CITY OF WINTER PARK  
PLANNING AND ZONING COMMISSION  
Staff Report  
August 7, 2012

REQUEST OF HEARTWOOD 20, LLC FOR: A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT ORDINANCE TO AMEND THE FUTURE LAND USE ELEMENT SO AS TO ADD A NEW POLICY INCREASING THE RESIDENTIAL DENSITY FOR AND LIMITED TO THE PROPERTIES AT 444 W. NEW ENGLAND AVENUE, IN ORDER TO PERMIT THE SECOND FLOOR TO BE USED AS RESIDENTIAL UNITS AND AT 362 S. PENNSYLVANIA AVENUE, IN ORDER TO PERMIT THE GROUND FLOOR TO BE USED AS RESIDENTIAL UNITS.

REQUEST OF HEARTWOOD 20, LLC FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" SECTION 58-75 "COMERCIAL (C-2) DISTRICT" SO AS TO INCREASE THE RESIDENTIAL DENSITY FOR AND LIMITED TO THE PROPERTIES AT 444 W. NEW ENGLAND AND AT 362 S. PENNSYLVANIA AVENUE IN CONFIRMANCE WITH THE COMPREHENSIVE PLAN.

The public hearing is a request from the owner of 444 W. New England Avenue and 362 S. Pennsylvania Avenue for comprehensive plan and zoning text amendments to increase the residential density within those existing buildings.

Existing Conditions at 444 W. New England Avenue and 362 S. Pennsylvania Avenue:

The existing three story, brick building at 444 W. New England Avenue is located on a property of 30,990 square feet in size. It has retail/office space on the first floor, a vacant and unfinished second floor and a third floor comprised of 17 apartments. The new owners that have acquired this building after foreclosure wish to finish out the vacant second floor with 16-20 new apartments.

The existing four story building at 362 S. Pennsylvania Avenue is located on a property of 22,185 square feet in size. It has vacant retail/office space on the west and south sides of the first floor and 14 apartments on the second, third and fourth floors. The remainder of the building is a six level parking garage. The new owners that have acquired this building after foreclosure wish to finish out the first floor with 5-7 new apartments.

The City's Comprehensive Plan future land use designation for these two properties is Central Business District (CBD) that corresponds to their C-2 zoning. Those designations now allow up to 17 units per acre per the 2009 Comprehensive Plan. When these buildings were constructed in 2007 the Comprehensive Plan and C-2 Zoning district did not have a density limitation.
The effective density of these two properties is now 25.4 units per acre. Thus, these properties are non-conforming with respect to the density limitations of the Comp. Plan and Zoning Code.

Comp. Plan and Zoning Text Change request:

The property owners are asking for a "small scale" (affects less than 80,000 square feet of land) Comprehensive Plan and Zoning text amendment to increase the maximum residential density for and limited only to, these two properties up to 48 units per acre. They are requesting this action: 1) to eliminate and remedy the action that made these buildings a non-conforming use and 2) in recognition that the current economy will support residential apartments versus retail/office space.

Staff Analysis:

One of the Bert Harris claims that the City informally received as part of a tolling agreement was that the action in 2009 of adopting the 17 units per acre limitation and making these properties a non-conforming use negatively affected the value of these properties. The City did not formally agreed or dis-agree with that claim but offered to remedy the situation on a case by case basis via such a small scale Comp. Plan and Zoning text amendment as is requested. That remedy would increase the permitted residential density to 25 units per acre for these two properties. So the planning and legal staff believe that the remedy for the non-conforming situation created by the City is something that the City should do.

On the second part, the economy of the Hannibal Square commercial district for retail and office leasing has been very difficult since 2008. There is much vacant and available retail and office space. The second floor of the 444 W. New England building originally presumed to be office or hotel space has never been leased or finished out from its "shell" condition. The first floor of the 362 S. Pennsylvania Avenue building also originally presumed to be retail and office space has largely never been leased. Meanwhile, apartment rentals within these buildings and in this commercial neighborhood have been very strong. So the planning staff also supports the density increase to the 48 units per acre standard requested so that the existing floor second space in the 444 W. New England building and the on the ground floor of the 362 S. Penn. building can be converted to apartments.

The traffic generation and parking requirements are lower for apartments than for office or retail space. These are existing buildings and no new floor space is being added or permitted by this action. The City is simply making the change to cure the non-conformity and to provide more leasing flexibility. Additionally, as a "small scale" change this action is limited to these two properties.
The one valid concern about density however, is unit size. The character of CBD properties in the Hannibal Square neighborhood or about locations in the CBD can be aimed at young professionals and single persons in studio and efficiency apartments but it would be detrimental to the character of these commercial areas for the units to be too small as if the market aimed at student housing. The commercial buildings in Hannibal Square and elsewhere in the CBD are not supposed to function as dormitories for Rollins College or Full Sail, etc. The key is to maintain the unit sizes that currently exist (approx. 850 sq. ft.) within these existing buildings. The maximum densities proposed by the applicant basically reflect use as student housing or dormitories. The planning staff supports these requests to utilize the second floor of the 444 W. New England building and the first floor of the 362 S. Pennsylvania Avenue building as residential but at the same unit sizes that currently exist within those buildings.

STAFF RECOMMENDATION IS FOR APPROVAL with the condition that:
1. The additional density for the 444 W. New England building is capped at the 17 units to match the existing third floor and the density of the first floor of the 362 S. Pennsylvania Avenue building is capped at 5 units to match the density of the second and third floors which is the same unit sizes that currently exist within those buildings.
July 9, 2012

Frank W. Herring, Jr.
The Herring Group
200 East New England Avenue
Suite 350
Winter Park, FL 32789

Re: Application for Amendment to Comprehensive Plan (small scale) for 444 West New England Avenue and 362 South Pennsylvania Avenue

Dear Mr. Herring,

Please accept this letter as authorization for you, Frank Herring, Jr. President of The Herring Group, to submit the transmittal letter and application to Jeff Briggs, Planning Director for the City of Winter Park on behalf of Heartwood 20, LLC.

If you have any additional questions please do not hesitate to contact me at (954) 940-4941.

Sincerely,

Bruce J. Parker
Vice President
Jeff Briggs  
Planning Director  
City of Winter Park,  
401 Park Avenue South  
Winter Park, FL 32789

Re: Application for Amendment to Comprehensive Plan (small scale) for 444 West New England Avenue and 362 South Pennsylvania Avenue

Dear Jeff:

Pursuant to our recent discussions regarding certain changes to the uses at 444 West New England and 362 Pennsylvania in Winter Park I am writing to transmit an Application for Comprehensive Plan Amendment (the completed application is attached). Our requested changes are described below:

444 West New England- The property currently provides a mix of retail and general office uses on the first floor, the second floor is unoccupied “shell office space” and the third floor contains 17 multi family units and laundry room, storage rooms and other common areas. The owner wishes to amend the comprehensive plan in such a way that allows the second floor office space to be converted to multi family units. The second floor multi family units will be substantially similar to the existing units on the third floor with regards to average size, finishes, quality, unit mix, etc. We estimate the second floor space will allow for between 16 and 20 new units depending on the outcome of our final design plans. Therefore, we are seeking an amendment that will allow us to add up to 20 new multi family units to the property. There is ample parking in the existing parking garage serving the property to meet the parking code for this proposed use.

362 South Pennsylvania Avenue- The property currently provides 14 multi family units on four levels and 250 parking spaces serving this building and the 444 West New England Building in an attached multi level parking garage. The Property also contains 4,611 SF of usable (net of lobbies and hallways) retail space on the ground floor facing South Pennsylvania Avenue. This space has been vacant since the property was constructed. The owner wishes to amend the comprehensive plan in such a way that allows this space to be converted to multi family units. These new units will be substantially similar in size, finishes, quality and unit mix to the existing multi family units in the building. We estimate the area will allow for between five to seven new multi family units. The final number will be determined when we submit for a building permit. Therefore, we are seeking an amendment that will allow us to add up to seven new multi family units to the existing building. There is ample parking available in the existing parking garage serving this property to meet the parking code for this proposed use.

Attached is a completed and signed application form for each property and authorization letter from Bank Atlantic requesting me to submit this application on their behalf. We
are hopeful of having our application reviewed and acted upon at the upcoming Planning and Zoning Hearings scheduled for August 7, 2012. Please contact me as soon as possible regarding any question or additional information that you need regarding the application.

Sincerely,

[Signature]

Frank W. Herring, Jr.
President
The Herring Group
Suite 350
200 East New England Avenue
Winter Park, FL 32789

--on behalf of—

Bank Atlantic
2100 West Cypress Creek Rd.
Ft. Lauderdale, FL 33309
302205940055050 10/23/2009

444 W. New England Avenue

Apts. on 3rd Floor (17 apts.)

Vacant unfinished 2nd Floor

Retail/Office space on 1st Floor
302205940054070 10/22/2009

362 S. Pennsylvania Avenue
Apts. on 2nd, 3rd, 4th Floors (14 apts)
Vacant retail/office space on 1st floor
362 S. Pennsylvania Avenue

Parking Garage Component

302205940054070 10/22/2009
ORDINANCE NO. __________________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" IN THE FUTURE LAND USE ELEMENT SO AS TO ADD A NEW POLICY INCREASING THE RESIDENTIAL DENSITY FOR AND LIMITED TO, THE PROPERTIES AT 444 W. NEW ENGLAND AND 362 S. PENNSYLVANIA AVENUE; 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, the owner of the property more particularly described herein has requested an amendment to the Comprehensive Plan for this property, and such amendment 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.

WHEREAS, the City Commission also desires to amend the Future Land Use Element in order to add a new policy to eliminate a non-conformity and allow greater tenant flexibility within the existing buildings, 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 August 7, 2012, 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 August 27, 2012 and September 10, 2012 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", is amended to add a new Policy in Planning Area “H” Policy 1-4.1.H.12 in the Future Land Use Element on Page 1-56 of the Goals, Objectives and Policies is amended to read as follows:
Policy 1-4.1.H.12: Provide for Additional Residential Density at 444 W. New England and at 362 S. Pennsylvania Avenues. Notwithstanding the residential density limits established for the Central Business District, future land use category elsewhere within this element, this specific policy shall enable the properties at 444 W. New England Avenue and at 362 S. Pennsylvania Avenue to be used in combination at a maximum residential density of up to 48 units per acre. This residential density is permitted in recognition that the 17 units per acre standard, when adopted, created a non-conforming situation as both of these existing buildings exceeded that density limit upon adoption of this Comprehensive Plan and this Policy remedies that non-conformity while also allowing greater flexibility in tenant usage within the existing floor space. This policy is limited to residential use within the existing floor space of the existing buildings as of the time of adoption of this Policy and does not permit residential units on the ground floor of the 444 W. New England Avenue building.

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. This Ordinance shall become effective 31 days after adoption but may not become effective until 31 days after adoption if challenged within 30 days after adoption. In that case, this Ordinance may not become effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that this Ordinance 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 ____________, 2012.

_________________________
Mayor

Attest:

_________________________
City Clerk
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, “LAND DEVELOPMENT CODE”, ARTICLE III, “ZONING” SECTION 58-75 “COMMERCIAL (C-2) DISTRICT” SO AS TO INCREASE THE RESIDENTIAL DENSITY FOR AND LIMITED TO THE PROPERTIES AT 444 W. NEW ENGLAND AND AT 362 S. PENNSYLVANIA AVENUE IN CONFORMANCE WITH THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the owner of the properties at 444 W. New England Avenue and 362 S. Pennsylvania Avenue have requested a zoning text amendment in compliance with the Comprehensive Plan, and the requested zoning text change will achieve conformance with the Comprehensive Plan for these properties 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 and City Staff of the City of Winter Park have recommended approval of this Ordinance at their August 7, 2012 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. That Chapter 58 “Land Development Code”, Article III, “Zoning”, Section 58-75 “Commercial (C-2) district”, subsection (e) (7) is hereby amended to read as follows:

Sec. 58-75. Commercial (C-2) District.
(e) Development standards.

(7) Residential density:

(a) The maximum residential density shall not exceed seventeen (17) units per acre. 
(b) Notwithstanding the residential density limits established for the Commercial (C-2) District, the properties at 444 W. New England Avenue and at 362 S. Pennsylvania Avenue may be used in combination at a maximum residential density of up to 48 units per acre. This residential density is permitted in recognition that the 17 units per acre standard, when adopted, created a non-conforming situation as both of these existing buildings exceeded that density limit and this provision remedies that non-conformity while also allowing greater flexibility in tenant usage within the existing floor space. This policy is limited to residential use within the existing floor space of the existing buildings as of the time of adoption of this amendment and does not permit residential units on the ground floor of the 444 W. New England Avenue building.

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 ____________, 2012.

__________________________________________
Mayor

Attest:

__________________________________________
City Clerk
**Table 3  Future Land Use Map Designation Maximum Density/ Intensity Table**

<table>
<thead>
<tr>
<th>Density (units/ acre)</th>
<th>Office</th>
<th>Commercial</th>
<th>Medium Density PD 1</th>
<th>High Density PD 2</th>
<th>C.B.D.</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 units/ acre</td>
<td>17 units/ acre</td>
<td>17 units/ acre</td>
<td>25 units/ acre</td>
<td>17 units/ acre</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Intensity (FAR)</th>
<th>Up to 2-3 story limit</th>
<th>Up to 4 story limit</th>
<th>Up to 5-8 story limit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>45%</strong>+ 60%**</td>
<td><strong>45%</strong>+ 60%**</td>
<td>130%</td>
<td>130%</td>
</tr>
<tr>
<td><strong>45%</strong>+ 60%**</td>
<td><strong>45%</strong>+ 60%**</td>
<td>175%</td>
<td>200%</td>
</tr>
<tr>
<td><strong>45%</strong>+ 60%**</td>
<td><strong>45%</strong>+ 60%**</td>
<td>N/A</td>
<td>250%</td>
</tr>
</tbody>
</table>

Note: *All categories count private parking garage floor space toward FAR limits.*

Maximum number of stories is determined by the Maximum Height Map and may be further restricted by other policies of this Comprehensive Plan.

+ The 45% FAR may be increased up to 5% if parking for the increase is entirely underground beneath the foot print of the building or if the building’s upper floor(s) cantilevered over such parking or for hotel buildings.

* For any building project exclusively commercial or office; or any mix of commercial or office uses.

** For any building project at least 85% commercial or office on the first floor with residential units on upper floors.

Note: This table reflects the maximum intensities that may be permitted in the underlying zoning district. The maximum intensity that will be approved on any specific site will be based on the applicable development regulations and the ability of the project to further promote the goals of the City, but is not an entitlement.
(2) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties within the geographic areas shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height may be up to forty (40) feet if approved via conditional use. Variances for more than three stories in the Central Business District are prohibited. Parapet walls, mansard, gable or hip roof appendages or similar architectural elements or appendages on a one or two story building may be added to the building height but in no case shall extend more than five (5) feet above the building roof height limitations established in the section. Mechanical equipment, elevator towers and related non-occupied structures may be added to the building roof height but in no case shall exceed more than ten (10) feet above these building roof height limitations and shall be located to the maximum extent possible so that they are not visible from the street.

(3) Buildings shall be setback no less than ten (10) feet from the rear lot line.

(4) No side yard setbacks shall be required on interior side property lines.

(5) The maximum floor area ratio for any building shall be two hundred (200%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage.

(6) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(7) The maximum residential density shall not exceed seventeen (17) units per acre.

(8) Terracing and articulation requiring additional setbacks are required to create relief to the overall massing of the building facades. Such design features of building façade articulation are required at least every sixty (60) feet on average along the primary building façades facing the streets, or along the building frontage where the building fronts the primary parking lot area. For any building over two stories in height and over 200 feet in length, there shall be a thirty-five (35) foot break on at least the first floor, the design of which shall be a component of the architectural review process required for conditional use. For any building over two stories or thirty (30) feet in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor. Parking structures are exempt from this terracing requirement.

(9) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any property used for single family or low density residential.

(10) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9
CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION

Staff Report
August 7, 2012

REQUEST OF NORT NORTHAM FOR: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH A COMMERCIAL FUTURE LAND USE DESIGNATION TO THE ANNEXED PROPERTY AT 656 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

REQUEST OF NORT NORTHAM FOR: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH COMMERCIAL (C-3) DISTRICT ZONING ON THE ANNEXED PROPERTY AT 656 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

The public hearing is a request from Mr. Nort Northam, the owner of the property at 656 Overspin Drive to annex the commercial (C-1) property into the City. Mr. Northam recently purchased this property to add to his adjacent commercial properties at 2650 and 2600 W. Fairbanks Avenue and he has asked to annex this property into the City so that all his properties are within the City. This property now has commercial future land use in the Orange County comprehensive plan and commercial (C-1) zoning in Orange County. These ordinances will add those commercial designations to the City's comprehensive plan and official zoning map. The C-1 zoning of Orange County is most similar to the City's C-3 zoning. Even though nothing is changing, a recommendation is needed from the Planning Board on any ordinance to amend the Comp. Plan or Zoning map.

Comprehensive Plan - Annexation

The two Comprehensive Plan policies that govern this request involving the annexation requests are as follows:

Policy 1-3.13.3: Criteria for Pursuing Annexation and Required Cost/Benefit Study. Winter Park shall pursue the annexation of growth areas adjacent to the City limits when it would align municipal boundaries, unite sections of the City, or generate revenues in excess of the cost of providing services while providing City control over the quality and scale of development. An annexation cost-benefit study shall be required for all annexations of growth areas through referendums.
In this case there are no additional costs to provide city services to this property so all the added revenue from property taxes and fees are above the cost of providing services.

Policy 1-3.13.4: Intergovernmental Coordination with Orange County on Annexations. Winter Park shall provide written notice to Orange County in advance of any annexation requests to be considered by the City Commission. The City shall coordinate all annexations and designations of annexation reserve areas with Orange County and adjacent municipalities of Orlando and Maitland, and Eatonville. The coordination with Orange County and municipalities adjacent to proposed annexation areas shall include coordinating land use and service delivery issues at an early stage in the annexation process as well as formal notice of all potential annexations consistent with state law.

The City has notified Orange County and will respond to any concerns or objections.

STAFF RECOMMENDATION IS FOR APPROVAL
Parcel ID: 292211224802070 (Rng-Twn-Sec format)
This map is for reference only and is not a survey.

Created on 5/15/2012, Copyright 2007. Orange County Property Appraiser.

http://paarcgis.ocpafl.org/Webmap3/Print_Map_Only.aspx?&pin=292211224802070&id=... 5/15/2012
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED" SO AS TO ANNEX THE PROPERTY AT 656 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the property more particularly described herein has voluntarily requested annexation into the City of Winter Park, and

WHEREAS, the annexation of said property meets the criteria established by Chapter 171, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication once a week for two consecutive weeks in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

SECTION 1. That Section 1.02 "Corporate Limits Described," of the Charter Laws of the City of Winter Park be hereby amended and modified so as to annex the property at 656 Overspin Drive, more particularly described as follows:

Lot 7 and the South 20 feet of Lot 6, Block "B" Dubsdread Heights subdivision as recorded in Plat Book "J", Page 115 of the Public Records of Orange County, Florida, or Begin at the Point 20 feet north of the Northwest corner of Lot 7, Block "B" Dubsdread Heights subdivision, then run 140 feet east, then run 70 feet south to the southeast corner of Lot 7; then run 140 feet west to the southwest corner of Lot 7 and then run 70 feet north to the Point of beginning.

Property Tax ID # 11-22-29-2248-02-070
SECTION 2. This ordinance shall take effect upon immediately upon its final 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 ______________, 2012.

Mayor

Attest:

City Clerk
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 ESTABLISH COMMERCIAL FUTURE LAND USE ON THE ANNEXED PROPERTY AT 656 OVERSPIN DRIVE AND TO INDICATE THE ANNEXATION OF THIS PROPERTY ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the property more particularly described herein has voluntarily requested annexation into the City of Winter Park and in compliance with Chapter 171, Florida Statutes, said property has been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to amend its Comprehensive Plan to establish a municipal Comprehensive Plan future land use map designation as a small scale amendment to the Comprehensive Plan, and

WHEREAS, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and Rule 9J-5, Florida Administrative Code 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.

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 establish a Commercial future land use designation on the annexed property at 656 Overspin Drive and that all other maps in the Comprehensive Plan shall also be amended to reflect the addition and annexation of this property into the City of Winter Park, said property being more particularly described as follows:

Lot 7 AND THE South 20 feet of Lot 6, Block “B” Dubsdread Heights subdivision as recorded in Plat Book “J”, Page 115 of the Public Records of Orange County, Florida.

Property Tax ID # 11-22-29-2248-02-070
SECTION 2. This ordinance shall become effective 31 days after adoption but shall not become effective if this Ordinance is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. In that case it will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance with Chapter 163, Florida Statutes.

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 _____________, 2012.

______________________________
Mayor

Attest:

______________________________
City Clerk
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, “LAND DEVELOPMENT CODE”; ARTICLE III, “ZONING” AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH COMMERCIAL (C-3) ZONING ON THE ANNEXED PROPERTY AT 656 OVERSPIN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the property more particularly described herein has voluntarily requested annexation into the City of Winter Park and in compliance with Chapter 171, Florida Statutes, said property has been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to establish a municipal zoning designation on this property in compliance with the establishment of a similar Comprehensive Plan future land use designation for said property, and

WHEREAS, the establishment of 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.

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” and the Official Zoning Map is hereby amended so as to establish Commercial (C-3) district zoning on the annexed property at 656 Overspin Drive, more particularly described as follows:

Lot 7 and the South 20 feet of Lot 6, Block “B” Dubsdread Heights subdivision as recorded in Plat Book “J”, Page 115 of the Public Records of Orange County, Florida.

Property Tax ID # 11-22-29-2248-02-070

SECTION 2. This ordinance shall become effective 31 days after adoption unless this Ordinance or the related companion Ordinance amending the Comprehensive Plan for this property is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. In that case, it will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance with Chapter 163, Florida Statutes.
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 ____________, 2012.

__________________________________________
Mayor

Attest:

______________________________
City Clerk
STATE OF FLORIDA  
COUNTY OF ORANGE

PETITION FOR VOLUNTARY ANNEXATION

To the City Commission of the City of Winter Park, Florida:

The undersigned hereby petitions for voluntary annexation by the City of Winter Park, Florida of the property described herein, in accordance with Article VIII, Section 2(c) of the Constitution of the State of Florida and Florida Statute 171.044, and represents and states as follows:

I

The petitioner is the owner of record of the property which is the subject of this petition.

II

The property which is the subject of this petition lies wholly within the boundaries of Orange County, Florida.

III

No part of the property which is the subject of this petition lies within the corporate limits of any incorporated municipality.

IV

The property which is the subject of this petition is described as follows:

656 Overspin Drive  #11-22-29-2248-02-070
Lot 7 and South 20 ft. of Lot 6, Block B
Dubsdred Heights per Plat Book "J", Page 115
By:

[Signature]

Nort Northam
Name of Petitioner

320 Killarney Drive
Address
Winter Park, FL 32789

407 647-1911
Telephone

STATE OF FLORIDA
COUNTY OF ORANGE

BEFORE ME appeared Nort Northam, who,

Being first duly sworn, deposes and says that he resides at 320 Killarney Dr.,

________________________ , City of Winter Park , and the County and State above names; that he signed the foregoing petition as petitioner for the voluntary annexation by the City of Winter Park, Florida of the property described therein; and that the representations and statements contained in the foregoing petition are true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

Sworn to and Subscribed before me this 15th day of May, 200

[Signature]
Witness

Lisa M. Smith
Notary Public
My Commission expires 01/13/2014

Witness

[Signature]
REQUEST OF STACEY THORNTON, TRUSTEE FOR: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS CHANGE AND ESTABLISH AN OFFICE FUTURE LAND USE DESIGNATION ON THE ANNEXED PROPERTY AT 600 BAFFIE AVENUE AND THAT PORTION OF THE ADJACENT VACATED RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

REQUEST OF STACEY THORNTON, TRUSTEE FOR: AN ORDINANCE AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS CHANGE AND ESTABLISH OFFICE (O-1) DISTRICT ZONING ON THE ANNEXED PROPERTY AT 600 BAFFIE AVENUE AND THAT PORTION OF THE ADJACENT VACATED RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

The public hearing is a request from Stacey Thornton, Trustee, the owner of the property at 600 Baffie Avenue to annex that property into the City along with the east half of the adjacent right-of-way of Baffie Avenue. There is also a request to vacate that east half of the right-of-way and to change the Comp. Plan and Zoning designations from single family residential to office.

The property at 600 Baffie Avenue is a small parcel of 183 square feet that is a remnant from the takings for the widening of Interstate Four. The Stacey Thornton Trust is trying to make it into something that has some value and some use. So the request is also to annex and vacate the east half of the adjacent right-of-way. However, since FDOT would get title to the north 31.4 feet and the trust would get title to the south 18.6 feet of the vacated right-of-way that would only add 465 square feet for a total site of 651 square feet.

The property is designated single family and zoned single family (R-1A) in Orange County. It is too small for a home and no one would want to live right next to I-4. So the idea is to try to squeeze a little office building there which staff is not sure is possible. It may add a little parcel to the tax rolls but only if it is big enough to be buildable. A recommendation is needed from the Planning Board on any ordinance to amend the Comp. Plan or Zoning map.
Comprehensive Plan - Annexation

The three Comprehensive Plan policies that govern this request involving the annexation requests are as follows:

Policy 1-3.13.3: Criteria for Pursuing Annexation and Required Cost/Benefit Study. Winter Park shall pursue the annexation of growth areas adjacent to the City limits when it would align municipal boundaries, unite sections of the City, or generate revenues in excess of the cost of providing services while providing City control over the quality and scale of development. An annexation cost-benefit study shall be required for all annexations of growth areas through referendums.

In this case there are no additional costs to provide city services to this property so all the added revenue from property taxes and fees are above the cost of providing services.

Policy 1-3.13.4: Intergovernmental Coordination with Orange County on Annexations. Winter Park shall provide written notice to Orange County in advance of any annexation requests to be considered by the City Commission. The City shall coordinate all annexations and designations of annexation reserve areas with Orange County and adjacent municipalities of Orlando and Maitland, and Eatonville. The coordination with Orange County and municipalities adjacent to proposed annexation areas shall include coordinating land use and service delivery issues at an early stage in the annexation process as well as formal notice of all potential annexations consistent with state law.

The City has notified Orange County and will respond to any concerns or objections.

Policy 1-3.13.5: Annexation Reserve Areas. As a first priority the City shall annex enclaves surrounded completely by the City. As a second priority the City shall annex contiguous unincorporated areas required to establish logical City boundary alignments that are defined by natural barriers, streets, or similar features and avoid service duplications. In addition, Winter Park will not establish different zoning or land use on annexed property without the notice to Orange County.

The City has notified Orange County and surrounding neighborhood of the rezoning request and will respond to any concerns or objections.
Parcel ID: (Rng-Twm-Sec format)

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

Created on 7/16/2012, Copyright 2007. Orange County Property Appraiser.
June 19, 2012

Mr. Jeff Briggs  
City of Winter Park  
401 S. Park Ave.  
Winter Park, FL 32789

Re: Petition for Voluntary Annexation,  
Application for Comprehensive Plan Amendment,  
Application for Change in Zoning Classification, 600 Baffie Ave., and  
Petition for Right-of-way Vacation of Portion of Baffie Ave.

Dear Mr. Briggs,

Enclosed please find a Petition for Voluntary Annexation, an Application for  
Comprehensive Plan Amendment, and an Application for Change in Zoning  
Classification, for property located at 600 Baffie Ave., on behalf of my client, the Stacy J.  
Thornton Revocable Trust. Please also consider this letter and the enclosed exhibit with legal description my client’s Petition for Right-of-way Vacation of a portion of Baffie Ave. Finally, we have enclosed the appropriate filing fee for these applications.

Please feel free to contact me at the address and telephone number above if you have any questions.

Very truly yours,

Dean Cannon  
for Dean Cannon, P.A.
STATE OF FLORIDA
COUNTY OF ORANGE

PETITION FOR VOLUNTARY ANNEXATION

To the City Commission of the City of Winter Park, Florida:

The undersigned hereby petitions for voluntary annexation by the City of Winter Park, Florida of the property described herein, in accordance with Article VIII, Section 2(c) of the Constitution of the State of Florida and Florida Statute 171.044, and represents and states as follows:

I

The petitioner is the owner of record of the property which is the subject of this petition.

II

The property which is the subject of this petition lies wholly within the boundaries of Orange County, Florida.

III

No part of the property which is the subject of this petition lies within the corporate limits of any incorporated municipality.

IV

The property which is the subject of this petition is described as follows:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6, BLOCK "A", DUBSDREAD HEIGHTS, AS RECORDER IN PLAT BOOK "J", PAGE 115, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; RUN N00°39'20"W A DISTANCE OF 18.60 FEET MORE OR LESS ALONG SAID WEST BOUNDARY OF LOT 6, TO THE WEST RIGHT-OF-WAY OF INTERSTATE 4; RUN THENCE S47°10'36"E, A DISTANCE OF 27.08 FEET MORE OR LESS ALONG SAID WEST RIGHT-OF-WAY OF INTERSTATE 4; RUN THENCE S89°26'31"W, A DISTANCE OF 19.65 FEET ALONG THE SOUTH LINE OF SAID LOT 6 TO THE POINT OF BEGINNING.
By:

_NAME OF PETITIONER_  

2375 S HIAWASSEE RD #203  
Address ORLANDO FL 32885  

Signature  

Telephone  

STATE OF FLORIDA  
COUNTY OF ORANGE  

BEFORE ME appeared __STACY J. THORNTON__________________, who,  

Being first duly sworn, deposes and says that he resides at 2375 S. HIAWASSEE RD.  

#203__________________, City of ORLANDO FL__________, and the  

County and State above names; that he signed the foregoing petition as petitioner for the  

voluntary annexation by the City of Winter Park, Florida of the property described  

therein; and that the representations and statements contained in the foregoing petition are  

true and correct.  

FURTHER AFFIANT SAYETH NAUGHT.  

Sworn to and Subscribed  

before me this _____ day  

of JUNE_________, 2003.  

 witnessed  

Notary Public State of Florida  
Lee A. Beekman  
My Commission DDH29902  
Expires 08/04/2014  

Witness  

Witness  

Notary Public  
My Commission expires:  

Witness
SKETCH OF LEGAL

DESCRIPTION
BEGINNING AT THE SOUTHWEST CORNER OF LOT 6, BLOCK "A", DUBBSREAD HEIGHTS, AS RECORDED IN PLAT BOOK "J", PAGE 115, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; RUN N00°39'20"W A DISTANCE OF 1860 FEET MORE OR LESS ALONG SAID WEST BOUNDARY OF LOT 6, TO THE WEST RIGHT-OF-WAY OF INTERSTATE 4; RUN THENCE S47°10'36"E, A DISTANCE OF 2708 FEET MORE OR LESS ALONG SAID WEST RIGHT-OF-WAY OF INTERSTATE 4; RUN THENCE S89°26'31"W, A DISTANCE OF 1905 FEET ALONG THE SOUTH LINE OF SAID LOT 6 TO THE POINT OF BEGINNING.

ADDRESS:
BAFFIE AVENUE
WINTER PARK, FL 32789

NOTES:
1. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHT-OF-WAYS AND/OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN.
2. NO UNDERGROUND IMPROVEMENTS OR INSTALLATIONS HAVE BEEN LOCATED EXCEPT AS SHOWN.
3. LEGAL DESCRIPTION FURNISHED BY CLIENT.
4. BASIS OF BEARING: BEARINGS ASSUMED.

KISSEMMEE VALLEY SURVEYING & MAPPING, INC.
PROFESSIONAL LAND SURVEYORS & MAPPERS
3066 SOUTH INDIANA AVE., ST. Cloud, FL 34769

LICENSE BUSINESS #7709
WILLARD L. BECKMAN, P.S.M. #4472

PREPARED FOR:
LEE BECKMAN

DATE: 09/07/2012

TYPE OF SURVEY: SKETCH OF LEGAL

SCALE: 1" = 10'

DRAWN BY: CHK. JOB NO. SHEET _1_ OF _1_ S-12051
PROPOSED RIGHT-OF-WAY VACATION

DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6, BLOCK "A", DUBBRADE HEIGHTS, AS RECORDED IN PLAT BOOK "J", PAGE 115 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; RUN S89°20'40"W, A DISTANCE OF 25.00 FEET TO THE CENTERLINE OF RIGHT-OF-WAY BANFIE AVENUE A 50' RIGHT-OF-WAY; RUN THENCE N00°39'20"W, A DISTANCE OF 50.00 FEET ALONG THE CENTERLINE OF SAID RIGHT-OF-WAY BANFIE AVENUE; RUN THENCE N89°20'40"E, A DISTANCE OF 12.31 FEET TO THE SOUTHEAST CORNER OF THE PROPERTY RECORDED IN OR BOOK 0904, PAGE 4154, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, SAID CORNER BEING THE WEST RIGHT-OF-WAY INTERSTATE 4; RUN THENCE 52°39'40"E, A DISTANCE OF 33.87 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 4; RUN THENCE S00°39'20"E, A DISTANCE OF 18.60 FEET TO THE POINT OF BEGINNING.

NOTES:

1. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHT-OF-WAYS AND/OR OWNERSHIP WERE FURNISHED TO THIS SURVEYOR EXCEPT AS SHOWN.

2. NO UNDERGROUND IMPROVEMENTS OR INSTALLATIONS HAVE BEEN LOCATED EXCEPT AS SHOWN.

3. LEGAL DESCRIPTION FURNISHED BY CLIENT.

4. BASIS OF BEARING: BEARINGS ASSUMED.
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING WITHIN THE CHARTER LAWS OF THE CITY OF WINTER PARK, SECTION 1.02, "CORPORATE LIMITS DESCRIBED" SO AS TO ANNEX THE PROPERTY AT 600 BAFFIE AVENUE AND THE EAST HALF OF THE ADJACENT RIGHT-OF-WAY OF BAFFIE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the property more particularly described herein has voluntarily requested annexation into the City of Winter Park, and

WHEREAS, the annexation of said property meets the criteria established by Chapter 171, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication once a week for two consecutive weeks in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

SECTION 1. That Section 1.02 "Corporate Limits Described," of the Charter Laws of the City of Winter Park be hereby amended and modified so as to annex the property at 600 Baffie Avenue and the east half of the adjacent right-of-way of Baffie Avenue, more particularly described as follows:

Beg @ the SW cor of Lot 6, Blk "A", Dubsdread Heights, as recorded in Plat Book "J", Pg. 115, of the PROCFL; run N00°39'20" W a dist of 18.60 ft more or less along sd W boundary of Lot 6, to the W R/W of I-4; run th S89°26'31"W a dist of 19.65 ft along the S line of sd Lot 6 to the POB;

and

Beg @ the Sw cor of Lot 6, Blk "A", Dubsdread Heights, as recorded in Plat Book "J", Pg. 115 of the PROCFL; RUN S89°20'40"W, a dist of 25 ft to the centerline of the r/w of Baffie Ave a 50' r/w ; run th N00°39'20"W, a dist of 50 ft along the centerline of sd r/w Baffie Ave; run th N89°20'40"E a dist of 12.31 ft to the SE cor of the property recorded in OR Book 0904, Pg. 4154 of the PROCFL sd. cor
being the W r/w I-4; th 22°39'40"E, a dist of 33.87 ft along W r/w of Line of I-4; run th S00°39'20"E, a dist of 18.6 ft to POB.

SECTION 2. This ordinance shall take effect upon immediately upon its final 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 ____________, 2012.

_________________________  Mayor

Attest:

_________________________  City Clerk
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 ESTABLISH OFFICE FUTURE LAND USE ON THE ANNEXED PROPERTY AT 600 BAFFIE AVENUE AND THE EAST HALF OF THE ADJACENT RIGHT-OF-WAY OF BAFFIE AVENUE AND TO INDICATE THE ANNEXATION OF THIS PROPERTY ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN.

WHEREAS, the owner of the property more particularly described herein has voluntarily requested annexation into the City of Winter Park and in compliance with Chapter 171, Florida Statutes, said property has been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to amend its Comprehensive Plan to establish a municipal Comprehensive Plan future land use map designation as a small scale amendment to the Comprehensive Plan, and

WHEREAS, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and Rule 9J-5, Florida Administrative Code 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.

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 establish an Office future land use designation on the annexed property at 600 Baffie Avenue and on the east half of the adjacent vacated right-of-way of Baffie Avenue and that all other maps in the Comprehensive Plan shall also be amended to reflect the addition and annexation of this property into the City of Winter Park, said property being more particularly described as follows:

Beg @ the SW cor of Lot 6, Blk “A”, Dubsdread Heights, as recorded in Plat Book “J”, Pg. 115, of the PROCFL; run N00°39’20” W a dist of 18.60 ft more or less along sd W boundary of Lot 6, to the W R/W of I-4; run th S89°26’31” W a dist of 19.65 ft along the S line of sd Lot 6 to the POB;

and
Beg @ the Sw cor of Lot 6, Blk "A", Dubsdread Heights, as recorded in Plat Book "J", Pg. 115 of the PROCFL; RUN S89°20'40"W, a dist of 25 ft to the centerline of the r/w of Baffie Ave a 50' r/w; run th N00°39'20"W, a dist of 50 ft along the centerline of sd r/w Baffie Ave; run th N89°20'40"E a dist of 12.31 ft to the SE cor of the property recorded in OR Book 0904, Pg. 4154 of the PROCFL sd. cor being the W r/w I-4; th 22°39'40"E, a dist of 33.87 ft along W r/w of Line of I-4; run th S00°39'20"E, a dist of 18.6 ft to POB.

SECTION 2. This ordinance shall become effective 31 days after adoption but shall not become effective if this Ordinance is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. In that case it will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance with Chapter 163, Florida Statutes.

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 ______________, 2012.

________________________________________
Mayor

Attest:

_____________________________________
City Clerk
ORDINANCE NO.


WHEREAS, the owner of the property more particularly described herein has voluntarily requested annexation into the City of Winter Park and in compliance with Chapter 171, Florida Statutes, said property has been annexed into the City of Winter Park, and

WHEREAS, the City Commission intends to establish a municipal zoning designation on this property in compliance with the establishment of a similar Comprehensive Plan future land use designation for said property, and

WHEREAS, the establishment of 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.

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” and the Official Zoning Map is hereby amended so as to establish Office (O-1) district zoning on the annexed property at 600 Baffie Avenue and the east half of the adjacent right-of-way of Baffie Avenue, more particularly described as follows:

Beg @ the SW cor of Lot 6, Blk “A”, Dubsread Heights, as recorded in Plat Book “J”, Pg. 115, of the PROCFL; run N00°39’20” W a dist of 18.60 ft more or less along sd W boundary of Lot 6, to the W R/W of I-4; run th S89°26’31” W a dist of 19.65 ft along the S line of sd Lot 6 to the POB;

and

Beg @ the Sw cor of Lot 6, Blk “A”, Dubsread Heights, as recorded in Plat Book “J”, Pg. 115 of the PROCFL; RUN S89°20’40” W, a dist of 25 ft to the centerline of the r/w of Baffie Ave a 50’ r/w ; run th N00°39’20”W, a dist of 50 ft along the centerline of sd r/w Baffie Ave; run th N89°20’40”E a dist of 12.31 ft to the SE cor of the property recorded in OR Book 0904, Pg. 4154 of the PROCFL sd. cor being the W r/w I-4; th 22°39’40”E, a dist of 33.87 ft along W r/w of Line of I-4; run th S00°39’20”E, a dist of 18.6 ft to POB.
SECTION 2. This ordinance shall become effective 31 days after adoption. If this Ordinance or the related companion Ordinance amending the Comprehensive Plan for this property is challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption, it will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance with Chapter 163, Florida Statutes.

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 _____________, 2012.

__________________________________________
Mayor

Attest:

__________________________________________
City Clerk
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE EAST HALF OF THE RIGHT OF WAY OF BAffIE AVENUE LYING WEST OF 600 BAFFIE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN BUT RETAINING AND RESERVING TO THE CITY A UTILITY EASEMENT OVER THE ENTIRE AREA THEREOF.

NOW, THEREFORE, BE IT ENACTED as follows:

Section 1. The City Commission of the City of Winter Park hereby vacates and abandons the east half of the right-of-way of Baffie Avenue lying west of 600 Baffie Avenue, but retaining and reserving to the City a utility easement over the entire area thereof, more particularly described as follows:

Beg @ the Sw cor of Lot 6, Blk “A”, Dubsdread Heights, as recorded in Plat Book “J”, Pg. 115 of the PROCFL; RUN S89°20’40”W, a dist of 25 ft to the centerline of the r/w of Baffie Ave a 50’ r/w; run th N00°39’20”W, a dist of 50 ft along the centerline of sd r/w Baffie Ave; run th N89°20’40”E a dist of 12.31 ft to the SE cor of the property recorded in OR Book 0904, Pg. 4154 of the PROCFL sd. cor being the W r/w I-4; th 22°39’40”E, a dist of 33.87 ft along W r/w of Line of I-4; run th S00°39’20”E, a dist of 18.6 ft to POB.

Section 2. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall become effective immediately upon its final passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, on the ______ day of ______________, 2012.

__________________________________________
Mayor

ATTEST:

__________________________________________
City Clerk
REQUEST OF MI TOMATINA RESTAURANT FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING REGULATIONS" SECTION 58-86 "OFF-STREET PARKING REGULATIONS" TO EXPAND THE HANNIBAL SQUARE PARKING EXCLUSION DISTRICT TO INCLUDE THE RESTAURANT PROPERTY AT 433 W. NEW ENGLAND AVENUE IN ORDER TO PERMIT A 59 SEAT EXPANSION TO THAT RESTAURANT, PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

This public hearing is a request for a zoning text amendment from the Mi Tomantina restaurant at 433 W. New England Avenue to expand the "Hannibal Square parking exclusion area" so that they may add 59 seats to their existing 91 seat restaurant without providing the additional 20 parking spaces required by the current code.

Parking Code for the CBD and Hannibal Square:

The zoning code contains the parking requirements for various businesses and uses. Historically, the core of the Central Business District/Park Avenue area and the original Hannibal Square commercial district was developed at a time when no parking was required for the buildings and businesses. In those early days, it was viewed as the City's obligation to provide public parking for the downtown CBD and Hannibal Square district. So over time, most of the buildings in those areas were constructed with little or no parking. In the early 1970's it was obvious and that the City could not 'keep-up' with providing public parking to meet the these needs and the zoning code was changed to 'grandfather-in' the floor space of existing buildings within these defined areas but any new buildings or building expansions creating new floor space would need to meet the parking requirements.

In the Hannibal Square parking exclusion area, the buildings grandfathered-in are the ones along New England Avenue from Pennsylvania Avenue, to just past the Hannibal Square, East street. (See attached map) On the north side of New England Avenue, the parking exclusion area ends at Armando's restaurant. Mi Tomantino is next door.

History of the Parking Garage:

The six level parking garage at Lyman Avenue and Hannibal Square, East was built to meet the code parking requirements for many of the building
projects that are outside of the Hannibal Square parking exclusion area where the full parking code requirements had to be satisfied. The City granted a height variance for the parking garage allowing the upper level in order to maximize the yield of parking from that project. However, in return the City maintains, via recorded Development Agreement, the absolute control over the operation and function of the parking garage. The goal is to make sure that there is free use of the parking garage (no parking fees can be charged) and to insure that any signage reserving parking spaces for tenants is done only with city approval. In this way, parking can be available particularly at night, when needed by the restaurants that may otherwise be used during the day by retail/office tenants.

**Mi Tomantina Request:**

The Mi Tomantina restaurant at 433 W. New England Avenue is the next space just east of Armando’s and just outside the parking exclusion area. They are asking the City to revise the physical description of the Hannibal Square parking exclusion area so that they may add 59 seats to their existing 91 seat restaurant without providing the additional 20 parking spaces required by code. The restaurant would then be 150 seats which is the minimum number of seats required in order to have liquor sales in addition to beer and wine based on the State license criteria. Thus, the economic benefit would be both the expanded seating and the ability to serve liquor drinks in addition to beer and wine.

To offset the impact on the parking, the building owner cites the formal recorded easement that exists which permits parking within the parking garage. This works in conjunction with the City’s development agreement for the parking garage. To the extent that this request results in additional patrons/parking needs, the parking garage is available.

**Staff Analysis:**

At the current time no more than one-third of the parking garage is used even at peak weekend night times. No one knows when the buildings within the Hannibal Square area become fully leased out what the ultimate perception of parking will be. Due to the economy, there is much vacant commercial and office tenant space. However, the City control over the function and operation of the parking garage and the easement benefiting other buildings will insure that there is free flow and maximum utilization of parking inside the garage. In addition, because people are reluctant to use the parking garage the CRA has leased and created the surface parking lot adjacent Mt. Moriah Baptist Church. Obviously the City cannot make this a precedent and pattern for business expansions without providing parking. However, in this one instance, it seems to staff as something that can be done to assist in these economic times without undue hardship.

**STAFF RECOMMENDATION IS FOR APPROVAL**
Hannibal Square Parking Exclusion Area

- Original lots included in the exclusion area.
- New lot (portion of 433 W. NewEng.) to be added.
302205940041140 05/20/2006

Armando's

Mi Tomatina Restaurant

433 W. New England Ave
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE III, “ZONING REGULATIONS” SECTION 58-86 “OFF-STREET PARKING REGULATIONS” TO EXPAND THE HANNIBAL SQUARE PARKING EXCLUSION DISTRICT TO INCLUDE THE PROPERTY AT 433 W. NEW ENGLAND AVENUE, PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board of the City of Winter Park has recommended approval of this Ordinance at its August 7, 2012 meeting; and

WHEREAS, the City Commission of the City of Winter Park held duly noticed public hearings on the proposed zoning change set forth hereunder and considered 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’s Comprehensive Plan.

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

SECTION 1. That Chapter 58 “Land Development Code”, Article III “Zoning” is hereby amended and modified by amending Section 58-86 “Off-Street Parking and Loading Regulations”, subsection (2) and (a) to read as follows:

Sec. 58-86. Off-Street Parking and Loading Regulations.

(2) Hannibal Square district exclusion.

a. The following described area shall be known as the Hannibal Square district for the provisions of off-street parking spaces and shall be exempt from furnishing parking spaces and shall be exempt from furnishing parking facilities as required by this article. The Hannibal Square district shall include Lots 5-10, Block 42, Lots 11-13 and the west 50 feet of Lot 14, Block 41, Lots 1-6 and 11-12, Block 54 and Lots 8-10, Block 55, Town of Winter Park according to the plat thereof recorded in Public Records of Orange County, Florida.

SECTION 2. SEVERABILITY AND CONFLICTS. 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. 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 immediately upon its final 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 ____________________, 2012.
Dear Sirs,

We are would like to renovate the existing deck to the rear of our restaurant in an effort to expand and be on an equal footing with the other restaurants in Hannibal Square. Therefore, we are asking that you consider expanding the Hannibal Square Parking Exclusion area to include 433 W. New England Ave., Suite A.

Sincerely,

Stuart Kirban,
Managing Partner
CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION

Staff Report
August 7, 2012

REQUEST OF NEW HOPE BAPTIST CHURCH FOR: CONDITIONAL USE APPROVAL TO OPERATE A CHILDREN'S DAY CARE FACILITY ON THE CHURCH PROPERTY AT 274 N. CAPEN AVENUE, ZONED (R-2).

The public hearing is a request from the New Hope Baptist Church for Conditional Use approval to add two buildings to their property and use those for a children's day care facility on the Church grounds at 274 N. Capen Avenue, which is zoned R-2. Churches are a conditional use and the zoning code says specifically that "churches may not operate day nurseries, kindergartens or schools without first receiving conditional use approval for this use".

The New Hope Baptist Church is located on a property of 28,700 square feet and the 4,200 sq. ft. existing Church building sits about in the middle of the site. This leaves open unstructured grass parking areas on both the north and south sides of the Church building. (See aerial attached)

The site plan indicates the layout of the two new buildings (which are former OCPS modular classroom buildings) to be set-up on the north side of the Church building. The new buildings meet the zoning setbacks from the adjacent properties and no variances are requested. A new circular drive for drop-off and pickup is planned as well as some parking for parents doing the drop-off and pick-up walk-ins. Staff will park in the area to the south of the Church. The Church building is the location of the restrooms and kitchen.

Children's day care fills a social need and fits in with the mission of churches. The existing day care facilities in the neighborhood are at the Church of God by Faith – 14 children (just to the south at 800 Symonds) and at the Welbourne Day Nursery – 28 children (450 W, Welbourne). Neighborhood residents also use the Winter Park Day Nursery – 70 children (741 S. Pennsylvania). The latter two are more competitive with rates as they receive support from United Way for those in economic need. The student/children numbers are included (above) to illustrate that there is likely to be only a modest number of children attending this day care. The traffic impacts of day care are also very modest. You have the drop-off and pick-up but for day care versus schools that is spread out over the morning and evening hours so there is never any “traffic line” with day care, like with schools.

STAFF RECOMMENDATION IS FOR APPROVAL
New Hope Missionary Baptist Church of Winter Park, Inc.

To The City of Winter Park, Florida

To Whom It May Concern:

We, the undersigned residents of Winter Park, Florida, are in support of New Hope Missionary Baptist Church of Winter Park, Inc. plans to house a “Day Care and Learning Center” up to K-5 in temporary portable units on their properties.

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<thead>
<tr>
<th>Signature</th>
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<tbody>
<tr>
<td>Alvina Lily</td>
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<td>Mary Ellen Scott</td>
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REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE OF WINTER PARK, FLORIDA, CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V, "ENVIRONMENTAL PROTECTION REGULATIONS" DIVISION 6, "TREE PRESERVATION AND PROTECTION" SO AS TO AMEND TREE REMOVAL COMPENSATION REQUIREMENTS, AMEND USE OF THE TREE REPLACEMENT FUND, PROVIDE EXEMPTION FROM REQUIRING A TREE REMOVAL PERMIT, AND ESTABLISH ENFORCEMENT PROCEDURE FOR REMOVING HAZARDOUS TREES; PROVIDE FOR CODIFICATION, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

With the permission of the City Commission, over the last several months, the Tree Preservation Board reviewed the City’s current Tree Preservation Ordinance, including the process of tree removal permits, method(s) of compensation for removal of protected trees, uses of the Tree Replacement Trust Fund and others areas recommended by staff that needed fine tuning. The Board completed their review with the unanimous approval of an ordinance incorporating proposed changes to the current Tree Preservation Ordinance. This Ordinance comes to the Planning Board because P&Z is charged with making recommendations on “all matters dealing with the development of land in the city”.

Summary of the Changes:

The following items summarize the proposed changes in the Ordinance:

Sec. 58-284. - Tree removal permits (b)  
Staff initiated to clarify when a tree removal permit is NOT required:

Exception: The removal of protected trees that fall or the removal of limbs of protected trees which have fallen due to acts of nature such as storms, fire or natural decay shall not require a tree removal permit.

Sec. 58-286 Tree removal permit procedure  
(d)Appeals.

Board initiated to allow City Commission to set schedule of fees related to tree replacement compensation rather than automatically imposing a
rate of 1 ½ times the replacement compensation established in the ordinance.

Sec. 58-287. - Tree replacement and financial compensation requirements.

(1) Tree replacement

**Board initiated** to encourage tree re-planting rather than paying compensation by required prescribed sizes and numbers of replacement trees based on the size of the protected tree(s) being removed. If the applicant may choose to provide actual tree replantings, financial compensation or a combination of both with fees determined by the Schedule of Fees adopted by the City Commission.

Protected trees requested to be removed and not deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree or trees as follows:

a. Replacement of non-specimen protected trees shall require replacement by one or two trees with a dbh equal to or greater than three inches based on the dbh of the tree to be removed. If the dbh of the tree to be removed is less than 19 inches then one replacement tree is required to be replanted. If the dbh of the tree to be removed is less than 24 inches then two replacement trees are required to be replanted, be based on a one-to-one (1:1) ratio of the cumulative dbh of the protected trees removed.

b. Replacement of specimen trees shall require replacement by four (4) trees with a dbh equal to or greater than three inches. Two of the trees may be replaced by one tree with a dbh of at least 4 ½ inches, be based on a two-to-one (2:1) ratio of the cumulative dbh of the protected tree(s) removed.

c. Replacement of an historic tree shall require replacement by two (2) trees with a dbh equal to or greater than four and one half inches.

d. Multiple understory trees may be approved as replacement trees with a cumulative caliper of at least six inches and shall be planted on the same property where the tree was removed. Replacement of historic trees shall be based on a three-to-one (3:1) ratio of the cumulative dbh of the protected tree(s) removed.
(2) **Financial compensation.** Caliper inches not planted as replacement trees are to be compensated by payment to the tree replacement trust fund at a rate per caliper-inch set by the city commission in the schedule of fees. Compensation shall equal the rate per caliper inch set by the city commission in the schedule of fees multiplied by the caliper inches of protected trees removed. When the cumulative caliper inches of replacement trees is insufficient to meet the replacement requirements referenced in (a) below, financial compensation shall be paid to the tree replacement trust fund.

a. Compensation is established in the schedule of fees and shall be dispersed per section 58-239 “Tree replacement trust fund”.

Sec. 58-289. - Tree replacement trust fund.

**Board initiated** to limit use of fund as indicated below:

(a) There is hereby created a tree replacement trust fund. All funds collected as tree replacement fees shall be administered by the director of parks and recreation or designee.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

(1) Purchasing trees for planting and any associated costs in accordance with the city’s tree planting program; or

(2) Purchases necessary for improvements (except vehicles), including contract services for the city’s tree nursery or, For educational purposes as provided in Section 58-283(d)(7).

(3) Protection of trees and enforcement of this ordinance.

(c) Fees for the tree replacement trust fund are established by the city commission in the schedule of fees.

**GW Note:** The Board made a recommendation that the fee for Tree Preservation Board appeals be reduced from $100 to $35.

**STAFF RECOMMENDATION IS FOR APPROVAL**
ORDINANCE NO. ___

AN ORDINANCE OF THE OF WINTER PARK, FLORIDA, CHAPTER 58 “LAND DEVELOPMENT CODE” ARTICLE V, “ENVIRONMENTAL PROTECTION REGULATIONS”, DIVISION 6, “TREE PRESERVATION AND PROTECTION”, SO AS TO AMEND TREE REMOVAL COMPENSATION REQUIREMENTS, AMEND USE OF THE TREE REPLACEMENT FUND, PROVIDE EXEMPTION FROM REQUIRING A TREE REMOVAL PERMIT, AND ESTABLISH ENFORCEMENT PROCEDURE FOR REMOVING HAZARDOUS TREES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Tree Preservation Board has considered and unanimously approved amendments to the Tree Ordinances;

WHEREAS, the City’s Planning and Zoning Board reviewed these amendments and found them consistent with the City’s Comprehensive Plan;

WHEREAS, the City Commission hereby approves these amendments as in the best interests of the citizens; and

WHEREAS, words with underlined type shall constitute additions to the original text and strike through 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 ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 “Land Development Code,” Article V “Environmental Protection Regulations” of the Code of Ordinances is hereby amended and modified by amending Sections 58-284(b), 58-286(d), 58-287, 58-289(b), and adding a new subsection (e) to 58-300, to read as follows:

Sec. 58-284. - Tree removal permits

* * *

(b) Trees requiring tree removal permits. It shall be unlawful to cut down, destroy, improperly prune, remove, top, or move any protected or replacement tree, or to authorize the cutting down, destruction of, removal of, toping of, moving of, or damage to, any protected or replacement tree within the city, without prior issuance by the city of a tree removal permit approving the act or acts, or a removal authorization by the city, as further described in this division; provided,
however, that these requirements do not apply to trees specifically designated as exempt from this division in section 58-284.

Exception: The removal of protected trees that fall or the removal of limbs of protected trees which have fallen due to acts of nature such as storms, fire or natural decay shall not require a tree removal permit.

For all properties, any protected tree, excluding those exempted in subsection 58-284(a) or (b), shall require a permit prior to removal. Removal of any protected tree that is determined to be dead, beyond recovery or hazardous by the city shall require a tree removal permit, except as provided herein. In case of an emergency a tree may be removed as authorized by the city. (See section 58-283).

* * *

Sec. 58-286 Tree removal permit procedure

* * *

(d) Appeals.

* * *

(4) If the city commission upholds the decision of the tree preservation board to deny granting a tree removal permit, then the applicant may ultimately remove the subject tree(s) after a 60-day period and after notification of the intent to remove the subject tree(s) at the end of the 60-day waiting period in writing. Replacement compensation shall be provided at the rate of 1½ times the in accordance with the replacement compensation required in section 58-287. Removal of subject tree(s) prior to the end of the 60-day period shall require the same compensation as an unpermitted tree removal. (see section 58-299).

* * *

Sec. 58-287. - Tree replacement and financial compensation requirements.

Conditions for approval of a tree removal permit shall include tree replacement, and/or financial compensation, or a combination of tree replacement and financial compensation.

Tree replacement may be made in the form of planting replacement tree(s) on the subject property, or other property within city limits, or public property with city approval, in accordance with the following criteria:
(1) **Tree replacement.** Protected trees of any dbh requested to be removed because they are deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree having a minimum caliper of three inches.

Protected trees requested to be removed and not deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree or trees as follows:

a. Replacement of non-specimen protected trees shall **require replacement by one or two trees** with a dbh equal to or greater than three inches based on the dbh of the tree to be removed. If the dbh of the tree to be removed is between 9 and 19 inches, then one replacement tree is required to be replanted. If the dbh of the tree to be removed is between 20 and 24 inches, then two replacement trees are required to be replanted, be based on a one-to-one (1:1) ratio of the cumulative dbh of the protected trees removed.

b. Replacement of specimen trees (over 24 inches) shall **require replacement by four (4) trees** with a dbh equal to or greater than three inches. Two of the trees may be replaced by one tree with a dbh of at least 4 ½ inches be based on a two-to-one (2:1) ratio of the cumulative dbh of the protected tree(s) removed.

c. Replacement of an historic tree shall **require replacement by two (2) trees** with a dbh equal to or greater than four and one half inches. Replacement of historic trees shall be based on a three-to-one (3:1) ratio of the cumulative dbh of the protected tree(s) removed.

d. Multiple understory trees may be approved as replacement trees with a cumulative caliper of at least six inches and shall be planted on the same property where the tree was removed.

e. d. No single replacement shade tree shall have a caliper of less than three (3) inches. No single replacement understory tree, if approved, shall have a caliper of less than two inches.

f. e. If understory trees are approved as replacement, the caliper inches required shall be double that required when using approved shade trees.

f. At least one tree used for replacement of each specimen tree or historic tree shall have a caliper of no less than 4½ inches.

g. Tree replacement may be made in the form of planting replacement tree(s) on the subject property or other property within city limits or public property with city approval.

h. Any tree removed from a non-R1 or R2 property that removes the property’s compliance with the Division 8, Landscape Regulations needs to be replanted on the property.
h. Replacement trees may count toward meeting the planting requirements of Division 8, Landscape Regulations.

i. All replacement trees shall adhere to the current guidelines established by the Florida Grades and Standards for nursery-grown trees and must be Florida grade #1 or better. Replacement trees shall be installed with their top main root one inch above the surrounding grade.

j. Replacement tree(s) shall be maintained and warranted to survive for a period of one year from installation. Trees not deemed to have satisfactorily survived shall be replaced with new tree(s) of the same size. Replacement tree(s) shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of replanting. In the event that a tree planting is approved on public property or city rights of way, maintenance fees, as established by the city commission, may be assessed as part of the permit process.

k. Minor deviations regarding the required replacement trees in this section may be allowed by the city based on the condition of the tree(s) being removed and other conditions that exist on the subject property.

(2) Financial compensation. Caliper inches not planted as replacement trees are to be compensated by payment to the tree replacement trust fund at a rate per caliper inch set by the city commission in the schedule of fees.

Compensation shall equal the rate per caliper inch set by the city commission in the schedule of fees multiplied by the caliper inches of protected trees removed.

When the cumulative caliper inches of replacement trees is insufficient to meet the replacement requirements referenced in (a) below, financial compensation shall be paid to the tree replacement trust fund.

a. Compensation is established in the schedule of fees and shall be dispersed per section 58-289, "Tree replacement trust fund".

b. In the event that a tree planting is approved on public property or city right of ways, maintenance fees as established by the city commission may be assessed as part of the permit process.

c. A stop work order may be issued for any development or active construction project until all applicable permit compensation conditions are satisfied.

c. d. The certificate of occupancy or certificate of completion shall not be issued for any development until all applicable permit conditions have been satisfied.
Sec. 58-289. - Tree replacement trust fund.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

1) Purchasing trees for planting and any associated costs in accordance with the city's tree planting program; or
2) Purchases necessary for improvements (except vehicles), including contract services for the city's tree nursery or, for educational purposes as provided in Section 58-283(d)(7).
3) Protection of trees and enforcement of this ordinance.

Sec. 58-300 Enforcement and Authority to Enforce this Division

(e) Failure to remove or otherwise make safe any hazardous or dead tree (protected or unprotected) shall constitute a violation of this Article and will result in giving notice to the owner or the agent of the owner an order to correct the violation by either removing the entire tree or hazardous limb(s) of the tree or the City will take the necessary action to remove the tree or hazardous limb(s) of the tree and assess all costs incurred by the City to the owner of the property plus an administrative fee as established under the City's Schedule of Fees as determined by the City Commission. Where the full amount due the City is not paid by such owner or agent of the owner within 30 days after invoicing the owner for removing the hazardous or dead tree or limb(s) such charges shall be declared a lien on the property. In addition, nothing shall prevent the City from pursuing other legal courses of action to correct the violation, including referring the matter to the Code Enforcement Board. Additionally, appeals of an order to remove a tree or hazardous limb(s) of a tree will be heard by the Tree Preservation Board and must be filed with the City within 30 days of receipt of notice or within 30 days of posting the property with a notice to remove the tree or hazardous limb(s). An appeal must include payment of required fee and provision of documentation verifying the health of the tree and any other information which will justify removing the order to remove the tree or hazardous limb(s). Appeals of the decision of the Tree Preservation Board on this matter shall be taken to the Code Enforcement Board.
SECTION 2. 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 3. All ordinances or portions or ordinances in conflict herewith are hereby repealed, any part of this ordinance declared to be unlawful by any court shall not constitute repeal of the remainder of the ordinance.

SECTION 4. 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 5. This ordinance shall become effective immediately upon its final 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 ________________, 2012.

Mayor Kenneth W. Bradley

ATTEST:

__________________________________
City Clerk