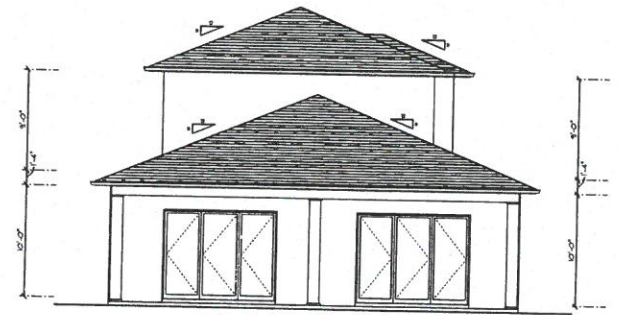
LOT 71 RIGHT ELEVATION



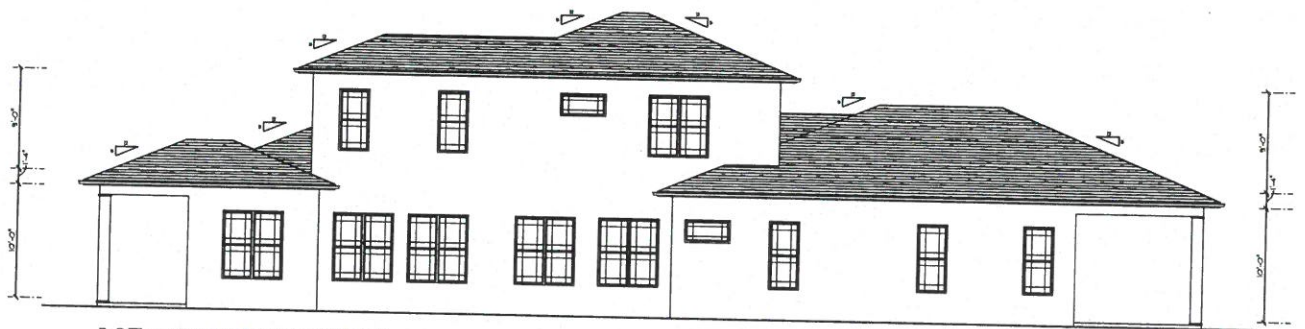
LOT 71 LEFT ELEVATION



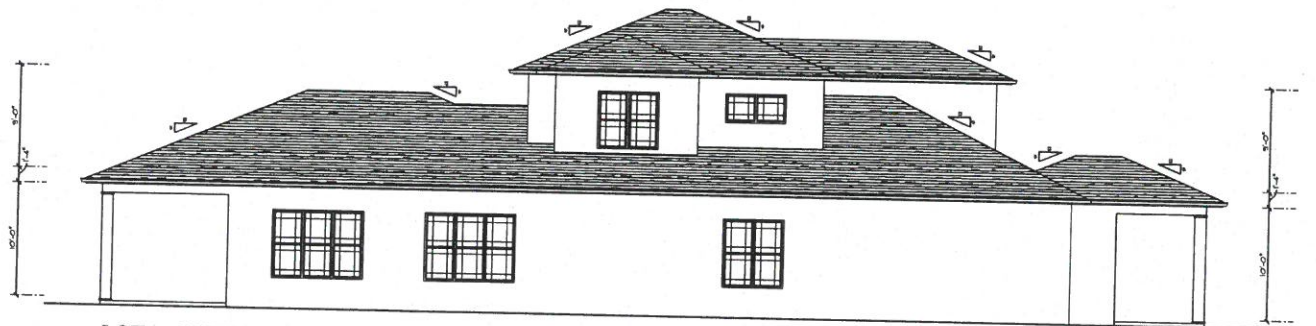
LOT 72 FRONT ELEVATION



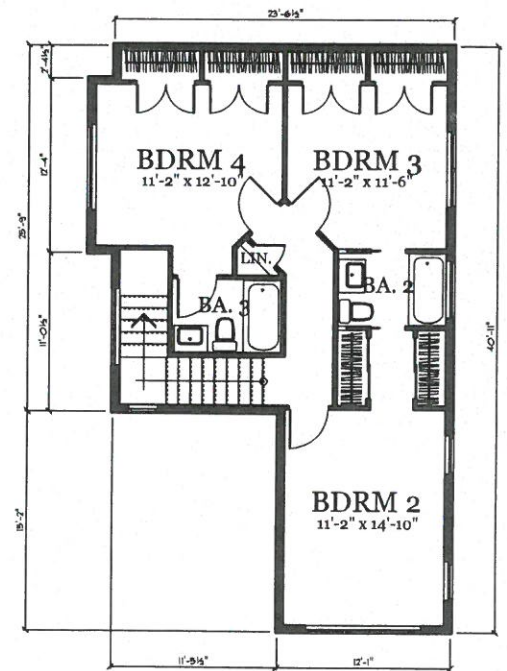
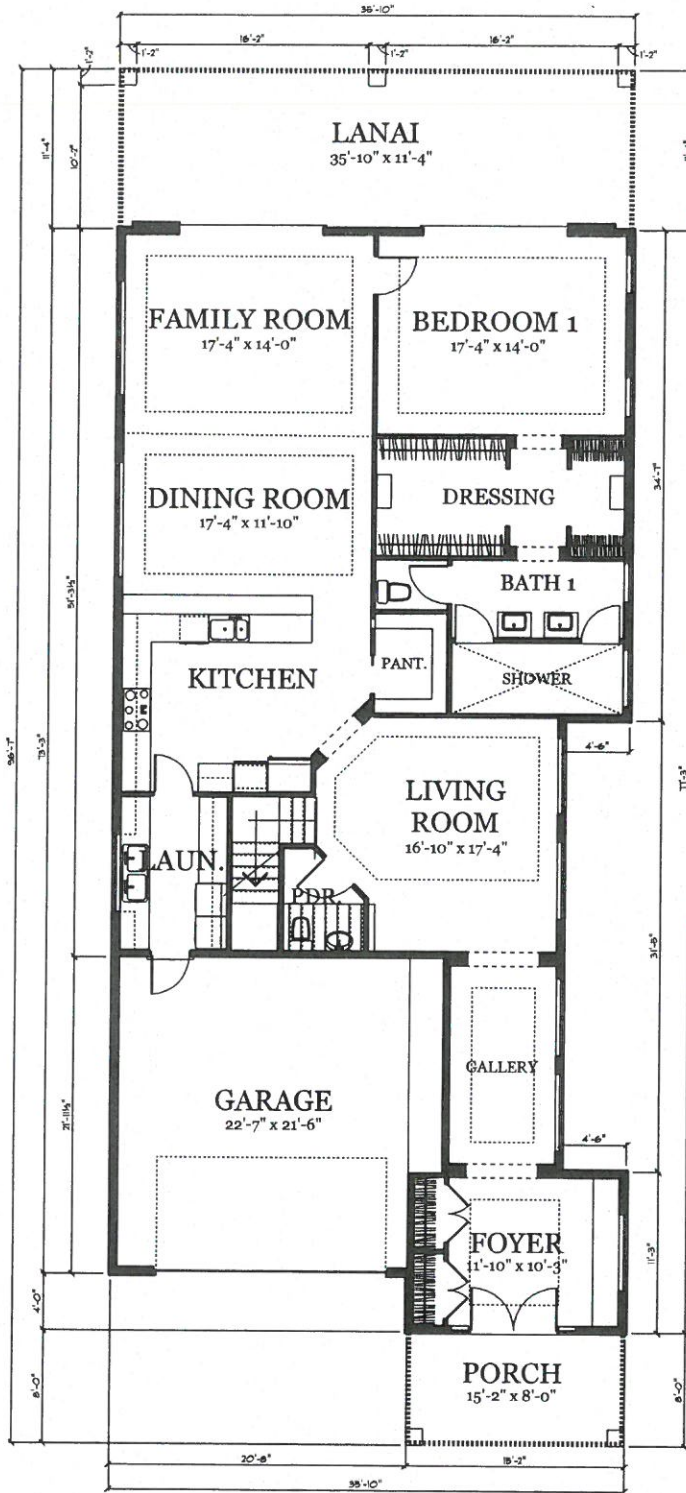
LOT 72 REAR ELEVATION



LOT 72 RIGHT ELEVATION



LOT 72 LEFT ELEVATION



UPPER FLOOR PLAN

MAIN FLOOR PLAN

WOODSIDE PLAN - LOT 72

AREA SUMMARY

| | |
|----------------------------|---------|
| MAIN FLOOR AREA UNDER A/C | 2055 SF |
| UPPER FLOOR AREA UNDER A/C | 743 SF |
| TOTAL AREA UNDER A/C | 2798 SF |
| GARAGE AREA | 489 SF |
| ENTRY PORCH | 121 SF |
| LANAI | 406 SF |
| TOTAL AREA UNDER ROOF | 3814 SF |

2 NOVEMBER 2015

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

**Staff Report
January 5, 2016**

REQUEST OF MORGAN BELLOWS TO: AMEND THE "COMPREHENSIVE PLAN" FUTURE LAND USE MAP TO CHANGE FROM SINGLE FAMILY RESIDENTIAL TO LOW DENSITY RESIDENTIAL DESIGNATION ON THE PROPERTY AT 335 WEST COMSTOCK AVENUE.

REQUEST OF MORGAN BELLOWS TO: AMEND THE OFFICIAL ZONING MAP TO CHANGE FROM SINGLE FAMILY (R-1A) DISTRICT ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTY AT 335 WEST COMSTOCK AVENUE.

This is a request by Morgan Bellows seeking approval to change the existing Single-Family Residential Future Land Use designation in the Comprehensive Plan to Low Density Residential, and to change the zoning district from Single-Family Residential (R-1A) to Low-Density Residential (R-2) on the property at 335 West Comstock Avenue.

Site and Context:

The property is currently occupied by a single-family residence, which is proposed to be demolished. The lot is 70 feet wide by 125 feet deep, and 8,750-square feet in size. The property is on the northeast corner of Comstock and Virginia Avenues. As the attached maps depict, the abutting properties to the north are zoned single-family (R-1A) and the properties to the south, across Comstock Avenue, and to the west across Virginia Avenue are also zoned single family (R-1A). The properties to the east are zoned low-density residential (R-2), which are occupied by the recently completed David Weekly townhomes and single-family homes. With the exception of the David Weekly project, the properties along Comstock Avenue to the west of the train tracks until Denning Drive are zoned R-1A.

Proposed Project Plans:

The applicant has not provided a development plan but anticipates building a duplex which would be a permitted use under the proposed R-2 zoning.

Staff Analysis of the Comprehensive Plan Future Land Use/Rezoning Request:

The issue of whether this property is used for one single-family home or two residential units is not the primary concern to the Planning Staff. By looking at this immediate area, one can see that two of the adjacent properties (which come from

an original platted lot the exact same size as this property) have already been split into two single family lots. The properties to the north at 400 West Lyman Avenue and 450 Virginia Avenue were split many years ago into two lots each 62.5 feet wide. The properties directly across the street at 445 and 461 Virginia Avenue also have been split into two lots of 62.5 feet in width. Therefore, if this were a lot split request the Planning Staff would be in support of the request.

However, the Planning Staff is not in support of this request to rezone this property to R-2. The issue is where the City should draw the line between the single-family R-1A zoning and the R-2 zoning. The City agreed to rezone the David Weekly development from R-1A to R-2 because the City recognized that the David Weekly property would be adjacent to a business property zoned office (Grant Chapel), and more importantly that property was at the time adjacent to the City's electric utility storage yard, and also virtually adjacent to the railroad right-of-way.

If this request is approved and the zoning line between R-1A and R-2 is moved then it clearly would be precedent setting for the adjacent property at 400 West Lyman Avenue and 450 Virginia Avenue. They could ask for a similar rezoning to R-2 and have the expectation for approval.

Also, rezoning to R-2 is not necessary to foster redevelopment in this area. As the Planning and Zoning Board is aware, nearby at 450 and 456 West Lyman Avenue, zoned R-1A, Phil Kean was planning to build two new single-family homes pursuant to the lot split granted by the City. However, now their plans are to build one single-family residence on both lots. At 426 West Lyman Avenue the Planning and Zoning Board denied a similar request for R-2 zoning in June of 2015. These owners told the City previously that they plan to proceed with their plans for a single-family home under the R-1A zoning.

Staff's Recommended Option:

The Planning Staff recognizes that the City could draw the line between R-1A and R-2 zoning at Virginia Avenue. But the issue for Staff is if the City keeps moving the line every time there is a request, then there is no line. Staff is agreeable to a split of this lot so that the applicant can yield two residential units. However, the applicant wants both the two units and the larger floor area ratio (FAR) that comes with the R-2 zoning. To keep moving the zoning line only for the purpose of more floor area ratio, just so the houses can be bigger and bigger doesn't seem to serve any purpose other than to speed the pace of gentrification of the neighborhood.

Staff Recommendation is for Denial of This Request.



Zoning Map

City of Winter Park Florida

Legend

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



Date: 12/28/2015
 Staff Report
 Planning and Zoning Board

- 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
- Commercial/Governmental
- Commercial/Institutional/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

435

MAN AVE

426

404

400

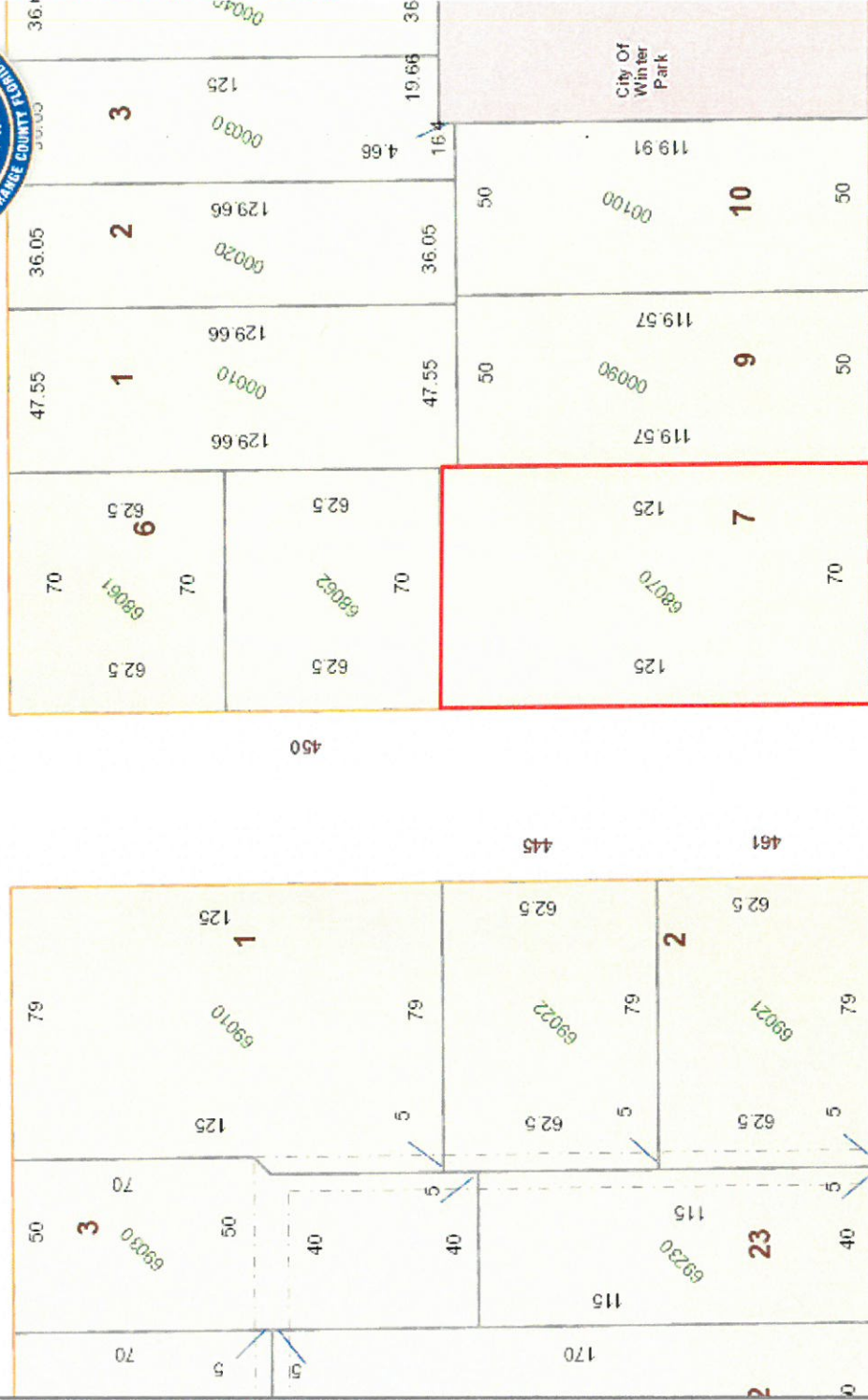
298

301

421 Courtesy Rick Singh, CFA, Orange County Property Appraiser



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



Created: 12/28/2015

- Florida turnpike
- Interstate 4
- Toll Road
- Major Roads
- Public Roads
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- Proposed Road
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- State Road
- County Road
- One Way
- Brick Road
- Proposed SunRail
- Block Line
- Lot Line
- Residential
- Agriculture
- Commercial/Institutional
- Governmental
- Commercial/Industrial
- 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



| | | | | | | |
|--------|--------|--------|--------|--------|--------|--------|
| 4 | 15 | 16 | 17 | 18 | 19 | 20 |
| 55-150 | 55-170 | 55-180 | 55-190 | 55-190 | 55-190 | 55-190 |
| 50 | 50 | 50 | 50 | 50 | 50 | 50 |

Courtesy Rick Singh, CFA, S

| | | | | | |
|-------|-------|-------|-------|-------|-------|
| 12 | 13 | 14 | 15 | 16 | 17 |
| 56-10 | 56-10 | 56-10 | 56-10 | 56-10 | 56-10 |
| 50 | 50 | 50 | 50 | 50 | 50 |



WLYMAN AVE

| | | | | | | | | | |
|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 69 | 19 | 20 | 21 | 22 | 23 | 79 | 79 | 79 | 79 |
| 69-190 | 69-200 | 69-210 | 69-220 | 69-230 | 69-240 | 69-250 | 69-260 | 69-270 | 69-280 |
| 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 |

W COMSTOCK AVE

| | | | | | | | | | | | | | |
|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 74 | 7 | 6 | 5 | 4 | 3 | 2 | 1 | 16 | 15 | 14 | 13 | 12 | 11 |
| 74-070 | 74-080 | 74-090 | 74-100 | 74-110 | 74-120 | 74-130 | 74-140 | 74-150 | 74-160 | 74-170 | 74-180 | 74-190 | 74-200 |
| 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 |

| | | | | | | | | | | | | |
|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 125 | 7 | 9 | 10 | 68 | 8 | 7 | 6 | 5 | 4 | 3 | 2 | 8 |
| 68-070 | 68-080 | 68-090 | 68-100 | 68-110 | 68-120 | 68-130 | 68-140 | 68-150 | 68-160 | 68-170 | 68-180 | 68-190 |
| 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 |

| | | | | |
|--------|--------|--------|--------|--------|
| 75 | 8 | 7 | 11 | 10 |
| 75-080 | 75-090 | 75-100 | 75-110 | 75-120 |
| 50 | 50 | 50 | 50 | 50 |

Created: 12/28/2015

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

- Florida turnpike
- Interstate 4
- Toll Road
- Major Roads
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- Proposed Road
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- One Way
- Brick Road
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- Residential
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- Commercial/Industrial/Vacant Land
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- Agricultural Curtilage
- County Boundary
- Parks
- Golf Course
- Lakes and Rivers
- Block Number
- Lot Number
- Parcel Number
- Parcel Address
- Parcel Dimension

141
 436
 951
 6
 6
 06060
 3106
 111.9



Courtesy Rick Singh, CFA, Orange County Property Appraiser



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

Created: 12/28/2015



Parcel Photos - 335 W Comstock Ave



335 W COMSTOCK AVE, WINTER PARK, FL 32789 6/3/2015 9:59 AM



302205940068070 03/22/2006

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO CHANGE THE FUTURE LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL TO LOW DENSITY RESIDENTIAL DESIGNATION ON THE PROPERTY AT 335 WEST COMSTOCK AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN 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, 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 Board, 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 January 5, 2016, 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 January 25, 2016 and February 8, 2016 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. 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 of single family residential to low density residential on the property at 335 West Comstock Avenue, more particularly described as follows:

LOT 7, BLOCK 68 PER THE REVISED MAP OF THE TOWN OF WINTER PARK, AS RECORDED IN PLAT BOOK "A", Pages 67-72 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

Property Tax ID # 05-22-30-9400-68-070

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. 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 _____, 2016.

Mayor

Mayor Steve Leary

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) DISTRICT ZONING TO LOW DENSITY RESIDENTIAL (R-2) DISTRICT ZONING ON THE PROPERTY AT 335 WEST COMSTOCK AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the owners of property at 426 West Lyman Avenue have 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 January 5, 2016 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 of Single Family (R-1A) District to Low Density Residential (R-2) District zoning on the property at 335 West Comstock Avenue, more particularly described as follows:

LOT 7, BLOCK 68 PER THE REVISED MAP OF THE TOWN OF WINTER PARK, AS RECORDED IN PLAT BOOK "A", Pages 67-72 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

Property Tax ID # 05-22-30-9400-68-070

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 _____, 2016.

Mayor Steve Leary

Attest:

City Clerk

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

**Staff Report
January 5, 2016**

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE AMENDING CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE III, “ZONING” SO AS TO AMEND SECTION 58-95 “DEFINITIONS”, TO PROVIDE AN ALTERNATE DEFINITION FOR FAST FOOD BUSINESSES TO APPLY WITHIN THE C-1 AND C-3 COMMERCIAL DISTRICTS OF THE CITY.

This public hearing is to consider an Ordinance to revise the definition of a “fast food business” in order to determine how to implement a policy of the Comprehensive Plan for the West Fairbanks corridor.

In February of 2009, when the City adopted its’ Comprehensive Plan, the City was poised to make a \$6-8 million dollar investment along West Fairbanks Avenue. This investment was to install sanitary sewer infrastructure, new traffic signals, new street lights, and to repave the roadway. There also was a desire, which has now become realized, that another \$12 million is to be spent on a project over the next two years to underground the electric power lines along West Fairbanks Avenue. Together with the actions in previous years that have removed five billboards from this corridor, the combination of these projects is expected to be a significant upgrade in the aesthetic appearance to this gateway corridor into the City of Winter Park.

All of this public investment, it is hoped, will then lead to redevelopment and investment in the private commercial properties along this corridor. To this end, the City adopted the Policy (below) in the Comprehensive Plan in 2009 to guide that redevelopment by excluding certain business types that would not be conducive to upgrading this gateway corridor. Most of these are clearly understood. However, the policy and code question as to the intent of discouraging “fast food businesses” has never been specifically defined.

Planning Area L: West Fairbanks Avenue

Policy 1-4.1.L.4: Support West Fairbanks Gateway Enhancements and Prohibit Certain Uses to Reinforce the Gateway Design and Land Use Principles. In order to establish the character of this corridor as a gateway entrance to Winter Park, **the City shall prohibit** certain business types along the frontage of the corridor including new or used car sales, auto repair businesses, resale stores or pawn shops, tattoo businesses, adult oriented businesses, **fast food businesses** and convenience stores.

At the time of adoption of this Policy in 2009 there was not a definition of “fast food business” in the Comprehensive Plan or Zoning Code. However, in 2013, in response to issues about the types of restaurants permitted along Park Avenue, the City adopted, for the first time, a definition of a “fast food restaurant” as outlined below.

Fast food restaurant means any restaurant whose normal business model includes two or more of the following criteria or characteristics:

- (1) A predominance of locations offer drive-thru service;
- (2) The menu consists of predominantly fast food or take-out food typically: consumed on site, or off the site as to-go food; pre-made and wrapped before customers place orders; served with disposable tableware or typically served in paper or plastic containers;
- (3) Food is typically ordered from a wall menu at a service counter;
- (4) Food consumed on the premises is typically ordered while customers are standing;
- (5) Payment must typically be made by customers before food is consumed;
- (6) Customers typically bus their own tables;
- (7) The service counter is closer to an entry/exit than is the seating/dining area; or
- (8) The business interior is brightly illuminated (greater than eight candle-foot power as measured in a horizontal plane three feet above the floor).

This definition has worked very well along Park Avenue and New England Avenue on properties zoned C-2 to regulate restaurant types. Also, at the same time new definitions were also added to the Zoning Code to include categories and definitions for "Fine dining restaurants", "Non-fine dining restaurants" and "Coffee shops, bakery and dessert restaurants". The issue now is that the definition of "fast food restaurant" which works well within the pedestrian oriented districts of Park Avenue and New England Avenue is not suitable when applied to the Comprehensive Plan Policy for the West Fairbanks Avenue corridor.

As one can see from the existing definition, this terminology would apply not just to the typical "fast food" establishments such as a McDonald's or Burger King but also to almost every "fast casual" restaurant where one orders from counter. For example, "fast casual" lunch and dinner restaurants such as a Boston Market, Italo, Chipotle, or The Coop that are already in the City, would not be allowed on West Fairbanks Avenue. Also coffee/breakfast restaurants such as a Starbucks, Panera, Einstein's, or Dunkin Donuts would also not be allowed on West Fairbanks Avenue. All of these establishments have at least two or more of the criteria outlined in the "fast food restaurant" definition above, and thus would conflict with the Comprehensive Plan policy. A full listing of restaurants which currently exist in the City but that would not be allowed per this Comprehensive Plan policy is attached in Exhibit "A".

Option for a Comprehensive Plan Policy Text Change or a Revised Definition for the C-1/C-3 Zoning Districts:

Per the City Attorney, the options for the City are either to amend the Comprehensive Plan policy text, or to amend the definition of a "fast food business" to fit what is applicable for the commercial areas such as Fairbanks, Orange, Orlando and Aloma Avenues that are zoned C-1/C-3, which are outside of the downtown Central Business District (CBD) pedestrian core that is zoned C-2.

A Comprehensive Plan policy change would be the method to pursue if the City concludes that the current conditional use requirement for drive-ins provides enough leverage in the review of fast food franchise. However, typically reviews of

conditional uses, and the ability to deny conditional uses are based on site impacts from traffic, parking, stacking, noise etc. Thus, the City cannot deny a conditional use just because we don't like having a fast food, drive-through restaurant (Taco Bell, for example). The only way to deny a conditional use would be if there was a traffic/circulation problem, or other impacts that could not be resolved. Also, the burden of proof is on the City and not the applicant to prove that some significant impact or nuisance would be created through the approval of the conditional use. This is a major challenge, and from the Staff's perspective unless the City is agreeable to any and all types of fast food drive-throughs, then the Comprehensive Plan Policy should remain in place.

Presumably, the motivation for the 2009 Comprehensive Plan policy prohibiting fast food business along West Fairbanks Avenue was to generate a redevelopment character along this gateway corridor (especially after investing \$20+ million in public funding) not dominated by McDonald's, Burger Kings, Wendy's or Taco Bells, etc. If that is the case then the simple solution is to adopt a revised definition for fast food businesses that precludes a drive-through component. There is good logic in that desire, and the end result would then allow table service or fast casual restaurants. Therefore, one could build a Panera Bread, but not with a drive-through.

The other policy question is whether to breakout into a separate category for the coffee and breakfast type establishments that would be allowed a drive-through subject to conditional use approval. The City does treat that type of restaurant differently in the C-2 zoning. This separate category would then allow the Starbucks, Panera, Einstein's or Dunkin' Donuts to apply for conditional use approvals along the West Fairbanks Corridor within a C-1/C-3 zoned property.

Staff Recommendation:

The Planning Staff believes that there is logic in maintaining a policy to guide the redevelopment of West Fairbanks Avenue (as a gateway corridor into the City) that is not dominated by drive-through fast food restaurants. However, traditional sit-down table service restaurants and fast casual counter style service restaurants would be compatible with the goals of the City along this corridor. Staff feels that some latitude can be extended to the coffee and breakfast-type establishments via a new definition as follows:

Fast food restaurant within C-3 and C-1 zoning districts means any restaurant whose business model for their property includes a drive-through component; other than for restaurants whose primary retail business products are traditionally breakfast fare including coffee, tea, bagels, donuts and other ancillary food products that are not the principle business identifier.

Exhibit "A"
Fast Casual and Drive-Through Restaurants in the City of Winter Park

Fast Casual Restaurants

Fairbanks Avenue

4Rivers
B&B Junction
Pita Pit

Orlando Avenue

Italio
Zona Fresca
Shake Shack
Black Bean Deli
Lime Fresh Mexican Grill
Moe's Southwest Grill
Chipotle
Crispers
Jersey Mike's Subs
Einstein Bros. Bagels
Subway
Café Noir
Boston Market

Orange Avenue

Edens Fresh Co
Jimmy John's

Lee Road

Bubbalous BBQ

Aloma Avenue

Jimmy Hula's
Toasted
Tijuana Flats
Panera Bread

Morse Boulevard

The Coop

Park Avenue

BurgerFi
Panera Bread
Barnie's Coffee Kitchen
Starbucks
Tropical Smoothie Café

Drive-Through Restaurants

Coffee/Breakfast/Lunch

Starbucks
Dunkin Donuts
Krispy Kreme

Breakfast/Lunch/Dinner

McDonalds
Burger King
Taco Bell
Popeye's
Chick-Fil-A
Steak 'n Shake
Panera Bread

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 “LAND DEVELOPMENT REGULATIONS”, ARTICLE III, "ZONING" SECTIONS 58-95 “DEFINITIONS” TO PROVIDE AN ALTERNATE DEFINITION FOR FAST FOOD BUSINESSES TO APPLY WITHIN THE C-1 AND C-3 COMMERCIAL DISTRICTS OF THE CITY.

WHEREAS, the City Commission wishes to clarify the development standards on water front properties within the City and to update the ordinary high water elevations for the most current data; and

WHEREAS, this Ordinance promotes the health, safety and welfare of the City residents; and

WHEREAS, words with double underline shall constitute additions to the original text and strike through text shall constitute deletions to the original text.

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

Section 1. Chapter 58, Land Development Code, Section 58-95 “Definitions” is hereby amended so that the definition of ‘Fast food restaurant’ reads as follows:

* * *

Sec. 58-95. Definitions.

Fast food restaurant in the C-2 zoning district means any restaurant whose normal business model includes two or more of the following criteria or characteristics:

- (1) A predominance of locations offer drive-thru service;
- (2) The menu consists of predominantly fast food or take-out food typically: consumed on site, or off the site as to-go food; pre-made and wrapped before customers place orders; served with disposable tableware or typically served in paper or plastic containers;
- (3) Food is typically ordered from a wall menu at a service counter;
- (4) Food consumed on the premises is typically ordered while customers are standing;
- (5) Payment must typically be made by customers before food is consumed;
- (6) Customers typically bus their own tables;
- (7) The service counter is closer to an entry/exit than is the seating/dining area; or
- (8) The business interior is brightly illuminated (greater than eight candlefoot power as measured in a horizontal plane three feet above the floor).

Any restaurant meeting the above-definition shall be considered a fast food restaurant under this Code, even if it also meets the criteria for a non-fine dining restaurant under subsection 58-75 (b)(6).

Fast food restaurant within C-3 and C-1 zoning districts means any restaurant whose business model for their property includes a drive-thru component; other than for restaurants whose primary retail business products are traditionally breakfast fare including coffee, tea, bagels, donuts and other ancillary food products that are not the principle business identifier.

Section 2. Incorporation Into Code. 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 3. 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 4. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

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

Mayor Steve Leary

Attest:

Cynthia Bonham, City Clerk