CITY OF WINTER PARK
PLANNING AND ZONING COMMISSION

Staff Report
March 5, 2013

REQUEST OF WINTER PARK TOWN CENTER DEVELOPMENT LLC,
FOR: FINAL CONDITIONAL USE APPROVAL TO CONSTRUCT A FOUR STORY, 206 UNIT RESIDENTIAL PROJECT AND TO CONSTRUCT A PARKING GARAGE OF APPROXIMATELY 300 SPACES ON THE PROPERTY AT 940 W. CANTON AVENUE.

Winter Park Town Center Development LLC is requesting “final” conditional use approval for their 204 unit residential building project pursuant to the “preliminary” conditional use provided by the City Commission on September 24, 2012 on the property at 940 W. Canton Avenue. The “preliminary” conditional use was recommended for approval by the Planning Board on September 11, 2012.

The Approval Process:

Per city code, the public hearings advertised for the conditional use review and approval in September were for the “preliminary” CU approval per code. The “final” CU approval per code is the action to review compliance with the original approval and to review the final landscaping, drainage and lighting details, as well as the Development Agreement.

The New “Final” Plan Submittals:

This “final” conditional use provides more complete details on the project architectural details and utilities as well as four new plan details for review:

1. Landscape Plan – the specific landscape plan for the project is attached. It meets the city code requirements pursuant to the conceptual site plan approved in September but some of the new tree details have changed. Originally the perimeter of the site was to be exclusively oak trees but it was recognized that in the small (15 foot) setback areas on the western border and on the southern border by the parking garage, there is not sufficient area for oak trees to prosper. So the trees specified for those areas are now 18 new magnolia and red cedar trees that are better suited for those confined spaces. However, where space exists along the southern border and along the Denning Drive and Canton Avenue frontages, there are 28 new live oak trees planned to be added.
2. Storm Water Drainage Plan – the specific method of meeting the City and St. Johns River Water Management District drainage criteria was decided by the City Commission on January 14th. The City Commission accepted the proposal from the CNL Heritage Park office project and for this Casto/Epoch apartment project to allow the Lake Mendsen within Lake Island Park to be increased in water surface and volume area to provide the required retention. In return, the two projects will pay the City $100,000 to be used for a wedding pavilion to enhance the wedding business at the Civic Center. Each project will have an on-site filtration collection box to screen and remove the debris in the storm water runoff prior to its conveyance down to Lake Mendsen for the retention aspect. The agenda package from that January 14th City Commission meeting and their minutes are attached.

3. Parking Garage Lighting – The plans contemplate the same lighting design for the roof of the parking garage as was utilized on the Winter Park Towers and SunTrust parking garages. Basically those are smaller light pole heights (14 feet) and fixtures that direct the light downward to minimize light spread. This design has been successful at those two locations.

4. Signage – This final conditional use stage is also when the signage package is approved and those sign details are provided. (Typically the developer doesn’t know the signage package at the ‘preliminary’ stage) There are two ground monument signs, one at the southern border of the site on Denning Drive and the second one at the corner of Denning and Canton. The code relates to the “signable area” and not the area of the columns, the base or other architectural features. The proposed sign faces are 33 square feet which is larger than the 12 square feet permitted by the R-4 residential zoning. The developers are requesting an “exception” for the larger sign face area.

Staff is OK with the proposal but it needs the “exception” as permitted by Sec. 58-90: “In order to streamline the development plan approval process, the city commission in the approval of conditional uses may also grant limited exceptions from the terms of this article. Those exceptions shall be limited to the size and height of accessory structures such as walls, fences and signs and shall also be limited to site and building design features involving the number of parking spaces, the location of storm water retention facilities, building setbacks, building lot coverage and building height.”

The rationale is that that this property was zoned office (O-1) which permitted up to a 36 sq. ft. sign face, when it was zoned O-1. Proposed sign size is 33 sq. ft. The rezoning to R-4 took it down to 12 sq. ft. So the applicants had the right for 36 sq. ft. previously. The CNL ground sign can be 36 sq. ft. This site is 4.36 acres, 204 aps. and on a four lane road, etc. So the size seems appropriate to the staff in this context and location.
As information, both the CNL Heritage Park office project and this project are paying to underground the electric utility lines that exist along the Denning Drive frontages. That will greatly enhance the aesthetic appeal of both projects.

There is a draft Development Agreement attached. There are no special conditions or restrictions on this project. The Development Agreement only includes the project entitlements that have been approved and the exceptions from the Code approved with the “preliminary” plans or being done at this “final” conditional use stage for the signage package.

**Summary and Recommendation:**

The “final” conditional use submittals have addressed the requirements of a “final” conditional use approval package. The parking garage roof lighting plans will be submitted with the building permit package but will conform to the parameters outlined in this staff report.

**STAFF RECOMMENDATION IS FOR APPROVAL OF THE “FINAL” CONDITIONAL USE**
Parcel ID: 292201360401000 (Rng-Twn-Sec format)
This map is for reference only and is not a survey.
Parcel ID: 292201360401000 (Rng-Twn-Sec format)

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

Created on 8/30/2012, Copyright 2007. Orange County Property Appraiser.

http://paarcgis.ocpafl.org/Webmap4/Print_Map_Only.aspx?&pin=292201360401000&id=... 8/30/2012
Discussion of use of the lake (Lake Menden) at Martin Luther King, Jr. Park for storm water from the CNL and Casto properties.

Accept or reject the proposal from CNL and Casto. If the Commission accepts the proposal, or approves it with modifications, authorize the Mayor to execute an agreement approved by the City Attorney containing the deal terms and authorize staff to approve the final excavation plan to minimize park impacts.

City staff has been approached by the developers of both the CNL property and the Casto property on Denning Drive to determine if the City would be willing to partner with them on storm water runoff related to their projects. Under their proposals, the developers would each pay the City $40,000 (for a total of $80,000) in exchange for the right to expand the lake in MLK, Jr. Park to accommodate the storm water runoff from their projects. Attached is a copy of the request and a depiction of how they would propose meeting the storm water retention needs.

While staff has some reservations (discussed below) about the impact of the expansion of the lake for this purpose, there has been a long time desire by the Parks Department to construct a gazebo or pavilion near the lake behind the Civic Center to serve as a wedding venue. Staff has suggested to the developers that $50,000 each might be more in line with what such an amenity would cost however that project has neither been designed nor priced at this point.

The concerns raised by Staff are as follows:
- The Parks and Recreation Advisory Board has not addressed the issue to date.
- The enlargement of the lake as proposed would reduce the usable area of the park land by approximately 21,200 square feet.
- The dredging, loading and hauling during the construction phase will impact other park uses. This will last approximately 90 days. How the equipment accesses the construction site could also be an issue.
- The actual cost of the wedding pavilion is unknown at this time.
- While both the Casto and CNL properties are part of the basin that currently drains to this lake, there is concern that there could be a slight reduction in water quality as a result of this project.
- The City works closely with the Florida Fish and Wildlife Conservation Commission on lake management. Lake Menden is considered an "Urban Pond" by the FFWC and is stocked annually for public fishing and our “Test the Waters” fishing tournament. The removal and reestablishment of existing shoreline will certainly cause turbidity and sediment impacts on the pond which may affect the Florida Fish and Wildlife Conservation Commission assistance with
the "Urban Pond" management.

Both developers have viable options to put the storm water retention on their respective sites, however the option of putting it in to Lake Menden would save them money and provide some other on site flexibility. It is staff's understanding that both projects will still go forward regardless of the Commission's decision on this issue.

CNL is under a tight timeframe for a decision as their project is already underway and they need to finalize their storm water treatment design. If the Commission approves this request they will still have to go through permitting with the St. Johns River Water Management District which will take between 60 and 90 days.

If approved, staff would like the opportunity to refine the dredging plan to reduce park impacts and improve the usability of the lakeshore area.

**fiscal impact**

The storm water project might impact the ability for some rentals during the construction phase.

**long-term impact**

The addition of a wedding venue would provide additional ongoing revenues as a rental facility.

**strategic objective**

- n/a
CASTO AREA NEEDED: 9,000 SQ. FT.
CNL AREA NEEDED: 12,200 SQ. FT.
COMBINED AREA NEEDED: 21,200 SQ. FT.
AREA PROVIDED: 21,225 SQ. FT.
MEMORANDUM

To: Paul Rutledge – CASTO Southeast
Thom Cunningham – CNL Commercial Real Estate, Inc.

From: Rick V. Baldocchi, P.E.

Date: January 7, 2013

Reference: Joint Stormwater Use of Lake Island
The Residences at Winter Park Village (CASTO)
Heritage Park (CNL)

We have been involved in on-going discussions with CASTO Southeast, CNL Commercial Real Estate, Inc., the City of Winter Park, and St. John’s River Water Management District related to the use of Lake Island for stormwater treatment for The Residences at Winter Park Village (CASTO) and/or Heritage Park (CNL). A proposed concept is scheduled to be presented to The City of Winter Park Commission on January 14, 2013.

A summary of the current proposal is outlined below:

1. The Lake Island pond will need to be expanded to accommodate water quality treatment in accordance with St. John’s River Water Management District (SJRWMD) and city codes. The existing Lake Island is currently permitted as a retention pond with SJRWMD and provides partial treatment to the two sites referenced, plus additional areas to the northeast. The proposed expansion, per SJRWMD, will need to increase the treatment volume for 100% of the proposed development requirements, which the design does.

2. Based on preliminary calculations and historical survey information, the estimated amount of excavation required is 1000 cubic yards for The Residences at Winter Park Village, and 1300 cubic yards for Heritage Park for ratio of 44% to 56% respectively.

3. The area being proposed for expansion is conceptually shown on the attached exhibit. The areas may be revised after final survey and all parties understand the final design plans will be coordinated with City Staff to avoid impacts to existing utilities, pumping systems, outfall structures, etc, and any unnecessary costs.

4. In exchange for use and expansion of the Lake Island retention pond, each developer has offered $40,000 ($80,000 total) to the City of Winter Park. City staff has noted that their goal is to construct a gazebo in the park to accommodate wedding parties and City staff has estimated that cost to be
approximately $100,000 and has requested each developer to increase their contribution accordingly, which they may allocate between themselves differently.

5. If approved by Commission on January 14, 2013, the basic agreements would need to be executed by January 21, 2013, in order to meet time constraints based on the schedule of Heritage Park.

6. The City planner has confirmed that approval of the use of Lake Island pond for stormwater would not require an amendment to the Final Conditional Use Permit for Heritage Park.

7. Each party (CASTO and CNL) would make their payment directly to the City prior to receiving the Certificate of Occupancy for their respective projects.

8. The construction of the expanded pond will be completed by August 1, 2013 and will be coordinated with City staff to minimize impacts to existing park operations and events.

9. Additional topographical survey information will be required and CASTO and CNL agree to split proportionally these costs, and all cost to date.

10. Construction cost will be proportioned to each development based on the volume of excavation required for each development determined after final design is complete (current estimate is 56% CNL and 44% CASTO).

This memo is a general understanding to allow both parties to present the concept to the City of Winter Park Commission. Final agreements will need to be implemented to further define each party’s arrangement with each other and the City of Winter Park.

End of Memo
Public Comment

Lisa Coney, 1350 W. Fairbanks Avenue, commented on the City’s election process.

Mary Randall, 1000 South Kentucky Avenue, provided precautionary measures to try and avoid the flu epidemic.

Shay Silver, 735 Pansy Avenue, inquired if citizens would be permitted to make a monetary donation to be used to seek outside legal counsel to gain a better understanding on election campaign laws.

e. Discussion regarding use of Lake Mendsen for stormwater from CNL and Casto properties

Commissioner McMacken recused himself from voting due to a conflict of interest; see Form 8B attached.

City Manager Knight explained that staff has been approached by the developers of both the CNL property and the Casto property on Denning Drive to determine if the City would be willing to partner with them on stormwater runoff related to their projects. Under their proposals, the developers would each pay the City $40,000 (for a total of $80,000) in exchange for the right to expand the lake in Martin Luther King, Jr. Park to accommodate the stormwater runoff from their projects. While staff had some reservations about the impact of the expansion of the lake for stormwater purposes there has been a long time desire by the Parks Department to construct a gazebo or pavilion near the lake behind the Civic Center to serve as a wedding venue. Staff has suggested to the developers that $50,000 each might be more in line with what such an amenity would cost; however, that project has neither been designed nor priced at this point.

City Manager Knight advised that if approved, staff would like the opportunity to refine the dredging plan to reduce park impacts and improve the usability of the lakeshore area.

Rebecca Wilson of the Lowndes, Drosdick, Kantor and Reed Law Firm, spoke on behalf of the applicant. She introduced the project team and provided a brief summary regarding the request.

Rick Baldocchi, representing Avcon Inc., Civil Engineer on the project, provided more detail regarding the proposed stormwater runoff concept and answered questions.

City Manager Knight noted that staff has been working with Mr. Baldocchi this past week to finalize the pond/lake configuration. Mr. Baldocchi then presented staff’s recent recommendation to the Commission.
Commissioner Cooper felt this item should go to Lakes Advisory Board since they are charged with the responsibility of maintaining and approving issues related to the exfiltration/drainage of lakes. She also mentioned that when the State Office Building/Progress Point negotiations were being discussed she inquired as to what the cost would be to have the same underground exfiltration system installed on the Progress Point site and what the value would then be for that property. She noted that no cost analysis and/or value has been provided to date and asked that this item be tabled until that information is presented.

Following a brief discussion, a motion was made by Mayor Bradley to approve the request for $100,000 and give staff the latitude to have the least impact on the pond; seconded by Commissioner Sprinkel.

Motion amended by Commissioner Cooper that it first has a value assessment by staff prior to setting a dollar value on the approval. Motion failed for lack of a second.

Motion amended by Commissioner Cooper to table until such time as the Lakes Advisory Board reviews it. Motion failed for lack of a second.

No public comments were made.

Upon a roll call vote, Mayor Bradley and Commissioner Sprinkel voted yes. Commissioner Cooper voted no. The motion carried with a 2-1 vote. (Commissioner McMacken recused himself from voting.)

Public Hearings

a. Request of Atlantic Housing Partners, LLLP:

**ORDINANCE NO. 2901-13:** 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 High Density Residential on the Property at 861 West Canton Avenue, More Particularly Described Herein; Providing for Conflicts, Severability and Effective Date. Second Reading

**ORDINANCE NO. 2902-13:** 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 Change the Zoning Designation of Single Family (R-1A) District to Multi-Family (High Density R-4) District on the Property at 861 West Canton Avenue, More Particularly Described Herein; Providing for Conflicts, Severability and Effective Date. Second Reading

Attorney Brown read both ordinances by title. Since this was a quasi-judicial proceeding, communications were disclosed. Mayor Bradley noted that when
WINTER PARK VILLAGE RESIDENTIAL DEVELOPMENT AGREEMENT

THIS WINTER PARK VILLAGE RESIDENTIAL DEVELOPMENT AGREEMENT ("Agreement") is entered into this ___ day of ________________, 2013, by Winter Park Town Center Development LLC, a Florida limited liability company (hereinafter referred to as “OWNER”), having an address of 5391 Lakewood Ranch Boulevard, Suite 100, Sarasota, Florida 34240 and the City of Winter Park, a Florida municipal corporation (hereinafter referred to as “CITY”), having an address at 401 Park Avenue South, Winter Park, Florida 32789.

WHEREAS, OWNER is the owner of certain real property located at 940 W. Canton Avenue, Winter Park, Florida and further described on Exhibit “A” which is incorporated herein and made a part thereof (the “Subject Property”);

WHEREAS, in accordance with the Winter Park Land Development Code, OWNER has received approval of a Conditional Use Permit (“CUP”) which permits the development of a four (4) story 204 unit residential project with an associated four (4) level parking garage (together, the “Project”); and

WHEREAS, the parties desire to enter into this Agreement to more specifically set forth the conditions and restrictions with respect to the Project and the CUP.

NOW THEREFORE, in consideration of Ten Dollars and no/100 ($10.00), each in hand paid to the other and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and are hereby incorporated herein.

2. **Conditional Use Permit.** The City grants CUP approval of the development plan attached hereto as Exhibit “B” (“Development Plan”). The CUP includes the approval of a four (4) story 204 unit residential project with an associated four (4) level parking garage.

3. **Expansion.** OWNER agrees, in compliance with City Code, to submit an application for CUP review by Planning and Zoning and City Commission prior to any significant changes (as set forth in Section 58-90(h)) on property adjacent to the west of the Subject Property (with an address of 1020 W. Canton Ave.).
4. **Setbacks.**

   N. Denning Avenue: 30 ft. minimum  
   Canton Avenue: 35 ft. minimum for 304.00 linear feet  
   South Property line: 7 ft. minimum for 96.69 linear feet  
   Western Property line: 13 ft. minimum  
   10 ft. minimum

5. **Height.** The residential buildings are 41 ft. to the eave and 59 ft. to the roof ridge. The residential building which contains leasing offices and amenities is 44 ft. to the eave and 59 ft. to the roof ridge. The parking garage is 32 ft. to the top level and 38 ft. to the top of parapet.

6. **Parking.** The parking garage contains approximately 358 parking spaces.

7. **Stormwater.** Any development occurring onsite shall meet all city, state and Water Management District requirements for stormwater retention.

8. **Tree Removal.** Prior to Final Conditional Use Permit approval, OWNER shall submit a tree survey which shall identify all protected trees. Such survey shall identify those trees to be removed, replaced and/or relocated. Such survey shall also provide a summary of compensation in compliance with the Land Development Code and as approved by the City. Tree replacement is limited to those designated on the tree survey as presented. Compensation is to be determined by the City Code. OWNER shall have continuous responsibility to maintain all landscaping in the approved landscape plan, per Code.

9. **Parking Garage.** The parking garage shown in Exhibit “B” shall utilize “dark sky” lighting in designing the light fixtures.

10. **Subsequently Enacted State or Federal Law.** If state or federal laws are enacted after the execution of this Agreement which are applicable to and preclude the parties compliance with the terms of this Agreement, this Agreement shall be modified or revoked as necessary to comply with the relevant state or federal laws.

11. **Successors and Assigns.** This Agreement and the terms and conditions thereof shall be binding upon and inure to the benefit of the CITY and OWNER and their respective successors in interest. The terms and conditions of this Agreement similarly shall be binding upon the Property and shall run with the title to the same.

12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

13. **Modification Must Be in Writing.** No modification or termination of this Agreement shall be valid unless it is approved by the City Commission and thereafter executed in writing and signed by the City Commissioners and Owner.
14. **No Waiver.** No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

15. **Captions and Section Heading.** Captions and Section Headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement nor the intent of any provision thereof.

16. **Attorney’s Fees.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, the prevailing party hereunder shall be entitled to its reasonable attorneys’ fees and costs including at trial or at all appellate levels.

17. **Waiver of Strict Construction Against Drafting Party.** Should any provision of this Agreement be subject to judicial interpretation, it is agreed that the court interpreting or considering such provision not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other legal agent prepared the same, as all parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel and the negotiation of changes in language in any provision deemed unsuitable or inadequate as initially written, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

18. **Interpretation.** In case any one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions shall be in no way affected, prejudiced or disturbed thereby. The use of any gender shall include all other genders. The singular shall include the plural and vice versa. Use of the words “herein”, “hereof”, “hereunder” and any other words of similar import refer to this Agreement as a whole and not to any particular article, section or sub section of this Agreement unless specifically noted otherwise in this Agreement.

19. **Governing Law.** This Agreement shall be deemed to be governed by, construed and enforced in accordance with the internal laws of the State of Florida. Venue shall be Orange County, Florida.

20. **Third Parties.** This Agreement shall not be deemed to confer in favor of any third parties any rights whatsoever as third party beneficiaries, the parties hereto intending by the provisions hereof to confer no such benefits or status.

21. **Notice.** Any written notice, demand or request that is required to be made under this Agreement shall be served in person, or by registered or certified mail, return receipt requested, or by express mail or similar reputable overnight courier service, addressed to the party to be served at the address set forth in the first paragraph hereof. The addresses stated herein may be changed as to the applicable party by providing the other party with notice of such address change in the manner provided in this paragraph. In the event that written notice, demand or request is made as provided in this paragraph, then in the event that such notice is
returned to the sender by the United States Postal Service or other similar reputable overnight courier service because of insufficient address or because the party has moved or otherwise, other than for insufficient postage, such writing shall be deemed to have been received by the party to whom it was addressed on the date that such writing was initially placed in the United States Postal Service or reputable overnight courier service by the sender.

Copies of notices shall be sent to:

as to CITY: 
City of Winter Park 
Attention: City Manager 
401 Park Avenue South 
Winter Park, FL 32789

as to OWNER: 
Brett Hutchens 
Winter Park Town Center Development LLC 
c/o Casto Southeast Realty Services LLC 
5391 Lakewood Ranch Boulevard, Suite 100 
Sarasota, FL 34240

With a copy to: 
Rebecca Wilson, Esq. 
Lowndes, Drosdick, Doster, Kantor & Reed, P.A. 
215 North Eola Drive 
Orlando, FL 32801

23. **Representations of the Parties.** The CITY and OWNER hereby each represent and warrant to the other that it has the power and authority to execute, deliver and perform the terms and provisions of this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement. This Agreement will, when duly executed and delivered by the CITY and OWNER and recorded in the Public Records of Orange County, Florida, constitute a legal, valid and binding obligation enforceable against the parties hereto and the Property in accordance with the terms and conditions of this Agreement. OWNER represents that it has voluntarily and willfully executed this Agreement for purposes of binding the Property to the terms and conditions set forth in this Agreement.

24. **Specific Performance.** Strict compliance shall be required with each and every provision of this Agreement. The parties agree that failure to perform the obligations provided by this Agreement shall result in irreparable damage and that specific performance of these obligations may be obtained by a suit in equity.

25. **Development Permits.** Nothing herein shall limit the CITY’s authority to grant or deny any development permit applications or requests subsequent to the effective date of this Agreement. The failure of this Agreement to address any particular City, County, State and/or Federal permit, condition, term or restriction shall not relieve OWNER or the CITY of the necessity of complying with the law governing said permitting requirement, condition, term or restriction. Without imposing any limitation on the CITY’s police powers, the CITY reserves the right to withhold, suspend, or terminate any and all certificates of occupancy or permits for the Property if OWNER is in breach of any material term and condition of this Agreement.
26. **Termination.** The CITY shall have the unconditional right, but not obligation, to terminate this Agreement, without notice or penalty, if OWNER fails to receive building permits and substantially commence construction of the Project within five (5) years of the effective date of this Agreement. If the CITY terminates this Agreement, the CITY shall record a notice of termination in the public records of Orange County, Florida.

27. **Compliance with Other Laws, Ordinances and Regulations.** This Agreement shall not operate as a limitation upon the CITY to require the OWNER to comply with all applicable laws, ordinances, resolutions and regulations of either the United States, the State of Florida, Orange County or City of Winter Park, regulating the development of the OWNER's Property in accordance with this Agreement to the extent that same are not specifically addressed or referenced herein, nor shall the failure of this Agreement to address any particular requirement to act to relieve the OWNER from complying with any development requirement, condition, term or restriction, including but not limited to, all impact fee requirements. OWNER agrees to pay all fees when required by Code, including water/sewer connection fees, and park and recreation impact fees.

28. **Subordination/Joinder.** Unless otherwise agreed to by the CITY, all liens, mortgages and other encumbrances not satisfied or released of record, must be subordinated to the terms of this Agreement or the lienholder joins in this Agreement. It shall be the responsibility of the OWNER to promptly obtain the said subordination or joinder, in form and substance acceptable to the City Attorney, in such City Attorney's reasonable discretion, prior to the CITY execution of the Agreement.

29. **Effective Date.** This Agreement shall be effective as of the date of its execution by the last of the parties as evidenced by the date following the execution portion of this Agreement.

30. **Not A Statutory Development Agreement.** Pursuant to Section 58-90, of the City's Land Development Code, and based on the City's home rule power, this Agreement is not a statutory development agreement, and is therefore not subject to Section 58-7 or Fla. Stat. §163.3220, et seq.

31. **Period of Effectiveness.** This Agreement shall remain in effect for 20 years. The effectiveness of this Agreement may be extended upon City Commission approval consistent with this Agreement.

[SIGNATURES TO FOLLOW]
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as follows:

WITNESSES:

WINTER PARK TOWN CENTER DEVELOPMENT LLC, a Florida limited liability company

By: CLP/SPF Holding Company I, LLC, a Delaware limited liability company, its sole member

By: Casto Lifestyle Properties, L.P., an Ohio limited partnership, its manager

By: CLP Management LLC, an Ohio limited liability company, its managing general partner

__________________________

__________________________
(print)

__________________________
(print)

By: ______________________

Print name: ________________

Title: ______________________

__________________________
(print)

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of ____________, 2013, by ______________________ the __________ of ________________, a ____________, on behalf of the ____________ who is personally known to me or □ who produced __________________________ as identification.

________________________________________

Notary Public – State of Florida
Print Name: _____________________________
My Commission expires: _________________
WITNESSES:

CITY OF WINTER PARK, a Florida municipal corporation

By: __________________________

Print name: __________________________

Title: __________________________

ATTEST:

By: __________________________

Cynthia Bonham, City Clerk

Date: __________________________

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of __________, 2013, by __________________________ the __________________________ of the CITY OF WINTER PARK, a Florida municipal corporation, □ who is personally known to me or □ who produced __________________________ as identification.

__________________________
Notary Public – State of Florida
Print Name: __________________________
My Commission expires: __________________________