Meeting Called to Order

Invocation
Minister David Fitzgerald, First Christian Church

Pledge of Allegiance

Approval of Agenda

Mayor’s Report
a. Recognition – Professor Robert Reinauer, Art in Chambers exhibition “Rollins (Re)Visits Cuba”
b. Proclamation – Feed the Need Month
c. Proclamation - Red Ribbon Week

*Projected Time
*Subject to change

30 minutes
d. Proclamation – Orange County “Week of the Family”
e. Board appointment – Parks and Recreation Board alternate position

5 City Manager’s Report

- Projected Time
- Subject to change
- 10 minutes

6 City Attorney’s Report

- Clear Channel/Max Media Settlement Agreement

7 Non-Action Items

a. Library Facility Task Force interim report.
b. Recommendation of the parking codes for retail stores, shopping centers and restaurants.

8 Citizen Comments  |  5 p.m. or soon thereafter
(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting) (Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)

9 Consent Agenda

- Approve the minutes of October 13, 2014.
- Approve the Winter Park Firefighter’s Local 1598 IAFF labor contract.
- Approve the following Blanket Purchase Orders:
  1. Blanket Purchase Order to Winter Park Library for annual organizational support; $1,045,935.
  2. Blanket Purchase Order to Mead Botanical Garden for annual organizational support; $75,000.
  3. Blanket Purchase Order to Winter Park Historical Association for annual organizational support; $60,000.
- Approve the FY2015 budget adjustment to account for the Federal Grant for stormwater improvements to the Lake Forest/Howard Drive retention pond.

10 Action Items Requiring Discussion

- Orlando/Winter Park Interlocal Agreement – Performing Arts Center funding.
- Purchasing of a residential lot located at 2908 Temple Trail for a park, open space and conservation property.
- City Manager annual review.

11 Public Hearings

- Ordinance – Supplementing Ordinance 2953-14 authorizing the issuance of not exceeding $16,000,000 electric revenue bonds to finance the refunding of a portion of the outstanding Electric Revenue Bonds, Series 2005A (2)
b. **Resolution** – Authorizing the issuance of not to exceed $6,200,000 Electric Revenue Bonds, Series 2014 to refund a portion of the outstanding Electric Revenue Bonds, Series 2005A.

5 minutes

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30 minutes


c. **Request of UP Fieldgate US Investments – Winter Park LLC:**
- Final conditional use approval to redevelop the former Corporate Square and Winter Park Dodge properties with a 40,000 square foot Whole Foods Grocery and a 36,000 square foot retail building with three outparcel development sites on the properties at 1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue
- **Ordinance** – Vacating and abandoning the portions of Galloway Drive and Friends Avenue within the proposed Whole Foods development project (2)

10 minutes

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d. **Ordinance** – Regulating medical marijuana treatment centers (2)

10 minutes

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e. **Ordinance** – Authorizing the conveyance of the City owned property located at 300 North Pennsylvania Avenue (1)

10 minutes

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f. **Resolution** – Designating 1200 Lakeview Drive as a historic resource on the Winter Park Register of Historic Places

10 minutes

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g. **Request of Phil Kean Design Group:**
- Revising the site plan for the townhouse project at 403 and 421 W. Morse Boulevard

10 minutes

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h. **Request of Mr. Joseph Passalacqua:**
- After-the-fact subdivision or lot split approval so that 1252 Lakeview Drive will be determined to be a buildable lot

30 minutes

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i. **Request of Sydgan Corporation:**
- Lot consolidation and subdivision approval to combine and then re-subdivide the properties at 755/761/781/783/785/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue zoned R-1A, into twelve single family lots. Variances are requested for the single family lot dimensions comprised on average of 62.15 feet in width and 7,071 square feet of lot area in lieu of the 75 feet of lot width and 8,500 square feet of lot area standard for R-1A

20 minutes

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12 **City Commission Reports**

<table>
<thead>
<tr>
<th>Commissioner Leary</th>
<th>10 minutes each</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner Sprinkel</td>
<td></td>
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<tr>
<td>Commissioner Cooper</td>
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<tr>
<td>Commissioner McMacken</td>
<td></td>
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<tr>
<td>Mayor Bradley</td>
<td></td>
</tr>
</tbody>
</table>
appeals & assistance

“If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.” (F. S. 286.0105).

“Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk’s Office (407-599-3277) at least 48 hours in advance of the meeting.”
Cindy Bonham

From: Gary Diehl <chattgary@mindspring.com>
Sent: Tuesday, October 07, 2014 3:27 PM
To: Cindy Bonham, Michelle Bernstein
Subject: New submission from Citizen Board Application

Contact Information

Name
Gary Diehl

Email
chattgary@mindspring.com

Home Address
1120 Aragon Ave
Winter Park, Florida 32789
United States
Map It

Business Address
941 N. Pennsylvania Ave
1120 Aragon Ave
Winter Park, Florida 32789
United States
Map It

Your Requested Board(s)

Board 1
Parks & Recreation Advisory Board

Skills
Have been involved with the golf and tennis industries for 30+ years. Managed three companies in my career

Board 2
- Select one -

Board 3
- Select one -

Your Details

Are you a registered voter?
Yes

Are you a resident of the city?
Yes

Do you own property in the city?
Yes

Are you employed by the city?
No
May we automatically submit your application when vacancies occur?
Yes

Do you have any potential conflicts of interest that may arise from time to time if you serve on one of these boards?
No

Are you currently serving on a city board(s)?
No

Have you previously served on a city board(s)?
No

List any other community involvement
Worked on the Centennial Golf Committee for WPCC

List any work/career experience
President of Trend Source Golf Company
President of Dolphin Cove apparel company
Vice President Sales of Titleist-Corbin apparel company
Vice President Sales of Stulz Golf Shaft Company
COO of Rife Putter Co
General Manager of Ram Golf Corp
Partner of Covenant Golf Management
Senior Product Manager at Colgate Palmolive

List your educational experience
Graduated from Catawba College
One year of graduate school at University of Maryland

User’s IP address: 71.42.48.101
Date received: 10/07/2014
Received from: Citizen Board Application (http://cityofwinterpark.org/government/boards/citizen-board-application/)
Contact Information

Name
Alexander Trauger

Email
alexctrauger@gmail.com

Home Address
1821 Anzie Avenue
Winter Park, Florida 32789
United States
Map It

Business Address
315 East Robinson Street
Suite 355
Orlando, Florida 32801
United States
Map It

Your Requested Board(s)

Board 1
Community Redevelopment Advisory Board

Skills
Land Use Planning, Public Finance and Budgeting, Urban and Regional Planning

Board 2
Planning & Zoning Board

Skills
Land Use Planning, Public Finance and Budgeting, Urban and Regional Planning

Board 3
Parks & Recreation Advisory Board

Skills
Land Use Planning, Public Finance and Budgeting, Urban and Regional Planning

Your Details
Are you a registered voter?

Yes

Are you a resident of the city?

Yes

Do you own property in the city?

Yes

Are you employed by the city?

No

May we automatically submit your application when vacancies occur?

Yes

Do you have any potential conflicts of interest that may arise from time to time if you serve on one of these boards?

No

Are you currently serving on a city board(s)?

No

Have you previously served on a city board(s)?

Yes

If yes, which board(s)

City of Longwood : Parks and Recreation Advisory Board

List any other community involvement

Kiwanis Club of Orlando and Shepard's Hope

List any work/career experience

6 years experience in local and regional transportation and land use planning with MetroPlan Orlando. Currently serve as the Manager of Long Range Planning. In this role, I oversee our land use development, financial forecasting, and the overall development of our long range planning products relating to multi-modal and freight planning.

List your educational experience

2014: Accepted into Harvard University's Emerging Leaders Program (Begins in November 2014)

2012: Rollins College - Crummer Management Program

2011: UCF - Master of Public Policy and Administration

2009: UCF - B.A. Public Administration with Minor in Regional Planning
Dear Mr. or Ms. Blanton:

Thank you for submitting your application to be considered for the Keep Winter Park Beautiful & Sustainable Advisory Board and Parks & Recreation Advisory Board. Your application will be on file for one year after the submission date. We appreciate your interest in serving the City of Winter Park.

Name: Cathy Blanton
E-Mail: cathyblanton@cfl.rr.com
Home Address: 2343 Woodcrest Drive
               Winter Park, FL 32792

Business Address:

Board 1: Keep Winter Park Beautiful & Sustainable Advisory Board
Skills: Detail oriented, organized, strong interest in promoting sustainability and protecting the environment.

Board 2: Parks & Recreation Advisory Board
Skills:

Board 3:
Skills:

Are you a registered voter? yes
Are you a resident of the city? yes
Do you own property in the city? yes
Do you hold a public office? no
Are you employed by the city? no

May we automatically submit your application when vacancies occur? yes
Do you have any potential conflicts of interest that may arise from time to time if you serve on one of these...
Are you currently serving on a city board(s)?

Have you previously served on a city board(s)?

**Community Involvement:** Current Chorus Booster at Winter Park High School, Former Band Booster at WPHS, Former Girl Scout Troop Leader and Girl Scout Troop Treasurer, Former SAC member at Brookshire Elementary.

**Work Experience:** Former Long Range Planner with Orange County

**Educational Experience:** M. S. in Urban and Regional Planning B.A. in Psychology
Dear Mr. or Ms. Freeman:

Thank you for submitting your application to be considered for the Parks & Recreation Advisory Board. Your application will be on file for one year after the submission date. We appreciate your interest in serving the City of Winter Park.

Name: Erin Freeman  
E-Mail: erinmfreeman@me.com  
Home Address: 1563 Lakehurst Ave  
Winter Park, FL 32789  
Business Address:  

Board 1: Parks & Recreation Advisory Board  
Skills: Active Parent and community volunteer. Highly organized with extensive marketing and management professional experience.

Board 2:  
Skills:  
Board 3:  
Skills:  
Are you a registered voter? yes  
Are you a resident of the city? yes  
Do you own property in the city? yes  
Do you hold a public office? no  
Are you employed by the city? no  
May we automatically submit your application when vacancies occur? yes  
Do you have any potential conflicts of interest that may arise from time to time if
you serve on one of these boards?

Are you currently serving on a city board(s)?

Have you previously served on a city board(s)?

Community Involvement: Orlando City Soccer Foundation Board Member Howard Philips Center for Families and Children Donor

Work Experience: Currently working as a homemaker and raising 3 active boys. Past experience in Marketing and Advertising with YPBR (Maitland), WestWayne Advertising (Tampa & Atlanta), Avado Restaurant Brands. Active Volunteer with the Tampa Museum of Art Fundraising and Event Committees.

Educational Experience: BA Univ. of South Florida, 2000
Below are issues of interest to the Commission and community that are currently being worked on by staff, but do not currently require action on the Commission agenda. These items are being tracked to provide the Commission and community the most up to date information regarding the status of the various issues. The City Manager will be happy to answer questions or provide additional updates at the meeting.

<table>
<thead>
<tr>
<th>issue</th>
<th>update</th>
<th>date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quiet Zones</td>
<td>State funds approved for grant disbursement. City submitted grant applications for City quiet zones on July 23, 2014.</td>
<td>Applications deadline to State was October 15, 2014.</td>
</tr>
<tr>
<td>Mechanisms to encourage owners to place overhead electric service wires underground</td>
<td>Current City ordinances require owners to place overhead electric service wires underground upon: 1) new commercial and residential construction; 2) Renovations that exceed 50% of the appraised value of existing improvements; and 3) change out of electric service equipment caused by code violations. There are 5,000 overhead electric service wires. Our goal is to get all overhead electric service wires placed underground at completion of underground project (10-12 years).</td>
<td>Utilities Advisory Board discussions are ongoing.</td>
</tr>
<tr>
<td>Fairbanks electric transmission and distribution undergrounding</td>
<td>Engineering cost estimates have been completed. Staff believes project can be completed within FDOT’s available funding. Contracts among Duke, the City, and FDOT are currently in negotiation.</td>
<td>City Commission action expected October/November 2014.</td>
</tr>
<tr>
<td>New Hope Baptist Church Project</td>
<td>Construction on the site has continued with pouring concrete drives, parking area and stormwater retention area. Pastor John Phillips is pursuing licensing for the day care and school through DCF and obtaining required certifications for staff.</td>
<td>Approved Conditional Use will expire in September 2015.</td>
</tr>
</tbody>
</table>

Once projects have been resolved, they will remain on the list for one additional meeting to share the resolution with the public and then be removed.
IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation,

       Plaintiff,

v.

MAXMEDIA OUTDOOR ADVERTISING, LLC, a Florida limited liability corporation,
ORANGE COUNTY, FLORIDA, a political subdivision of the State of Florida, DANIEL
BELLOWS, BENJAMIN PARTNERS, LTD., a Florida limited partnership, CLEAR
CHANNEL OUTDOOR, INC., a Delaware corporation, and MELANIE D.
SPIVEY MONZADEH,

       Defendants.

       /

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and
among MAXMEDIA OUTDOOR ADVERTISING, LLC, a Florida limited liability company
(“Maxmedia”), BENJAMIN PARTNERS, LTD., a Florida limited partnership (“Benjamin”),
DANIEL B. BELLOWS (“Bellows”), CLEAR CHANNEL OUTDOOR, INC., a Delaware
corporation (“Clear Channel”), CITY OF WINTER PARK, FLORIDA, a Florida municipal
corporation (“City”), and MELANIE D. SPIVEY MONZADEH, A/K/A MELANIE D. SPIVEY,
A/K/A MELANIE D. SPIVEY MOINZADEH (“Monzadeh”).

WITNESSETH:

1
WHEREAS, Maxmedia, Benjamin, Bellows, Clear Channel, City and Monzadeh desire to settle the above styled action (the “Action”) upon the terms and subject to the conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and considerations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound do hereby declare, covenant and agree for themselves, their heirs, successors and assigns as follows:

1. **Recitals.** The above recitals are incorporated herein by reference as if fully set forth herein.

2. **Definitions.** For the purposes of this Agreement, the following terms and variations thereof shall have the meanings specified or referred to in this Section 2:

   A. “Action” - as defined in the first recital of this Agreement.

   B. “Agreement” - as defined in the first paragraph of this Agreement.

   C. “Transfer of Billboard Rights” - as defined in Section 5 of this Agreement.

   D. “Bellows” - as defined in the first paragraph of this Agreement.

   E. “Benjamin” - as defined in the first paragraph of this Agreement.

   F. “Billboard Agreements” - the “Clear Channel Outdoor Advertising Agreement” (as defined below) and the “Monzadeh Outdoor Advertising Agreement” (as defined below), collectively.

   G. “Bonds” - Richard Merrill Bond and Carol Bellomy Bond, individually and as trustees of the Richard Merrill Bond Revocable Trust, dated 2-17-81 as restated 1-30-03.
H. “Bond Property” - the real property located at 1501 Lee Road, Winter Park, Orange County, Florida, more specifically described as Lot 5, Block D, Home Acres, according to the plat thereof as recorded in Plat Book M, Page 97, Public Records of Orange County, Florida.

I. “City” - as defined in the first paragraph of this Agreement.

J. “Claims” - as defined in Section 12 of this Agreement.

K. “Clear Channel” - as defined in the first paragraph of this Agreement.

L. “Clear Channel Outdoor Advertising Agreement” - as defined in Section 3.A of this Agreement - Exhibit - C.

M. “Dismissal” - as defined in Section 14 of this Agreement.

N. “Effective Date” - as defined in Section 16.A of this Agreement.

O. “Maxmedia” - as defined in the first paragraph of this Agreement.

P. “Monzadeh” - as defined in the first paragraph of this Agreement.

Q. “Monzadeh Outdoor Advertising Agreement” - as defined in Section 3.B of this Agreement - Exhibit - D.

R. “Monzadeh Property” - the real property located at 1531 Lee Road, Winter Park, FL, which is legally described in Exhibit “A” attached hereto and incorporated herein by reference.

S. “Old Signs” - as defined in Section 8 of this Agreement.

T. “Ravaudage PD” - the planned development approval by the decision of the Board of County Commissioners, Orange County, Florida, dated May 24, 2011, and the land use plan attached thereto and incorporated therein by reference.

U. “Sign Structure” - the above ground portion of a billboard or sign, limited to
the interrelated materials, such as beach, poles, and stringers which are constructed for the purpose of displaying a message, which does not include any foundations or other materials placed below the ground, except as follows: (1) for the sign located at 941 N. Orlando Avenue, “Sign Structure,” for purposes of removal, shall include portions of the pole structure below grade, but not the foundations; (2) for the signs located at 1121 N. Orlando Avenue, “Sign Structure,” for purposes of removal, shall include the foundations and other materials below the ground; and (3) for the sign located at 1531 Lee Road, “Sign Structure,” for purposes of removal, shall include the foundations and other materials below the ground if written consent for removal of the foundation and other materials below the ground is received from all the affected property owners.

V. “Swap Property” - the real property located at 1621 Lee Road, Winter Park, Florida, which is legally described in Exhibit “B” attached hereto and incorporated herein by reference.

W. “Swap Property Billboard” – as defined in Section 3.C.

X. “Termination Agreements” - as defined in Section 7.B.


3. Billboard Agreements.

A. Contemporaneous with the execution of this Agreement, Clear Channel and City shall execute and deliver the “Clear Channel Outdoor Advertising Agreement a copy of which is attached hereto and incorporated herein by reference, marked as Exhibit “C”.

B. Contemporaneous with the execution of this Agreement, Monzadeh and City
shall execute and deliver the Monzadeh Outdoor Advertising Agreement, a copy of which is attached hereto and incorporated herein by reference, marked as Exhibit “D”.

C. As a condition precedent to the deed swap contemplated by the Escrow Agreement as defined herein, the billboard referenced in Exhibit D (the "Swap Property Billboard") shall be constructed on the Swap Property and fully operational. To be "fully operational" as contemplated herein, the Swap Property Billboard must not only operate within reasonable billboard industry standards, it must have obtained a Certificate of Completion from the City. Absent force majeure, Maxmedia shall have 4 months from the Effective Date to construct the Swap Property Billboard. If not constructed by Maxmedia within that time frame, Maxmedia, Monzadeh, Clear Channel, Bellows and Benjamin agree that Clear Channel shall construct the Swap Property Billboard in substantial conformity with the construction plans submitted to the City by Maxmedia and that Clear Channel shall become the Swap Property Billboard tenant pursuant to the fully executed Clear Channel/Monzadeh Lease, which is being held in escrow in accordance with the Escrow Agreement. Absent force majeure, Clear Channel shall have until the date that is eight (8) months from the Effective Date in which to complete such construction. Maxmedia has agreed to assign any permit and billboard rights (excluding the PD billboard Rights which are the subject of Section 5 of this Agreement) that are required to construct the Swap Property Billboard on the Swap Property in accordance with the terms of this Agreement and pursuant to the assignment provided by Maxmedia to be held in escrow in accordance with the Escrow Agreement.

4. **Escrow Agreement.** Contemporaneous with the execution of this Agreement, Benjamin, Bellows, Monzadeh, Maxmedia and Clear Channel shall execute and deliver the
escrow agreement and exhibits thereto (the “Escrow Agreement”), a copy of which is attached hereto and incorporated herein by reference, marked as Exhibit “E”.

5. **PD Billboard Rights.** Upon the terms and subject to the conditions set forth in this Agreement, Benjamin’s rights under the Ravaudage PD to erect an LCD billboard at 1621 Lee Road, Winter Park, Florida shall be deemed transferred to the Swap Property and shall run with such land.

6. **Clear Channel Release of Property Rights.** Upon the terms and subject to the conditions set forth in this Agreement, Clear Channel shall release any and all of Clear Channel’s easements and other property rights in and to any and all portions of the Ravaudage PD, including (without limitation) Clear Channel’s property rights related to the Old Signs.

7. **Deliverables.**

   A. **Monzadeh Deliverables.** Contemporaneous with the execution of this Agreement, Monzadeh shall execute and deliver to Benjamin: (1) an assignment of any and all: (a) claims, debts, liabilities, demands, suits, proceedings, sums of money, accounts, actions or causes of action; and/or (b) contracts for sale and purchase, options, rights of first refusal, leases, licenses, easements, or other similar agreements that Monzadeh may have with respect to: (x) the Bonds; and/or (y) the Bond Property; and (2) an agency authorization for the Monzadeh Property in the form attached hereto and incorporated by reference as Exhibit “F”.

   B. **Contemporaneous with the execution of this Agreement, Benjamin shall execute and deliver to Escrow Agent to be held in Escrow and to be released to Clear Channel under the terms of the Escrow Agreement, the Termination of Grant of Easement for the Old Sign Located at 941 N. Orlando Avenue and the Lease Termination**
Agreement (Lease #15806) for Old Sign located at 1561 Lee Road. In addition Benjamin shall execute and deliver directly to Clear Channel the Lease Termination Agreement (Lease #13279) for the Old Sign located at 1121 N. Orlando Avenue contemporaneous with the execution of this Agreement by all parties. Copies of all three (3) termination documents referenced above are attached hereto and incorporated herein by reference, marked as composite Exhibit “N” (collectively, “Termination Agreements”). Each Termination Agreement shall be deemed effective as of the date each sign structure is removed, and evidence of such removal is provided to Benjamin and/or Bellows except for the sign structure located at 1121 N. Orlando Avenue (“Benjamin Removed Sign”) which Benjamin and Clear Channel have agreed shall be removed by Benjamin pursuant to the terms of the Termination Document related to the Benjamin Removed Sign and for such Old Sign (as hereinafter defined) Benjamin shall provide evidence of removal to Clear Channel. The date that the required respective party provides notice of such removal for any of the Old Signs shall be referred to hereinafter as the "Termination Effective Date" for such Old Sign.

C. Clear Channel Deliverables. Contemporaneous with the execution of this Agreement, Clear Channel shall execute and deliver to Escrow Agent to be held in Escrow, the Termination of Grant of Easement Old Sign Located at 941 N. Orlando Avenue and the Lease Termination Agreement (Lease #15806) for the Old Sign located at 1561 Lee Road and to be released to Bellows and Benjamin under the terms of the Escrow Agreement. In addition Clear Channel shall execute and deliver directly to Benjamin the Lease Termination Agreement (Lease #13279) for the Old Sign located at 1121 N. Orlando Avenue contemporaneous with the execution of this Agreement by all parties.
8. **Removal of Old Signs.** Attached as Exhibit “P” is a list of sign faces and Sign Structures, by location, which the parties agree have already been removed or which will be removed under the terms of this Agreement, consisting of signs at 1531 Lee Road (sometimes referred to as 1509 Lee Road), 1561 Lee Road, 941 N. Orlando Avenue, and 1121 N. Orlando Avenue (these Sign Structures are sometimes collectively referred to herein as the “Old Signs”). Clear Channel represents and warrants that all of the sign faces and Sign Structures listed in Exhibit “P” are owned by Clear Channel. Clear Channel agrees that the sign faces and Sign Structures other than the Benjamin Removed Sign shall be removed in the manner and upon the conditions set forth below:

A. All old signs, other than the Benjamin Removed Sign, shall be removed by Clear Channel as set forth in the Termination Agreements relating to such Old Signs no later than seven (7) business days following issuance of all final and unappealable building permits and approvals from any required governmental entities for the New I-4 Digital Faces as such term is defined in the Clear Channel Outdoor Advertising Agreement. Clear Channel and Maxmedia shall apply for, respectively, the permits required to erect the signs called for in Section 3 (Exhibits “C” with respect to Clear Channel and “D” with respect to Monzadeh) within seven (7) calendar days of the Effective Date of this Agreement. They shall each diligently prosecute and pursue all of such required permits, however the failure of one party to continuously and diligently prosecute and pursue all required permits shall not affect the rights of the other party to enforcement of this Agreement. Any breach of this Agreement by a party (e.g., the failure of a party to continuously and diligently prosecute and pursue permits)
shall not prevent any non-breaching party from enforcing this Agreement against any other party.

B. In order to be counted as a sign removed pursuant to this Agreement, the entire Sign Structure, as defined above, for such Old Sign must be removed.

C. Clear Channel agrees that prior to removal of each Sign Structure, Clear Channel shall obtain any required demolition permit from the City or applicable jurisdiction of record. Clear Channel shall also furnish proof of removal of the Sign Structure in the form of photographs showing the sign locations before and after the structure is removed.

D. Clear Channel shall notify all parties to this Agreement upon the occurrence of the last to occur of the Termination Effective Dates for all Old Signs other than the Benjamin Removed Signs.

E. With respect to only the Benjamin Removed Sign, Benjamin hereby agrees to comply with all the requirements set forth in Section 8(A-D) above and Clear Channel shall not be required to comply with such terms or conditions with regard to the Benjamin Removed Board. Any failure of Benjamin to comply with the terms herein with regard to the Benjamin Removed Sign shall not affect the rights of Clear Channel under this Agreement and Clear Channel shall have no liability for such failure.

9. Additional Covenants of Clear Channel and City.

A. Clear Channel shall remove the static sides of the double-sided billboards identified in subparagraphs 9B and 9C below, to the extent they have not been taken down already, as well as all Sign Structures at 1561 Lee Road, 941 N. Orlando Avenue. These Sign Structures shall be removed at the sole expense of Clear Channel in accordance with Section 8.A of this Agreement. If Clear Channel or Benjamin fails to remove the respective Sign
Structure(s) they are obligated to remove within that period of time, City may bring a legal action to enforce this requirement against the party obligated to remove same and City shall be entitled to obtain an injunction, and recover its reasonable attorneys’ fees for such enforcement action, or City can choose to remove the Sign Structures and recover the costs from such party obligated to remove such Sign Structure. Clear Channel and Benjamin both agree that an injunction compelling it to take down these Sign Structures is appropriate, and that City will have no remedy at law that is adequate unless Clear Channel or Bellows, as appropriate, is enjoined to bring these Sign Structures down.

B. City acknowledges and agrees that Clear Channel shall have the right to modify that certain double-sided billboard adjacent to I-4 at 2329 W. Fairbanks (the “2329 W. Fairbanks Property”) by replacing the static side with a digital side. Within seven (7) calendar days of the Effective Date of this Agreement Clear Channel will submit a request for a building permit from the City for such modification. City will process and approve all permits and entitlements within City’s jurisdiction that it may be required to issue to allow for this modification to occur promptly, assuming Clear Channel submits a complete acceptable application consistent with state law, City Code, industry standards and this Agreement. City shall notify Clear Channel of any deficiencies in its permit application(s), and shall provide Clear Channel with a reasonable opportunity to cure any noted deficiencies.

C. City acknowledges and agrees that Clear Channel shall have the right to modify that certain double-sided billboard adjacent to I-4 at 2605 Braden Drive (the “2605 Braden Drive Property”) by replacing the static side with a digital side. Within seven (7) calendar days of the Effective Date of this Agreement Clear Channel will submit a request for a building
permit from the City for such modification. City will process and approve all permits and entitlements within the City’s jurisdiction that it may be required to issue to allow for this modification to occur promptly, assuming Clear Channel submits a complete acceptable application consistent with state law, City Code, industry standards and this Agreement. City shall promptly notify Clear Channel of any deficiencies in its permit application(s), and shall provide Clear Channel with a reasonable opportunity to cure any noted deficiencies.

D. City agrees to timely permit and inspect any billboard constructed or modified by Clear Channel, and to timely issue a Certificate of Completion if any such billboard complies with applicable building codes, City Codes and this Agreement.

E. The billboards to be erected may only be permitted, constructed, and operated in accordance with the standards set forth in the Clear Channel Outdoor Advertising Agreement attached hereto as Exhibit “C” and incorporated herein by reference.

10. Additional Covenants of Maxmedia, Monzadeh and City.

A. Within seven (7) calendar days of the Effective Date of this Agreement, Maxmedia and Monzadeh will submit a request for a building permit from Winter Park at 1621 Lee Road, Winter Park, Florida (i.e., the Swap Property). The application must include the following items: (an accurate site plan; (ii) sign setbacks of thirty (30) feet from the rear property line and side setbacks of at least five (5) feet, and a front setback of fifteen (15) feet; and (iii) a current survey of the real property.

B. City agrees to review and process Maxmedia and Monzadeh’s permit application within fourteen (14) calendar days of receipt.

C. City agrees to timely permit and inspect any billboard constructed by
Maxmedia and Monzadeh, and to timely issue a Certificate of Completion if any such billboard complies with applicable building codes, City Codes, and this Agreement.

D. The billboards to be erected on the Swap Property may only be permitted, constructed, and operated in accordance with the standards set forth in the Monzadeh Outdoor Advertising Agreement attached hereto marked as Exhibit “D” and incorporated herein by reference.

11. Further Assurances. The parties agree to execute such instruments and documents and to diligently undertake such actions as may be required in order to consummate the settlement herein contemplated, and shall use good faith efforts to accomplish the settlement in accordance with the provisions hereof, including, but not limited to, Clear Channel’s agreement to submit a conditional cancellation of its FDOT permit for the sign at 1561 Lee Road in conjunction with Monzadeh/Maxmedia’s submittal of an FDOT permit application for the proposed sign at 1621 Lee Road.

12. Claims. As used herein, “Claims” shall mean any and all claims, debts, liabilities, demands, suits, proceedings, sums of money, accounts, actions or causes of action, including but not limited to any claims for declaratory or injunctive relief, challenges or appeals of any decision (including any decision of City), claims for damages, consequential damages, lost profits, court costs, attorneys’ fees, expert fees and costs, or punitive damages, arising from, connected with, resulting from or related to the Old Signs and the Action, including, without limitation, any such claim for wrongful taking, deprivation of property rights, inverse condemnation, Bert Harris claims, tortious interference claims, improper annexation of the Monzadeh Property into the City, any prior permits issued by or to any of the parties to this Agreement, and any quiet title actions, or
other claims seeking to determine the ownership rights of the parties regarding any Old Signs. The defined term “Claims” specifically excludes any and all: (a) claims, debts, liabilities, demands, suits, proceedings, sums of money, accounts, actions or causes of action; and/or (b) contracts for sale and purchase, options, rights of first refusal, leases, licenses, easements, or other similar agreements that Monzadeh may have with respect to: (x) the Bonds; and/or (y) the Bond Property. The defined term “claims” also expressly excludes all: claims, debts, liabilities, demands, suits, proceedings, sums of money, accounts, actions or causes of action arising from this Settlement Agreement and its attachments.

13. **Mutual Special Release.** Each party to this Agreement does hereby release, remise, acquit, satisfy and forever discharge every other party to this Agreement, their subsidiaries, affiliates, former and present parent companies, directors, officers, servants, agents, attorneys, employees, affiliates’ employees, stockholders, successors, divisions, related companies, heirs, successors and assigns from the Claims.

14. **Dismissal.** Within seven (7) day of the deed swap contemplated by the Escrow Agreement, counsel for the parties shall execute and deliver the joint stipulation for the entry of an order of dismissal of the Action, subject to the Court’s reservation of jurisdiction to enforce the terms of this Agreement (the “Dismissal”) a copy of which is attached hereto and incorporated herein by referenced as Exhibit “O”.

15. **Waiver of Rights to Contest or Appeal.** Each of the parties to this Agreement expressly waives their rights under any federal, state or local laws, rules, regulations, or ordinances, or otherwise existing under common law to contest or appeal any agreement or instrument attached as an exhibit to this Agreement, or any permit issued as a result of such agreement or instrument.
Nothing herein shall prevent a party from enforcing any agreement or instrument against any other signatory to that document in accordance with the terms and provisions of such document. Except as expressly set forth in this Agreement, City does not waive its rights of sovereign immunity.

16. **Miscellaneous.**

   A. **Effective Date.** This Agreement shall be effective as of the date on which the last of the parties to sign this Agreement actually signs it, as evidenced by the date beneath such party’s signature to this Agreement (the “Effective Date”). If this Agreement has not been signed by all of the parties by 5:00 p.m., on the 28th day of October, 2014, then any prior offer to enter into this Agreement shall automatically be deemed to have been terminated and, as a consequence, this Agreement shall be null and void.

   B. **Valid Consideration.** The parties hereto warrant, represent and acknowledge that this Agreement is executed and delivered by the parties hereto for adequate consideration and value and is valid, binding and enforceable in accordance with its terms.

   C. **No Duress.** The parties hereto warrant, represent and acknowledge that they have executed and delivered this Agreement without any duress or wrongful pressure whatsoever imposed by any party hereto or by any other person or entity acting on behalf of or in connection with any party hereto or by any independent third party, and that this Agreement has been executed as the free act and deed of the parties hereto.

   D. **Benefit of Counsel.** The parties hereto warrant, represent and acknowledge that they have had ample time and opportunity to review the form of this Agreement prior to its execution and delivery and that they have executed and delivered this Agreement following adequate opportunities for full discussion with legal counsel.
E. Entire Agreement: No Oral Agreements Limiting Scope of Enforcement. The parties hereto acknowledge, warrant and represent that the effect of this Agreement is not subject to any condition that has not been satisfied fully and completely as of the Effective Date. There are no other agreements between the parties hereto, either oral or in writing, that impair the scope of this Agreement or its validity, binding effect, or enforceability in any respect whatsoever.

F. Forum Selection. Any dispute arising under this Agreement shall be decided before the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, provided it has subject matter jurisdiction. Otherwise the dispute shall be decided before the County Court in and for Orange County, Florida.

G. Additional Actions. The parties agree to take such additional actions, including the execution and delivery of any additional documents, reasonably necessary to effectuate the provisions of the Agreement.

H. No Interpretation of Captions of Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

I. Neutral Interpretation. The parties have had an opportunity to review the terms and conditions of this Agreement with legal counsel and are entering into this Agreement fully informed of all duties, obligations and ramifications of all terms and conditions contained herein, and do agree to abide by and honor all said terms and conditions within this Agreement. Because this Agreement is the result of the joint effort of the parties to resolve the matters herein and the parties have had benefit of counsel, it should not be construed more strictly against any one party.
J. Waiver of Trial by Jury. The parties knowingly, voluntarily and intentionally waive the right they may have to a trial by jury with respect to any litigation based hereon, or arising out of, under or in connection with this Agreement, any document contemplated to be executed, or any underlying matter, course of dealing, statement (whether verbal or written) or action of the parties.

K. No Admissions Regarding the Existence of Claims or Defenses. It is expressly understood and agreed by all parties hereto that this Agreement is entered into for the purpose of avoiding litigation, and for the purpose of settlement and the request of the parties hereto that one another execute this Agreement does not constitute an admission by the parties hereto of the existence of any claim or defense on behalf of the parties hereto or any other person or entity.

L. Multiple Counterpart Originals. This Agreement may be signed in two or more counterparts, each of which shall be deemed an original but all of which, when taken together, shall constitute one and the same instrument. Either an electronic copy or a facsimile copy of this Agreement and any signatures thereon shall be considered for all purposes as an original.

M. Amendment and Waiver. No provisions hereof may be amended or waived other than by written document executed and delivered by the parties hereto.

N. Applicable Law. This Agreement shall be governed in all respects by the laws of the State of Florida, in which state it has been negotiated, executed and delivered.

O. Binding Effect. This Agreement shall bind the parties hereto, and their respective heirs, successors and assigns.

P. Severability. Should any provision of this Agreement be invalid or
unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

Q.   Time. Time is of the essence of this Agreement.

R.   Attorneys’ Fees. Each party to this Agreement will bear its own attorneys’ fees and costs incurred in connection with the Action.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

<table>
<thead>
<tr>
<th>“BELLOWS”</th>
<th>“BENJAMIN”</th>
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<tbody>
<tr>
<td>Daniel B. Bellows</td>
<td>BENJAMIN PARTNERS, LTD</td>
</tr>
<tr>
<td>Dated:</td>
<td>By: Bennett Ave. Company, Inc., its General Partner</td>
</tr>
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<td></td>
<td>By:</td>
</tr>
<tr>
<td></td>
<td>Name: Daniel B. Bellows</td>
</tr>
<tr>
<td></td>
<td>Title: President</td>
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<td>Dated:</td>
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<tr>
<th>“CITY”</th>
<th>“MAXMEDIA”</th>
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<tbody>
<tr>
<td>CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation</td>
<td>MAXMEDIA OUTDOOR ADVERTISING LLC, a Florida limited liability company</td>
</tr>
<tr>
<td>By:</td>
<td>By:</td>
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<td></td>
<td>Name:</td>
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<tr>
<th>“CLEAR CHANNEL”</th>
<th>“Monzadeh”</th>
</tr>
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<tbody>
<tr>
<td>CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation</td>
<td>Melanie D. Spivey Monzadeh, a/k/a Melanie D. Spivey</td>
</tr>
<tr>
<td>By:</td>
<td>By:</td>
</tr>
<tr>
<td></td>
<td>Name: Melanie D. Spivey</td>
</tr>
<tr>
<td></td>
<td>Title: Moinzadeh</td>
</tr>
<tr>
<td></td>
<td>Dated:</td>
</tr>
</tbody>
</table>

[Notarial acknowledgments begin on the following page]
STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this______day of__________, 2014 by Daniel B. Bellows. He is personally known to me or has produced__________________________as identification.

NOTARY PUBLIC

Sign: ________________________________
Print: ________________________________
State of Florida at Large  (Seal)
My Commission Expires

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this______day of__________, 2014 by Daniel B. Bellows in his capacity as President of Bennett Ave. Company, Inc., a Florida corporation, the General Partner of Benjamin Partners, Ltd., a Florida limited partnership. He is personally known to me or has produced__________________________as identification.

NOTARY PUBLIC

Sign: ________________________________
Print: ________________________________
State of Florida at Large  (Seal)
My Commission Expires
STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this______ day of__________, 2014 by __________________________________________in his/her capacity as_________________________ of Clear Channel Outdoor, Inc., a Delaware corporation. He/She is personally known to me or has produced ____________________________ as identification.

NOTARY PUBLIC

Sign: ________________________________
Print: ________________________________
State of Florida at Large (Seal)
My Commission Expires

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STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this______ day of__________, 2014 by __________________________________________in his/her capacity as_________________________ of Maxmedia Outdoor Advertising, LLC, a Florida limited liability company. He/She is personally known to me or has produced ____________________________ as identification.

NOTARY PUBLIC

Sign: ________________________________
Print: ________________________________
State of Florida at Large (Seal)
My Commission Expires
STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing was acknowledged before me this______day of______________, 2014 by ___________________________________________ in his/her capacity as_________________________________ of City of Winter Park, Florida, a Florida municipal corporation. He/She is personally known to me or has produced_________________________________________ as identification.

NOTARY PUBLIC

Sign: __________________________________________
Print: _________________________________________
State of Florida at Large (Seal)
My Commission Expires

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing was acknowledged before me this______day of______________, 2014 by Melanie D. Spivey Monzadeh. She is personally known to me or she has produced ___________________________________________ as identification.

NOTARY PUBLIC

Sign: __________________________________________
Print: _________________________________________
State of Florida at Large (Seal)
My Commission Expires
JOINDER AND CONSENT

MELANIE D. SPIVEY n/k/a MELANIE D. MONZADEH, as Trustee of the Marital Trust “A” and Residuary Trust “B” as set forth under the Last Will and Testament of Mike Moinzadeh a/k/a Michael Moinzadeh under Probate Case No. 2002-CP-000759, Seminole County, Florida, joins in the execution of this Agreement for the sole purpose of consenting to the terms and conditions of this Agreement.

Melanie D. Spivey n/k/a Melanie D. Moinzadeh, as Trustee of the Marital Trust “A” and Residuary Trust “B” as set forth under the Last Will and Testament of Mike Moinzadeh a/k/a Michael Moinzadeh under Probate Case No. 2002-CP-000759, Seminole County, Florida

Dated: ________________________________
INDEX OF EXHIBITS

Exhibit “A” - “Monzadeh Property” legal description
Exhibit “B” - “Swap Property” legal description
Exhibit “C” - “Clear Channel Outdoor Advertising Agreement”
Exhibit “D” - “Monzadeh Outdoor Advertising Agreement”
Exhibit “E” - “Escrow Agreement”
Exhibit “F” – “Authorization”
Exhibit “G” - Intentionally Omitted
Exhibit “H” - Intentionally Omitted
Exhibit “I” - Intentionally Omitted
Exhibit “J” - Intentionally Omitted
Exhibit “K” - Intentionally Omitted
Exhibit “L” - Intentionally Omitted
Exhibit “M” - Intentionally Omitted
Exhibit “N” - “Termination Agreements”
Exhibit “O” - “Dismissal”
Exhibit “P” - “Old Signs”

TPA 511963593v1
OUTDOOR ADVERTISING AGREEMENT

THIS OUTDOOR ADVERTISING AGREEMENT (the “Agreement”) is made and entered into this ______day of October, 2014, by and between the CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation (the “City”), whose address is 401 Park Avenue South, Winter Park, Florida 32789 and CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation, (“Clear Channel”), whose address is 23255 East Camelback Road, Ste. 400, Phoenix, Arizona 85016 and whose local address is 5333 Old Winter Garden Road, Orlando, Florida 32811.

WHEREAS, City Code Section 58-138(b) provides that the City Commission is empowered to permit signs otherwise prohibited by the sign code via agreements as necessary to fulfill the goals of the City, to improve the aesthetic appeal of the City, and reduce the number of outdoor advertising signs; and

WHEREAS, pursuant to Section 70.20, Florida Statutes (2011), of the Bert J. Harris, Jr. Private Property Rights Protection Act, cities are authorized and encouraged to enter into agreements with owners of lawfully erected off-premise signs that allow governmental entities to undertake public goals without the expenditure of public funds while allowing the continued maintenance of private investment and signage as a medium of commercial and non-commercial communication and, to the extent applicable to this voluntary agreement by Clear Channel to remove billboards, authorizes such “relocation and reconstruction” of billboards by agreement, ordinance, or resolution; and
WHEREAS, Clear Channel desires to add an additional face to each of the existing Sign Structures on two separate properties owned or controlled by Clear Channel on I-4 at with digital/changeable message sign technology, ("New I-4 Digital Faces"), and with an address of 2329 W. Fairbanks Road, Winter Park, Florida 32789 (Property Appraiser Parcel # 02-22-29-2996-02-040) and with an address of 2605 Braden Drive, Winter Park, Florida 32789 (Property Appraiser Parcel # 11-22-29-2618-02-090) and which properties are more particularly described on Exhibit “A-1 and A-2” attached hereto and incorporated herein by this reference (the “I-4 Properties”); and

WHEREAS, the City desires to improve the aesthetic appearance of the US 17-92 corridor as a gateway into Winter Park and desires to have certain existing Clear Channel Sign Structures removed from such corridor; and

WHEREAS, the City Commission finds that off-premises Digital/Changeable Message Signs (as defined in the City Sign Code) may be acceptable at certain limited locations within the City, located on properties appropriately zoned for commercial or industrial uses, appropriately setback from residential, historic, or other such uses, and otherwise constructed and operated within the regulatory standards established by state law, this Agreement, and the City Code, as amended from time to time, if said signs are improved or erected in exchange for the removal of billboards or digital/changeable message sign faces located elsewhere in the City; and

WHEREAS, Clear Channel has agreed, subject to its ability to obtain applicable permits, if any are required, to remove the off-premises billboards as described on Exhibit “B” attached hereto and made a part hereof, provided that the City permits Clear Channel to construct the New I-4 Digital Faces to allow a second Digital/Changeable Message Sign Face on each existing Sign Structure on the I-4 Properties in accordance with this Agreement; and

WHEREAS, Clear Channel desires to assist the City’s efforts provided that its economic interests are safeguarded.

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

1. RECITALS. The above recitals are true and correct and form a material part of this Agreement.

2. DEFINITIONS.

   (A) Digital/Changeable Message Sign: An outdoor advertising sign that incorporates within or upon one or more of its sign faces digital or other electronic changeable
message technology, so that it allows advertising copy to be changed remotely rather than by changing the advertising copy on site with poster sheets or vinyl.

(B) Effective Date: The date when the last of the parties to this Agreement has signed this Agreement.

(C) New I-4 Digital Faces: As defined in Section 3.

(D) Removal Signs: As defined in Section 4.

(E) Sign Structure: An outdoor advertising structure used for supporting or displaying a message or informative content, including, without limitation, beach, poles, stringers, fixture connections, electrical supply and connections, panels, signs, copy and any equipment and accessories as Clear Channel may place thereon but which does not include any foundations or other materials placed below the ground, except as follows: (1) for the sign located at 941 N. Orlando Avenue, “Sign Structure,” for purposes of removal, shall include portions of the pole structure below grade, but not the foundations; (2) for the signs located at 1121 N. Orlando Avenue, “Sign Structure,” for purposes of removal, shall include the foundations and other materials below the ground; and (3) for the sign located at 1531 Lee Road, “Sign Structure,” for purposes of removal, shall include the foundations and other materials below the ground if written consent for removal of the foundation and other materials below the ground is received from all the affected property owners.

(F) Sign Face: The part of the sign, including trim and background but excluding the frame of the sign face, which contains the message or informative content.

3. **LIMITED RIGHT TO INSTALL NEW I-4 DIGITAL FACES.** The City hereby agrees that Clear Channel may add an additional Digital/Changeable Message Sign Face of each of the I-4 Properties to be located on the existing Sign Structures in accordance with the construction and operational standards described herein, if an appropriate application is filed. Clear Channel hereby agrees to file the required applications for the New Digital I-4 Faces within seven (7) calendar days of the Effective Date of this Agreement. The New I-4 Digital Sign Faces may be constructed on the I-4 Properties and must be constructed in accordance with this Agreement, state regulations, and the building code. The City agrees to issue the permits necessary (the “I-4 Digital Sign Face Permits”) for the erection, installation and operation of the New I-4 Digital Sign Faces within thirty (30) days following the Effective Date.
4. **REQUIRED REMOVAL OF CLEAR CHANNEL REMOVAL SIGNS.**

Attached as **Exhibit “B”** is a list of sign faces and sign structures, by location, which the parties agree will be or recently have been removed under the terms of this Agreement. Clear Channel represents and warrants that all of the sign structures listed in **Exhibit “B”** are owned by Clear Channel and that all signs (other than the sign located at 1121 N. Orlando Avenue which Benjamin Partners, L.P. (“Benjamin”) and Clear Channel have agreed shall be removed by Benjamin) shall be removed by Clear Channel (as so defined, “Clear Channel Removal Signs”). The Sign Structures shall be removed in the manner and upon the conditions set forth below:

(A) The Clear Channel Removal Signs shall be removed within seven (7) days following the issuance of the final and unappealable I-4 Digital Sign Face Permits. Notwithstanding the foregoing if Clear Channel is prevented from removing the signs due to issues outside the control of Clear Channel, Clear Channel will immediately document such event to the satisfaction of the City and within five (5) business days following the expiration of such event outside of its control, remove such sign in accordance with the remaining requirements of this Agreement.

(B) In order to be counted as a sign removed pursuant to this Agreement, all portions of the Sign Structure as defined in this Agreement for each respective sign must be removed.

(C) Prior to removal of each Sign Structure not removed prior to the date of this Agreement, Clear Channel shall obtain a permit from the City or applicable jurisdiction of record or equivalent documentation otherwise reasonably acceptable to the City. Clear Channel shall also furnish proof of removal of the Sign Structure in the form of photographs showing the sign locations before and after the Sign Structure is removed.

(D) Clear Channel hereby expressly waives any right to receive from the City just compensation for the removal of the billboard sign faces and supporting Sign Structures associated with the signs identified in **Exhibit “B”** whether such a claim for just compensation is predicated on Sections 70.001, 70.20(9), 479.15(2) or 479.24, Florida Statutes.

(E) The removal of the sign located at 1121 N. Orlando Avenue by Benjamin shall be governed by the terms of the Settlement Agreement entered into the parties hereto among others contemporaneously herewith (the “Settlement Agreement”).
5. **NEW I-4 DIGITAL SIGN FACE CONSTRUCTION AND PERFORMANCE STANDARDS.** The New I-4 Digital Sign Faces shall be constructed in accordance with the following construction requirements and performance standards:

(A) Each Sign Face shall have dimensions of approximately 672 square feet each, with Sign Face area of 48 feet by 14 feet per face.

(B) The height of the existing Sign Structures on the I-4 Properties shall not be increased.

(C) The construction and location of the existing Sign Structures on the I-4 Properties shall not be modified as part of this Agreement.

(D) The New I-4 Digital Sign Faces may be internally or externally illuminated.

(E) The New I-4 Digital Faces may be constructed, at Clear Channel’s option, utilizing either traditional sign faces, or Digital/Changeable Message Sign Faces, or a combination thereof, and may be modified after such construction to be traditional or digital, after issuance of proper permits, if any are required.

(F) The minimum spacing between the New I-4 Digital Sign Faces and another sign with faces visible from the same driving direction along the roadway is 1500 feet. The distance shall be measured from the nearest point of the sign as projected to the centerline of the roadway upon which the sign is intended to be viewed to the nearest point of the other sign as measured to its closest point as projected to the centerline along the same roadway.

(G) The Digital/Changeable Message Sign Face shall not contain the following: (i) movement, or the appearance or optical illusion of movement, (ii) movement of any part of the Sign Face, design, or pictorial segment of the sign, and (iii) each static message on the Sign Face shall not contain movement or the appearance of movement of any illumination or the flashing, scintillating or the varying of light intensity.

(H) The sign shall not be illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists so as to interfere with motorists’ ability to safely operate their vehicles. The sign shall not be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal. Otherwise, the sign shall comply with the lighting requirements of the State of Florida, including Ch. 479, Florida Statutes, and Rule 14.10, Florida Administrative Code, certain of which provisions currently prohibit moving light.
(I) Lighting levels from the Digital/Changeable Message Sign Face will not exceed 0.3 foot candles over ambient levels, as measured using a foot candle meter at a pre-set distance of 250 feet from the base of the Sign Structure. The measurement of the brightness level shall be taken with the meter aimed directly at the billboard Sign Face from the applicable pre-set distance. As limited by the above standards, the sign shall not be brighter than is necessary for clear and adequate visibility. At the time of sign permit application, Clear Channel shall submit a certification to the Building Official that this standard will be complied with. The Digital/Changeable Message sign’s operating system shall contain a light sensing device to adjust brightness as ambient light conditions change in order to insure that the message meets the brightness standards set forth in the preceding sentence.

(J) The Digital/Changeable Message sign shall not scroll, contain copy that flashes or feature motion pictures.

(K) The “dwell time,” defined as the interval of change between each individual message, shall be eight (8) seconds in duration; provided, however, Clear Channel may program dwell times greater than eight (8) seconds in its sole discretion. The dwell time shall not include the time required to change a message.

(L) Each message on the Sign Face must change at once, so that there is no perception of such message moving.

(M) The Digital/Changeable Message Sign shall have a default mechanism or setting that will cause the Digital/Changeable Message Sign Face to display a full black image, turn off or freeze in one position at a brightness no brighter than normal operation if a malfunction or failure (meaning any unintended interruption in message sequencing) occurs.

(N) No embellishments or cutouts may be utilized on the sign.

(O) If the New I-4 Digital Sign Faces are is operated in strict compliance with all of the standards in this Agreement, it will not be considered as a flashing sign, animated sign, or containing movement.

6. REMOVAL OR RELOCATION OF THE EXISTING SIGN STRUCTURES ON THE I-4 PROPERTIES. In the event that Clear Channel later desires to relocate the Sign Structures on the I-4 Properties from the existing locations on which such Sign Structures are constructed, Clear Channel must obtain approval from the City; provided, however, the City agrees that any such approval by the City shall be reasonably granted, if in accordance with then applicable City Code and state law.
7. **LIMITED REBUILD RIGHT.** Clear Channel shall have the right to obtain a permit to rebuild the existing Sign Structures and approved Sign Faces (including Digital/Changeable Message Faces on the I-4 Properties if destroyed or removed for any reason, so long as there is no increase in sign area, height, location, and so long as built in compliance with this Agreement. Building/construction permits are valid for only two years, but shall be renewable for an additional year at Clear Channel’s request. If such signs are rebuilt pursuant to this Section, it must comply with all the requirements of the then applicable City Code and this Agreement.

8. **ISSUANCE OF BUILDING PERMITS BY BUILDING OFFICIAL; COMPLIANCE WITH CITY CODES; CITY ISSUANCE OF PERMIT.** The City shall issue all applicable permits, if any, are required by City, or equivalent documentation otherwise reasonably acceptable to the City for (i) the removal of the Clear Channel Removal Signs, upon receipt of proper application, and (ii) the construction, illumination and operation of the New I-4 Digital Faces, upon payment of the normal fees currently charged by the City for issuance of such permits. This Agreement supersedes the prohibition of digital signs in the City’s municipal code (including section 58-135) for the New I-4 Digital Faces only. The New I-4 Digital Faces shall be subject to all remaining prohibitions of the City’s municipal code unless expressly modified by the terms of this Agreement. Any subsequent changes to the I-4 Property’s zoning, overlay or designation shall not affect the legality of the location of the New I-4 Digital Faces, or the permits previously issued for the New I-4 Digital Faces.

9. **CONDEMNATION PROVISIONS.** Should any governmental entity undertake any partial or total condemnation involving land, signs or other improvements owned by Clear Channel, then Clear Channel (or other applicable real property owner) shall each be entitled to the full compensation due to them as permitted by law (including Sections 479.15 and 479.24, Florida Statutes).

10. **VISUAL ACCESS.** The City agrees to abide by the law regarding the installation of vegetation within the public rights-of-way. In addition, the City will not plant, or allow to be planted, vegetation in the I-4 right of way that would prevent a passenger traveling in a vehicle on I-4 from viewing the New I-4 Digital Faces for 1000 feet in either direction, unless otherwise agreed to by Clear Channel in writing in a separate agreement.
11. **ADDITIONAL CONDITIONS.**

The City hereby allows Clear Channel to use alternative technologies for its Digital/Changeable Message Signs detailed in this Agreement after Clear Channel acquires any applicable or required permits, so long as the sign continues to comply with the requirements of state law and City Code and this Agreement, including the performance standards in Section 5. The technology currently being deployed by Clear Channel for Digital/Changeable Message Sign Faces is LED (light emitting diode); however, the parties agree that there may likely be alternate, preferred and superior technology available in the future. Clear Channel is under no obligation to use or continue to use LED technology in the course of this approval for the New I-4 Digital Sign Faces, so long as Clear Channel obtains the necessary permits and abides by all relevant laws and this Agreement.

12. **SPECIFIC PERFORMANCE; SOLE REMEDY.** The parties hereto shall have the right to enforce the terms and conditions of this Agreement by an action for specific performance. The parties shall not have the right to sue for money damages, other than attorneys’ fees as provided by Section 13, unless punitive damages are warranted.

13. **ATTORNEYS’ FEES.** In the event that any party finds it necessary to commence an action against the other party to enforce any provision of this Agreement or because of a breach by such party of any terms hereof, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys’ fees, legal assistants’ fees and costs incurred in connection therewith, at both trial and appellate levels, including bankruptcy proceedings, without regard to whether any legal proceedings are commenced for whether or not such action is prosecuted to judgment.

14. **CITY’S REMEDIES.** As to any Clear Channel Removal Signs Sign Structure which is not timely removed, or which is built, rebuilt or relocated without a permit, in the event the Clear Channel Removal Signs Sign Structure is not removed within fifteen days after written notice to Clear Channel, the City shall have the right to remove the Clear Channel Removal Signs Sign Structure. A rebuilt sign includes any destroyed sign which is reconstructed in violation of Code or this Agreement. In the event Clear Channel fails to remove any sign required to be removed pursuant to this Agreement or City Code by the time established for removal, a fine of $250 per day shall accrue for each sign not removed. The fines shall not accrue until fifteen days after written notice by the City to Clear Channel. The City, after fifteen days written notice to Clear Channel, shall have the right to remove any Clear Channel Removal
Signs Sign Structure or Sign Face which remains in violation of this Agreement, and charge the cost of removal to Clear Channel.

15. **AUTHORITY.** Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this Agreement have been taken or followed and that, upon recording of this Agreement, this Agreement shall be valid and binding upon the parties hereto and their successors in interest.

16. **COOPERATION.** Each party agrees to cooperate and use their best efforts to complete the transactions contemplated hereby and the intent of this Agreement.

17. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Orange County, Florida.

18. **SUCCESSORS AND ASSIGNS.** This Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City and Clear Channel and their respective successors in interest. Clear Channel agrees to not transfer or otherwise convey any ownership interest in any Sign Face or Sign Structure listed in the Exhibits unless the transferee shall execute an agreement to be bound by the terms and conditions of this Agreement, which agreement shall be substantially in the same form as Exhibit “C,” attached hereto and incorporated herein by reference.

19. **RECORDING.** This Agreement shall be recorded by the City in the official land records of Orange County, Florida.

20. **SEVERABILITY.** The parties agree and acknowledge:

   (A) That the rights conferred upon Clear Channel under this Agreement to construct and operate the New I-4 Digital Sign Faces are vested as of the Effective Date, and as such, any future sign regulation that may otherwise alter the terms of this Agreement or diminish Clear Channel’s rights, with respect to maintaining and operating the New I-4 Digital Sign Faces, shall respect and preserve such vested rights as to the New I-4 Digital Sign Faces;

   (B) That, if any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, then said provision shall be severed, and the remaining provisions shall remain in full force and effect so long as the general intent of this Agreement is met. Notwithstanding any provision declared illegal, invalid, or unenforceable,
this Agreement has valid purposes, which include *inter alia* facilitating the net reduction of billboard signs in the City in order to preserve and improve urban aesthetics and traffic safety while also properly balancing private property and commercial speech rights;

(C) That nothing in this Agreement shall be read to impermissibly interfere with the lawful exercise of the City’s police powers to protect the public from serious threats to health or safety; and

(D) That this Section shall apply to all portions of this Agreement; and to the extent any language in this Agreement is deemed inconsistent or contrary to this Section, the language contained in this Section shall control.

21. **CONSIDERATION.** Clear Channel and the City affirm that the only consideration for executing this Agreement is that stated herein and that no other promise or agreement of any kind, oral or written, has been made to or with them by any person or entity.

22. **VOLUNTARY EXECUTION.** Clear Channel and the City represent and agree each has thoroughly discussed all aspects of this Agreement with its attorneys, and it has carefully read and fully understands all of the provisions of this Agreement and that it is voluntarily entering into this Agreement.

23. **MODIFICATIONS.** No waiver or modification of any term or condition of this Agreement shall be valid or binding unless in writing and executed by Clear Channel and the City.

24. **THIRD PARTY BENEFICIARIES.** This Agreement is meant for the sole benefit of the parties hereto and their successors and assigns and no other person or entity shall have any rights of action hereunder.

25. **ENTIRE AGREEMENT.** Together with the Settlement Agreement executed contemporaneously herewith and each of the documents executed by the parties attached thereto (including this Agreement) as an exhibit or referenced therein comprise the entire agreement between the City and Clear Channel, and no verbal or written assurance or promise is effective or binding unless included in such documents collectively.

26. **COUNTERPARTS.** This Agreement may be executed in three or more counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument.
27. **APPROVAL OF CITY COMMISSION.** This Agreement is contingent upon approval by the City Commission. In the event the City Commission does not adopt this Agreement, this Agreement shall be null and void and no longer binding upon the City or Clear Channel.

[Remainder of Page Intentionally Blank – Signature Pages Follow]
IN WITNESS WHEREOF, the parties have caused these presents to be executed as of the date and year set forth below the parties’ signatures below.

Signed, sealed and delivered
in the presence of:

______________________________
Signature

______________________________
Print Name

______________________________
Signature

______________________________
Print Name

CITY OF WINTER PARK

By: ______________________________
Ken Bradley, Mayor

Attest: ____________________________
City Clerk

Date: ______________________________

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ___ of ____________, 20___, by Ken Bradley, as the Mayor of the CITY OF WINTER PARK, FLORIDA, on behalf of the City.

(SEAL)

________________________________
Notary Public – State of Florida

Print name: ________________________

Personally Known ____ OR
Produced Identification
Type of Identification Produced:


Signed, sealed and delivered in the presence of:

___________________________
Signature
___________________________
Print Name

___________________________
Signature
___________________________
Print Name

CLEAR CHANNEL OUTDOOR, INC.

By:_____________________________
Bryan Parker
Title: Executive Vice President
Date Executed: ____________________

STATE OF FLORIDA
COUNTY OF ___________

The foregoing instrument was acknowledged before me this ___ of ____________, 20___, by Bryan Parker as the Executive Vice President of CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation, on behalf of the corporation.

(SEAL)

___________________________
Notary Public – State of Florida

Print name:_____________________________

Personally Known _____OR
Produced Identification
Type of Identification Produced:
EXHIBIT “A-1”
I-4 PROPERTY

2329 West Fairbanks

2329 W Fairbanks Rd: GLENOCE SUB L/132 LOTS 4 & 5 BLK B (LESS R/W ON S PER 1147/0269) & SCHOOL TERRACE R/66 LOT 9 BLK A (LESS PART IN EXPRESSWAY R/W)
EXHIBIT “A-2”
I-4 PROPERTY

2605 Braden Drive

2605 Braden Dr: FAIRVIEW HEIGHTS REPLAT M/89 BEG NW COR LOT 9 BLK B RUN S 50 FT TO SW COR E 38.81 FT N 38 DEG W 63.25 FT TO BEG & INT IN LAKE LOT AS PER DEED BK 250/22 BEING LOT 74 (LESS S 150 FT)
1. 941 N. Orlando Avenue; Parcel ID 01-22-29-3712-01-050 in Orange County, Florida (further described as Home Acres M/97 Lots 5 through 8 Blk A (less part on S & E in R/W); Panel: 39

2. 1531 Lee Road; Parcel ID 01-22-29-3712-04-030 in Orange County, Florida (further described as Home Acres M/97 Lots 3 & 4 Blk D (less Rd R/W on S). Panels: 416, 417

3. 1121 N. Orlando Avenue; Parcel ID 01-22-29-3712-08-070 in Orange County, Florida (further described as Home Acres M/97 Lots 7 & 14 Blk H): Panels: 243, 63519, 63520

4. 1561 Lee Road: Parcel ID 01-22-29-3712-04-010 in Orange County, Florida (further described as Home Acres M/97 Lots 1, 2 & 6 through 19 Blk D. Panels: N/A
EXHIBIT “C”
[FORM OF TRANSFER AGREEMENT]
AGREEMENT OF TRANSFEREE

Under this Agreement of Transferee, made this _____ day of ____________,  _______,
___________________________________________________________ (“Transferee”)
acknowledges and agrees as follows:

1. Transferee acknowledges that _________________________________________
[CLEAR CHANNEL OR IDENTITY OF CLEAR CHANNEL SUCCESSOR IN INTEREST WHO OWNS THE STRUCTURE(S) AT THE TIME OF THIS AGREEMENT OF TRANSFEREE] is transferring one or more billboard structures to
Transferee as reflected in Exhibit _______.

2. Transferee acknowledges that Clear Channel Outdoor, Inc. and the City of Winter
Park have entered into an Agreement dated as of ______________ , (copy attached) and
recorded in O.R. Book _____, Page ______, Public Records of Orange County, Florida, which
governs the billboard structure(s) and accompanying sign face(s). Transferee acknowledges
having received a copy of said Agreement and understands all of the terms, provisions,
conditions, and limitations of that Agreement.

3. In consideration for receiving the benefits of the transfer of the structure(s) and
the accompanying sign face(s) and for other good and valuable consideration, the receipt and
sufficiency of which is hereby acknowledged, Transferee agrees to be bound by all of the terms,
provisions, conditions, and limitations of that Agreement as the same may apply to the billboard
structure(s) and sign face(s) owned by me or in which I have an interest, including the condition
that the undersigned Transferee obtain this same agreement from any subsequent transferee.

____________________________________
[PRINT NAME]

____________________________________
[PRINT NAME]
OUTDOOR ADVERTISING AGREEMENT

THIS OUTDOOR ADVERTISING AGREEMENT (the “Agreement”) is made and entered into this _______day of ____________, 2014, by and between the CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation (the “City”), whose address is 401 Park Avenue South, Winter Park, Florida 32789 and MELANIE D. MONZADEH, (“Monzadeh”), whose address is 117 Variety Tree Circle, Altamonte Springs, FL 32714

WHEREAS, City Code Section 58-138(b) provides that the City Commission is empowered to permit signs otherwise prohibited by the sign code via agreements as necessary to fulfill the goals of the City, to improve the aesthetic appeal of the City, and reduce the number of outdoor advertising signs; and

WHEREAS, pursuant to Section 70.20, Florida Statutes (2011), of the Bert J. Harris, Jr. Private Property Rights Protection Act, cities are authorized and encouraged to enter into agreements that allow governmental entities to undertake public goals without the expenditure of public funds while allowing the maintenance of private investment and signage as a medium of commercial and non-commercial communication and authorizes the construction of billboards by agreement, ordinance, or resolution; and

WHEREAS, Monzadeh desires to transfer the existing Orange County Permit, No. 12006345, to the City of Winter Park, Florida. Approval of the requested transfer would allow Monzadeh to erect a digital billboard at property located at 1621 Lee Road, Winter Park, Florida, (Property Appraiser Parcel # 01-22-29-5040-00-040), and which property is more particularly
described on Exhibit “A” attached hereto and incorporated herein by this reference (“1621 Lee Road”); and

WHEREAS, the City desires to improve the aesthetic appearance of the US 17-92 corridor as a gateway into Winter Park and desires to have certain existing sign structures removed from such corridor; and

WHEREAS, the City Commission finds that off-premises Digital/Changeable Message Signs (as defined in the City Sign Code) may be acceptable at certain limited locations within the City, located on properties appropriately zoned for commercial or industrial uses, appropriately setback from residential, historic, or other such uses, and otherwise constructed and operated within the regulatory standards established by state law, this Agreement, and the City Code, as amended from time to time; and

WHEREAS, The City permits Monzadeh to construct a Digital/Changeable Message Sign on 1621 Lee Road in accordance with this Agreement; and

WHEREAS, Monzadeh desires to assist the City’s efforts provided that its economic interests are safeguarded.

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

1. **RECITALS.** The above recitals are true and correct and form a material part of this Agreement.

2. **DEFINITIONS.**

   (A) Digital/Changeable Message Sign: An outdoor advertising sign that incorporates within or upon one or more of its sign faces digital or other electronic changeable message technology, so that it allows advertising copy to be changed remotely rather than by changing the advertising copy on site with poster sheets or vinyl.

   (B) Effective Date: The date when the last of the parties to this Agreement has signed this Agreement.

   (C) New 1621 Lee Road Digital Sign: As defined in Section 3.

   (D) Sign Structure: An outdoor advertising structure used for supporting or displaying a message or informative content, including, without limitation, beach, poles, stringers, fixture connections, electrical supply and connections, panels, signs, copy and any equipment and accessories as Maxmedia may place thereon.
3. **RIGHT TO INSTALL NEW 1621 LEE ROAD DIGITAL SIGN FACE.** The City hereby agrees that Monzadeh may cause to be installed a new Digital/Changeable Message east and west facing v-shaped double-faced Sign on 1621 Lee Road in accordance with the construction and operational standards described herein. The New 1621 Lee Road Digital Sign may be constructed on the 1621 Lee Road property and must be constructed in accordance with this Agreement, state regulations, and the building code. The City agrees to issue the permits necessary (the “1621 Lee Road Digital Sign Permits”) for the erection, installation and operation of the New 1621 Lee Road Digital Sign within fourteen (14) days following the Effective Date. The signage right described herein is a property interest that runs with the land. It is subject to the proper exercise of the power of eminent domain by any entity having such authority.

4. **NEW 1621 LEE ROAD DIGITAL SIGN FACE CONSTRUCTION AND PERFORMANCE STANDARDS.** The New 1621 Lee Road Digital Sign shall be constructed in accordance with the following construction requirements and performance standards:

   (A) Each Sign Face shall have dimensions of approximately 378 square feet each, with Sign Face area of 36 feet by 10.5 feet per face and a sign structure maximum height of 40 feet.

   (B) The New 1621 Lee Road Digital Sign may be internally or externally illuminated.

   (C) The New 1621 Lee Road Digital Sign may be constructed, at Monzadeh’s option, utilizing either traditional sign faces, or Digital/Changeable Message Sign Faces, or a combination thereof, and may be modified after such construction to be traditional or digital, after issuance of proper permits, if any are required.

   (D) The Digital/Changeable Message Sign Faces shall not contain the following: (i) movement, or the appearance or optical illusion of movement, (ii) movement of any part of the Sign Face, design, or pictorial segment of the sign, and (iii) each static message on the Sign Face shall not contain movement or the appearance of movement of any illumination or the flashing, scintillating or the varying of light intensity.

   (E) The sign shall not be illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists so as to interfere with motorists’ ability to safely operate their vehicles. The sign shall not be of such intensity or brilliance that it
interferes with the effectiveness of an official traffic sign, device or signal. Otherwise, the sign shall comply with the lighting requirements of the State of Florida, including Ch. 479, Florida Statutes, and Rule 14.10, Florida Administrative Code, certain of which provisions currently prohibit moving light.

(F) Lighting levels from the Digital/Changeable Message Sign Faces will not exceed 0.3 foot candles over ambient levels, as measured using a foot candle meter at a pre-set distance of 250 feet from the base of the Sign Structure. The measurement of the brightness level shall be taken with the meter aimed directly at the billboard Sign Face from the applicable pre-set distance. As limited by the above standards, the sign shall not be brighter than is necessary for clear and adequate visibility. At the time of its sign permit application, Maxmedia shall submit a certification to the Building Official that this standard will be complied with. The Digital/Changeable Message sign’s operating system shall contain a light sensing device to adjust brightness as ambient light conditions change in order to insure that the message meets the brightness standards set forth in the preceding sentence.

(G) The Digital/Changeable Message sign shall not scroll, contain copy that flashes or feature motion pictures.

(H) The “dwell time,” defined as the interval of change between each individual message, shall be eight (8) seconds in duration; provided, however, Maxmedia may program dwell times greater than eight (8) seconds in its sole discretion. The dwell time shall not include the time required to change a message.

(I) Each message on the Sign Faces must change at once, so that there is no perception of such message moving.

(J) The Digital/Changeable Message Sign shall have a default mechanism or setting that will cause the Digital/Changeable Message Sign Faces to display a full black image, turn off or freeze in one position at a brightness no brighter than normal operation if a malfunction or failure (meaning any unintended interruption in message sequencing) occurs.

(K) No embellishments or cutouts may be utilized on the sign.

(L) If the New 1621 Lee Road Digital Sign is operated in strict compliance with all of the standards in this Agreement, it will not be considered as a flashing sign, animated sign, or containing movement.

(M) The minimum spacing between the new 1621 Lee Road Digital Sign Face and another sign with faces visible from the same driving direction along the roadway is 1500 feet. The distance shall be measured from the nearest point of the sign as projected to the
centerline of the roadway upon which the sign is intended to be viewed to the nearest point of the other sign as measured to its closest point as projected to the centerline along the same roadway.

**REMOVAL OR RELOCATION OF THE EXISTING SIGN STRUCTURE ON THE 1621 LEE ROAD PROPERTY.** In the event that Monzadeh later desires to relocate the Sign Structure on the 1621 Lee Road property from the existing location on which such Sign Structure is constructed, Monzadeh must obtain approval from the City; provided, however, the City agrees that any such approval by the City shall be reasonably granted, if in accordance with then applicable City Code and state law.

**LIMITED REBUILD RIGHT.** Monzadeh shall have the right to obtain a permit to rebuild the existing Sign Structure and approved Sign Faces (including Digital/Changeable Message Faces on the 1621 Lee Road property if destroyed or removed for any reason, so long as there is no increase in sign area, height, location, and so long as built in compliance with this Agreement. Building/construction permits are valid for only two years, but shall be renewable for an additional year at Monzadeh’s request. If such signs are rebuilt pursuant to this Section, it must comply with all the requirements of the then applicable City Code and this Agreement.

8. **ISSUANCE OF BUILDING PERMITS BY BUILDING OFFICIAL; COMPLIANCE WITH CITY CODES; CITY ISSUANCE OF PERMIT.** The City shall issue all applicable permits, if any are required by the City, or equivalent documentation otherwise reasonably acceptable to the City for the construction, illumination and operation of the New 1621 Lee Road Digital Sign, upon payment of the normal fees currently charged by the City for issuance of such permits. This Agreement supersedes the prohibition of digital signs in the City’s municipal code (including section 58-135) for the New 1621 Lee Road Digital Sign only. The New 1621 Lee Road Digital Faces shall be subject to all remaining prohibitions of the City’s municipal code unless expressly modified by the terms of this Agreement. Any subsequent changes to the 1621 Lee Road Property’s zoning, overlay or designation shall not affect the legality of the location of the New 1621 Lee Road Digital Sign, or the permits previously issued for the New 1621 Lee Road Digital Sign.

9. **CONDEMNATION PROVISIONS.** Should any governmental entity undertake any partial or total condemnation involving land, signs or other improvements owned by Monzadeh, then Monzadeh (or other applicable owner, including lessees of Monzadeh) shall be entitled to full compensation as permitted by law (including Sections 479.15 and 479.24, Florida Statutes).
10. **VISUAL ACCESS.** The City agrees to abide by the law regarding the installation of vegetation within the public rights-of-way. In addition, the City will not plant, or allow to be planted, vegetation in the Lee Road right of way that would prevent a passenger traveling in a vehicle on Lee Road from viewing the New 1621 Lee Road Digital Sign Faces for 1000 feet in either direction, unless otherwise agreed to by Monzadeh in writing in a separate agreement.

11. **ADDITIONAL CONDITIONS.**

The City hereby allows Monzadeh to use alternative technologies for its Digital/Changeable Message Sign detailed in this Agreement after Monzadeh acquires any applicable or required permits, so long as the sign continues to comply with the requirements of state law and City Code and this Agreement, including the performance standards in Section 5. The technology currently being deployed by Monzadeh for Digital/Changeable Message Sign Faces is LED (light emitting diode); however, the parties agree that there may likely be alternate, preferred and superior technology available in the future. Monzadeh is under no obligation to use or continue to use LED technology in the course of this approval for the New 1621 Lee Road Digital Sign Faces, so long as Monzadeh obtains the necessary permits and abides by all relevant laws and this Agreement.

12. **SPECIFIC PERFORMANCE; SOLE REMEDY.** The parties hereto shall have the right to enforce the terms and conditions of this Agreement by an action for specific performance. The parties shall not have the right to sue for money damages, other than attorneys’ fees as provided by Section 13, unless punitive damages are warranted. Nothing herein is intended to waive or limit the Parties’ rights if the subject signage right is acquired by eminent domain.

13. **ATTORNEYS’ FEES.** In the event that any party finds it necessary to commence an action against the other party to enforce any provision of this Agreement or because of a breach by such party of any terms hereof, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys’ fees, paralegal fees and costs incurred in connection therewith, at both trial and appellate levels, including bankruptcy proceedings, without regard to whether any legal proceedings are commenced for whether or not such action is prosecuted to judgment.
14. **AUTHORITY.** Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this Agreement have been taken or followed and that, upon recording of this Agreement, this Agreement shall be valid and binding upon the parties hereto and their successors in interest.

15. **COOPERATION.** Each party agrees to cooperate and use their best efforts to complete the transactions contemplated hereby and the intent of this Agreement.

16. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Orange County, Florida.

17. **SUCCESSORS AND ASSIGNS.** This Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City and Monzadeh and their respective successors in interest. Monzadeh agrees to not transfer or otherwise convey any ownership or leasehold interest in any Sign Faces or Sign Structure listed in the Exhibits unless the transferee shall execute an agreement to be bound by the terms and conditions of this Agreement, which agreement shall be substantially in the same form as Exhibit “B,” attached hereto and incorporated herein by reference.

18. **RECORDING.** This Agreement shall be recorded by the City in the official land records of Orange County, Florida.

19. **SEVERABILITY.** The parties agree and acknowledge:

   (A) That the rights conferred upon Monzadeh under this Agreement to construct and operate the New 1621 Lee Road Digital Sign are vested as of the Effective Date, and as such, any future sign regulation that may otherwise alter the terms of this Agreement or diminish Maxmedia’s rights, with respect to maintaining and operating the New 1621 Lee Road Digital Sign, shall respect and preserve such vested rights as to the New 1621 Lee Road Digital Sign;

   (B) That, if any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, then said provision shall be severed, and the remaining provisions shall remain in full force and effect so long as the general intent of this Agreement is met. Notwithstanding any provision declared illegal, invalid, or unenforceable, this Agreement has valid purposes, which include *inter alia* facilitating the net reduction of billboard signs in the City in order to preserve and improve urban aesthetics and traffic safety while also properly balancing private property and commercial speech rights;
(C) That nothing in this Agreement shall be read to impermissibly interfere with the lawful exercise of the City’s police powers to protect the public from serious threats to health or safety; and

(D) That this Section shall apply to all portions of this Agreement; and to the extent any language in this Agreement is deemed inconsistent or contrary to this Section, the language contained in this Section shall control.

20. **CONSIDERATION.** Monzadeh and the City affirm that the only consideration for executing this Agreement is that stated herein and that no other promise or agreement of any kind, oral or written, has been made to or with them by any person or entity.

21. **VOLUNTARY EXECUTION.** The City and Monzadeh represent and agree each has thoroughly discussed all aspects of this Agreement with its attorneys, has carefully read and fully understands all of the provisions of this Agreement, and that it is voluntarily entering into this Agreement.

22. **MODIFICATIONS.** No waiver or modification of any term or condition of this Agreement shall be valid or binding unless in writing and executed by Maxmedia and the City.

23. **THIRD PARTY BENEFICIARIES.** This Agreement is meant for the sole benefit of the parties hereto and their successors, assigns, lessees and no other person or entity shall have any rights of action hereunder.

24. **ENTIRE AGREEMENT.** Together with the Settlement Agreement executed contemporaneously herewith and each of the documents executed by the parties attached thereto (including this Agreement) as an exhibit or referenced therein comprises the entire agreement between the City and Monzadeh, and no verbal or written assurance or promise is effective or binding unless included in such documents collectively.

25. **COUNTERPARTS.** This Agreement may be executed in three or more counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument.

26. **APPROVAL OF CITY COMMISSION.** This Agreement is contingent upon approval by the City Commission. In the event the City Commission does not adopt this Agreement, this Agreement shall be null and void and no longer binding upon the City or Monzadeh.

**IN WITNESS WHEREOF,** the parties have caused these presents to be executed as of the date and year set forth below the parties’ signatures below.
Signed, sealed and delivered in the presence of:

__________________________________________Signature

__________________________________________Print Name

__________________________________________Signature

__________________________________________Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ___ of ____________, 20___, by Ken Bradley, as the Mayor of the CITY OF WINTER PARK, FLORIDA, on behalf of the City.

(SEAL)

__________________________________________Notary Public – State of Florida

Print name:_________________________________

Personally Known _____OR
Produced Identification
Type of Identification Produced:

__________________________________________
Signed, sealed and delivered
in the presence of:

___________________________
Signature
___________________________
Print Name
___________________________
Signature
___________________________
Print Name

Melanie D. Monzadeh

Date Executed: ________________


STATE OF FLORIDA
COUNTY OF ___________

The foregoing instrument was acknowledged before me this ____ of ________________, 20___, by Melanie D. Monzadeh, an individual.

(SEAL)

Notary Public – State of Florida

Print name:_________________________

Personally Known _____OR
Produced Identification
Type of Identification Produced:
EXHIBIT “A”

1621 Lee Road, Winter Park, FL

Lot 4, Lee Shores, according to the plat thereof as recorded in Plat Book “T”, Page 78, Public Records of Orange County, Florida.
EXHIBIT “B”
[FORM OF TRANSFER AGREEMENT]
AGREEMENT OF TRANSFEREE

Under this Agreement of Transferee, made this _____ day of ____________, ______,
___________________________________________________________ (“Transferee”)
acknowledges and agrees as follows:

1. Transferee acknowledges that Melanie D. Monzadeh or successor in interest who
owns the structure(s) at the time of this agreement of Transferee] is transferring one or more
billboard structures to Transferee as reflected in Exhibit ______.

2. Transferee acknowledges that Melanie D. Monzadeh and the City of Winter Park,
have entered into an Agreement dated as of ____________, (copy attached) and recorded in
O.R. Book _____, Page _____, Public Records of Orange County, Florida, which governs the
billboard structure(s) and accompanying sign face(s). Transferee acknowledges having received
a copy of said Agreement and understands all of the terms, provisions, conditions, and
limitations of that Agreement.

3. In consideration for receiving the benefits of the transfer of the structure(s) and
the accompanying sign face(s) and for other good and valuable consideration, the receipt and
sufficiency of which is hereby acknowledged, Transferee agrees to be bound by all of the terms,
provisions, conditions, and limitations of that Agreement as the same may apply to the billboard
structure(s) and sign face(s) owned by me or in which I have an interest, including the condition
that the undersigned Transferee obtain this same agreement from any subsequent transferee.

____________________________________
____________________________________
(print name)
subject
Library Facility Task Force interim report.

motion | recommendation
Sam Stark, Chairman of the Library Facility Task Force, will be presenting this item. There is no backup provided for the packet.

background

alternatives | other considerations

fiscal impact
Subject: Recommendation of Parking Standards for Retail Stores, Shopping Centers and Restaurants.

The City Commission asked the Planning and Zoning Board to examine and make a recommendation for any suggested changes to our parking codes for retail stores, shopping centers and restaurants. The Planning and Zoning Board discussed this matter at their work session on September 23, 2014 and at their regular meeting on October 7, 2014.

As the P&Z motion and minutes indicate, the Board does not believe changes to the parking codes are necessary. The Board believes that the retail store/shopping center parking codes have worked successfully in the past and there is no reason to change the parking requirements based on the experience from one particular store (Trader Joe’s). The P&Z Board also believes that the restaurant parking code (that was increased in 2009) is adequate to meet the needs of most establishments.

P&Z Recommendation:

Motion made by Mr. Weldon, seconded by Mr. Sacha recommending that the City Commission not amend parking codes for retail stores, shopping centers and restaurants at this time. Motion carried unanimously with a 7-0 vote.

Background:

Attached is a matrix of parking codes of some other cities/counties in Florida with their respective parking standards. Based on those comparisons and discussions with developers and restaurant corporate staff, the staff offers the following observations:

Retail Stores and Shopping Centers: The City’s parking code of one space for each 250 square feet of gross building area or 4 per 1,000 s.f. compares favorably with other cities and counties. Generally it also works well in practice. Except for this unique Trader Joe’s scenario there have been no issues over the years with this amount of parking. The corporate goal for supermarket chains is often between 4.5 to 5.0 spaces per 1,000 because they want to accommodate the Thanksgiving and Christmas crowds. However, the 4 per 1,000 s.f. has worked adequately for the two Publix locations on Orlando Avenue and is the criteria to be applied for the proposed new Whole Foods store. That criteria also worked for the Winn-Dixie when it was located in the K-Mart Center.
We have a unique scenario with Trader Joe’s with its’ cult following in that this is the only store serving the 1.5 million people in the Orlando metropolitan area. When the second Trader Joe’s store opens on February 15 on Sand Lake Road, it should help to some degree. Up until this Trader Joe’s experience the City’s parking code of 4 per 1,000 has worked for every other retail store and every other grocery store chain.

**Restaurants:** There are two national trends working that have increased the needs for restaurant parking. First the number of meals that Americans eat at restaurants versus at home is at an all-time high and the trend continues. There also are increased staffing levels working within these restaurants. Generally the parking codes have not kept up with these trends as most cities/counties have the traditional one per 4 seats or are somewhat updated as Winter Park did in 2009 to one per 3 seats.

The planning staff talked to restaurant corporate staff involved in new restaurant location and design. The key to these discussions is the term “access” to parking. The corporate standards include “access” to a minimum number of parking spaces but that may be all onsite for a stand-alone property or it may be satisfied if there is on-street parking available. If the location is in a shopping center then “access” may include dual use with other tenants. Generally the consensus is one space for each two seats:

Glenn Viers - Hillstone Corp. – Need one per two seats on a property unless in a shopping center or if valet can accommodate one per 2 seats.

Denny Rouse – Ruth Chris Restaurants – Every location offers valet parking but they must have a minimum of 125 parking spaces for their typical 250 seat restaurant.

John Rivers – 4 Rivers Restaurants – Their locations range from one per 1 seat to 1 per 3 seats but on average are 1 per 2 seats.

Diane Nelson – Bloomin Brands (Outback, Bonefish and Carrabas) – The corporate standard is one per 2 seats unless within a shopping center with shared parking.

This information from the corporate viewpoint would support increasing the parking requirement for restaurants. However, the practical effect of increasing the parking standard for restaurants will be to limit the number of new future restaurants that can operate within the City. In some locations that seem over-parked already this might be beneficial but in locations such as West Fairbanks Avenue where such redevelopment is desired, the effect may be counterproductive.

The City has a number of restaurants outside of the CBD/Hannibal Square that operate successfully at parking codes of 1 per 4 seats or less. The key is off-site parking either on adjacent properties, nearby streets or locations in shopping centers. These include Cask and Larder, Fiddlers Green, Keke’s, The Porch, Ravenous Pig, Marlow’s, Carmel Cafe and others. All of the restaurants within the Winter Park Village were built to the one per 4 seat standard. All of the restaurants in the Aloma shopping centers (Outback, Giovanni’s, Tijuana Flats, Tibby’s, etc.) were permitted based on one per 4 seats.
<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Parking Options</th>
<th>Restaurants &amp; Lounges</th>
<th>Shopping Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maitland</td>
<td>16,464</td>
<td>1 space per 300 GSF</td>
<td>1 space per 3 seats, plus 1 per 2 employees</td>
<td>1 space per 200 GSF</td>
</tr>
<tr>
<td>Naples</td>
<td>20,537</td>
<td>1 space per 300 GSF</td>
<td>1 space per 100 GSF + outdoor dining</td>
<td>5.5 spaces per 1,000 GSF</td>
</tr>
<tr>
<td>Venice</td>
<td>21,253</td>
<td>1 space per 300 SF of non-storage area</td>
<td>1 space per 3 seats</td>
<td>5 spaces per 1,000 SF</td>
</tr>
<tr>
<td>Deland</td>
<td>28,237</td>
<td>3 spaces per 300 SF of net area, 1 space per each additional 250 SF</td>
<td>1 space per 75 net floor area up to 6,000 SF plus 1 space per 55 net floor area above 6,000 net SF</td>
<td>N/A</td>
</tr>
<tr>
<td>Winter Park</td>
<td>29,203</td>
<td>1 per 250 sf GFA</td>
<td>1 space per 50 sf of patron space or 1 space per 3 seats (whichever is greater))</td>
<td>N/A</td>
</tr>
<tr>
<td>Winter Garden</td>
<td>37,711</td>
<td>3 spaces per 1000 GSF</td>
<td>1 space per 4 seats and 1 space per 3 employees</td>
<td>N/A</td>
</tr>
<tr>
<td>Altamonte Springs</td>
<td>42,150</td>
<td>1 space per 200 GSF</td>
<td>1 space per 100 GSF</td>
<td>1 space per 200 GSF</td>
</tr>
<tr>
<td>Sarasota</td>
<td>53,326</td>
<td>1 space per 250 SF</td>
<td>1 space per 150SF</td>
<td>1 space per 250 GSF of leasable space</td>
</tr>
<tr>
<td>Lakeland</td>
<td>100,710</td>
<td>1 space per 300 GSF</td>
<td>1 space per 4 seats plus 1 for each 2 employees</td>
<td>1 per 200 GSF excluding indoor common areas (100,000 to 400,000 GSF)</td>
</tr>
<tr>
<td>West Palm Beach</td>
<td>102,436</td>
<td>1 per 250 sf</td>
<td>1 space per 100 GSF</td>
<td>N/A</td>
</tr>
</tbody>
</table>
NEW BUSINESS:

- Request of the City Commission for a recommendation of the parking codes for retail stores, shopping centers and restaurants.

Planning Manager Jeffrey Briggs explained that the City Commission has asked that the Planning and Zoning Board examine and make a recommendation for any suggested changes to the City’s parking codes for retail stores, shopping centers and restaurants. He noted that the Planning and Zoning Board discussed this matter at their work session on September 23, 2014. Mr. Briggs responded to Board member questions and concerns.

The Planning and Zoning Board members expressed that they did not believe changes to the parking codes are necessary at this time. The Board believes that the retail store/shopping center parking codes have worked successfully in the past and there is no reason to change the parking requirements based on the experience from one particular store (Trader Joe’s). The P&Z Board also believes that the restaurant parking code (that was increased in 2009) is adequate to meet the needs of most establishments.

Motion made by Mr. Weldon, seconded by Mr. Sacha recommending that the City Commission not amend parking codes for retail stores, shopping centers and restaurants at this time. Motion carried unanimously with a 7-0 vote.

Date of Next Regular Meeting: Tuesday, October 28, 2014 @ 12:00 noon
Date of Next Work Session Meeting: Tuesday, November 4, 2014 at 6:00 p.m.

There was no further business. Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Lisa M. Smith
Recording Secretary
REGULAR MEETING OF THE CITY COMMISSION
October 13, 2014

The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Electric Director Jerry Warren, followed by the Pledge of Allegiance.

Members present:  Also present:
Mayor Kenneth Bradley  City Manager Randy Knight
Vice Mayor Steven Leary  City Attorney Larry Brown
Commissioner Sarah Sprinkel  City Clerk Cynthia Bonham
Commissioner Tom McMacken
Commissioner Carolyn Cooper

Approval of the agenda

City Manager Knight pulled public hearing items 11-b and 11-f to the next meeting.

Motion made by Commissioner Leary to approve the agenda with the deletion of Public Hearings 11-b and 11-f; seconded by Commissioner McMacken and approved by acclamation with a 5-0 vote.

Mayor’s Report

a. Board appointment – Public Art Advisory Board:

Mayor Bradley nominated Susan Battaglia as the alternate member. Linda Cegelis moved up to fill the remaining regular term of Daniel Iouse who resigned (2012-2015). Seconded by Commissioner Cooper and carried unanimously with a 5-0 vote.

Commissioner McMacken spoke about the successful Art Festival this past weekend and complimented City staff for their efforts.

City Manager’s Report

1. City Manager Knight spoke about the second public forum scheduled and hosted by the Library Facility Task Force on October 30 from 6:00-8:00 at the Civic Center to discuss the different sites under consideration. It was clarified that a decision has not been made at this time whether or not to building a new library. Commissioner Leary asked that the City Manager provide a recap as to what led to the site selection and what the board has been asked to accomplish to inform any new residents in attendance.

Commissioner Sprinkel addressed the need to make it clear that the Commission is not hosting the public forums and has not made any decisions at this time regarding possible sites or if they are going to build a new library. Mayor Bradley
addressed his preference to determine where funding would come from before a decision is made on a site. After further discussion, City Manager Knight stated that the task force will come back with a package of recommendations to consider at a later time that will include locations to consider, the costs, and how it will be paid for. He concluded that an interim report will be provided at the next Commission meeting.

2. Commissioner Cooper asked that a work session to discuss the Ravaudage amendments be held before the next meeting because of the large amount of information. No consensus was reached to schedule this. It was mentioned that each Commissioner can meet individually with staff.

3. Commissioner Cooper addressed the code requirement for an annual capacity availability report. She asked to receive the Infrastructure Capacity Reporting and Monitoring Report.

4. Commissioner Sprinkel spoke about the public notice ability that we have that goes out to the entire City to describe what people can build by the code today compared to what they are asking to build. She stressed the need to provide more information to the public. City Manager Knight addressed the cost involved to add more information and suggested including a reference in the notice explaining where to find more information on the website. Commissioner Cooper suggested including a matrix in the staff report that explains the current zoning, what the applicant is requesting, and what the land use zoning allows.

City Attorney’s Report

Attorney Brown updated the Commission on the MaxMedia/Clear Channel litigation matter.

Non-Action Item


Finance Director Wes Hamil provided the August 2014 Financial Report. Motion made by Commissioner McMacken to accept the financial report as presented, seconded by Commissioner Sprinkel and carried unanimously with a 5-0 vote.

Consent Agenda

a. Approve the minutes of September 22, 2014.
b. Approve the changes to the Purchasing Policy.
c. Approve the following purchases, contracts, and formal solicitation:
   1. Blanket Purchase Order to ENCO Utility Services for electric utility undergrounding; $185,000.
2. Blanket Purchase Order to Heart Utilities for electric utility undergrounding; $225,000.
3. After the fact change order request (increase to blanket purchase order) to Seminole Electric Bulk Power for FY14 August and September invoices for bulk power; $1,400,000.
4. Blanket Purchase Order to Brown and Brown Insurance Agency for insurance coverage and agency fee; $751,153.00.
5. Blanket Purchase Order to De Young Law Firm for legal services; $50,000. **PULLED FOR DISCUSSION. SEE BELOW.**
6. Blanket Purchase Order to GATSO USA, Inc. for red light safety enforcement, RFP-13-2009; $441,600. **PULLED FOR DISCUSSION. SEE BELOW.**
7. Blanket Purchase Order to Motorola Solutions for system monitoring and preventative maintenance for Astro P25 radio system; $51,825.96.
8. Blanket Purchase Order to Waste Pro of Florida for residential curbside service, RFP-6-2009; $2,200,000. **PULLED FOR DISCUSSION. SEE BELOW.**
9. Blanket Purchase Order to Air Liquide Industrial Company for liquid oxygen for water treatment facilities; $150,000.
10. Blanket Purchase Order and any subsequent charges to City of Orlando for FY15 sanitary sewer charges for McLeod/Asbury; $385,000.
11. Blanket Purchase Order and any subsequent charges to City of Orlando for FY15 sanitary sewer charges for Iron Bridge; $1,850,000.
12. Blanket Purchase Order to Stephen’s Technology for FY15 trenchless repairs to sanitary sewer mains; $185,000.
13. Blanket Purchase Order and any subsequent charges to South Seminole North Orange County Wastewater Transmission Authority (SSNOCWTA) for FY15 operation & maintenance; and depreciation; $600,000.
14. Blanket Purchase Order to Layne Inliner for FY15 sewer line rehabilitation cleaning and video recording, $600,000.
15. Blanket Purchase Order to Perma-Liner Industries, Inc. for FY15 trenchless repairs to sanitary sewer lateral, $100,000.
16. Blanket Purchase Order to Odyssey Manufacturing Company for FY15 12.5% sodium hypochlorite for water & wastewater treatment facilities; $160,000.
17. Blanket Purchase Order to Duval Asphalt for E-Z street cold asphalt; $50,000.
18. Amendment 4 for Emergency Debris Management Services with Ceres Environmental Services, Inc. (RFP-16-2010); and authorize the Mayor to execute Amendment 4 (no fiscal impact unless emergency declaration is declared).
19. Award to Central Florida Environmental Corporation (IFB-24-2014) for Lake Forest Stormwater Retention Pond Project; authorize the Mayor to execute the contract and approve subsequent purchase order; (60% from FDEP 319 Grant Agreement GO354; grant funding of $225,073.56; and City stormwater fee funding of $150,049.04).

d. Approve the FY 2015 budget amendment to fund the visioning study.
Motion made by Commissioner McMacken to approve Consent Agenda items a-b, c.1-4, c.7, c.9-19 and d; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.

Consent Agenda Item C.5 - Blanket Purchase Order to De Young Law Firm for legal services; $50,000.

Mayor Bradley inquired about the purpose of the De Young Law Firm. It was clarified that they only deal with Police matters.

Motion made by Mayor Bradley to approve Consent Agenda item C.5, seconded by Commissioner McMacken. No public comments were made. Motion carried with a 5-0 vote.

Consent Agenda Item C.6 - Blanket Purchase Order to GATSO USA, Inc. for red light safety enforcement, RFP-13-2009; $441,600.

Commissioner Cooper asked if a cost benefit analysis can be provided. Motion made by Commissioner Cooper to approve Consent Agenda item C.6, seconded by Commissioner Sprinkel. No public comments were made. Motion carried with a 5-0 vote.

Consent Agenda Item C.8 - Blanket Purchase Order to Waste Pro of Florida for residential curbside service, RFP-6-2009; $2,200,000.

Mayor Bradley inquired about dumpsters at residential homes and roll off services. Assistant City Manager Michelle del Valle explained the ongoing negotiations with their contract; they have in the meantime allowed us to continue waiving residential construction from the roll off requirement. Further discussion ensued regarding roll off services and potentially charging all residential roll off providers a franchise fee.

Motion made by Mayor Bradley to approve Consent Agenda item C.8, seconded by Commissioner Leary. No public comments were made. Motion carried with a 5-0 vote.

Action Items Requiring Discussion

There were no action items.

Public Hearings:

a. ORDINANCE NO. 2978-14: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE EASEMENT LOCATED AT 716 KIWI CIRCLE, WINTER PARK, FLORIDA, MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING AN EFFECTIVE DATE. Second Reading
Attorney Brown read the ordinance by title.

Motion made by Mayor Bradley to adopt the ordinance; seconded by Commissioner Sprinkel. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

b. Request of UP Fieldgate US Investments – Winter Park LLC: Final conditional use approval to redevelop the former Corporate Square and Winter Park Dodge properties with a 40,000 square foot Whole Foods Grocery and a 36,000 square foot retail building with three outparcel development sites on the properties at 1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE PORTIONS OF GALLOWAY DRIVE AND FRIENDS AVENUE WITHIN THE PROPOSED WHOLE FOODS DEVELOPMENT PROJECT, MORE PARTICULARLY DESCRIBED HEREIN. Second Reading

This item was pulled off the agenda to be considered at the October 27, 2014 meeting.

c. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE 2953-14 AUTHORIZING THE ISSUANCE OF NOT EXCEEDING $16,000,000 ELECTRIC REVENUE BONDS OF THE CITY TO FINANCE ITS OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A TENDERED FOR PURCHASE BY THE HOLDERS THEREOF AND PAY THE COSTS OF ISSUANCE THEREOF; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM THE NET REVENUES DERIVED FROM THE ELECTRIC SYSTEM OF THE CITY ON PARITY WITH THE CITY'S OUTSTANDING ELECTRIC REVENUE BONDS; PROVIDING FOR THE SALE OF SUCH BONDS PURSUANT TO A PRIVATE NEGOTIATED SALE; AND PROVIDING AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. City Manager Knight explained what has transpired since the refunding a few months ago.

Motion made by Mayor Bradley to accept the ordinance on first reading; seconded by Commissioner Sprinkel. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

Attorney Brown read the ordinance by title. Planning Manager Jeff Briggs explained the ordinance adopted in July to remove from the comprehensive plan policies that required four votes (supermajority) for approval of certain kinds of conditional uses and the rules that still reside in the zoning code. He stated to fully implement it you need to also amend the zoning code to be consistent with the comprehensive plan to take out the cases that require the supermajority of four votes for conditional uses. He clarified that is what the ordinance this evening does.

Attorney Brown clarified that requiring a supermajority vote on a conditional use does not violate our Charter. Commissioner Cooper stated that she will not be voting to remove the supermajority requirement for conditional uses since this ordinance does not conflict with the Charter and there may be times we may want to have four votes. Further discussion ensued regarding the need to be consistent across the board. Mayor Bradley preferred to take action on this ordinance now and to look at another ordinance later to change the conditional use process. Attorney Brown suggested working with staff to bring back one single ordinance for first reading that does what is in the proposed ordinance tonight and also amends other sections that would change the conditional use process. Commissioner Sprinkel spoke in favor of the ordinance this evening.

Motion made by Mayor Bradley to table this ordinance until the second Commission meeting in November; seconded by Commissioner Leary. No public comments were made. Upon a roll call vote, Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. Mayor Bradley voted no. The motion carried with a 4-1 vote.

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

Attorney Brown read the ordinance by title.

Motion made by Mayor Bradley to accept the ordinance on first reading; seconded by Commissioner McMacken for discussion.
Planning Manager Jeff Briggs explained the ordinance is a comprehensive regulation on the location and operating characteristics for future medical marijuana treatment centers in terms of location to be limited to the Industrial (I-1) areas with some separations. He explained that we do not know if the constitutional amendment is going to pass or implemented by the Legislature but staff felt we should be proactive and have the regulations on the books if the amendment does pass.

Commissioner Cooper inquired about moratoriums put on this by other entities. She spoke about the industrial property that is near residential. Mr. Briggs spoke about one area on Solana Avenue that he believed would be a permitted area. Attorney Brown spoke about amendments to the language for the second reading regarding a siting requirement that a center cannot be located within 1,000 feet of any school, daycare, park, playground or religious institution or within 100 feet of any residentially zoned property. Police Chief Railey addressed possible problems with a moratorium and that our ordinance needs to be in effect as soon as possible. City Manager Knight understood that changes may have to be made later to the ordinance but confirmed that this protects us until the regulations are in place. Commissioner McMacken asked that a map be provided for second reading showing the locations that these could be allowed to operate.

William Berger, 1104-1128 Solana Avenue, opposed the ordinance because of a possible location being in close proximity to their business.

Matt Sullivan, representing the Berger’s on their property, asked if there is a way to further refine the possible locations.

Further discussion took place regarding the mandate to have available zoning sites in the City and the specific provisions that would be put into place if this moves forward. Upon questioning, Attorney Brown stated the second reading would include language that Orange County’s code does apply unless the City ordinance expressly deals with the subject and is different than the Orange County code (the City’s provision takes precedence). Further discussion ensued regarding the Industrial zoning sites currently in the City.

Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

Mayor Bradley inquired if we could look into making our parks marijuana smoke-free. Attorney Brown responded that we can prohibit any public consumption anywhere to include marijuana products. There was a consensus for Attorney Brown to draft an ordinance to come back to the Commission for consideration to prohibit the smoking of marijuana in City parks.
Public Comments (items not on the agenda)

No public comments were made.

f. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, APPROVING AN AMENDED AND RESTATED DEVELOPMENT ORDER FOR THE RAVAUDAGE DEVELOPMENT; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

This item was removed from the agenda.

**City Commission Reports:**

a. **Commissioner Leary**

Commissioner Leary asked if we need to address anything coming from the hard rains we had in the last two weeks. City Manager Knight spoke about this being more water than our system could handle and there is nothing we need to address or to create funds for. He stated the cost to be able to handle that type of rain event is far more than the benefit.

b. **Commissioner Sprinkel**

1. Commissioner Sprinkel asked if we are going to extend the Christmas lights into the side streets. Commissioner Leary suggested including the Hannibal Square area. City Manager Knight stated the Hannibal Square trees are not large enough to handle the globe lights but plan to put other lighting there. Public Works Director Troy Attaway said they will expand the globes into Central Park and Shady Park to provide that presence into the Hannibal Square area. Commissioner Leary asked that the red and green globes on Park Avenue be placed away from the traffic signals. Mr. Attaway acknowledged. City Manager Knight addressed the lack of electricity on side streets to accommodate Christmas lights but will review it.

2. Commissioner Sprinkel commended the great job our Police Department does but asked to provide additional crime information to the public so they understand what has been done. Police Chief Railey addressed the overall lack of crime and the press releases that they will continue to do.

c. **Commissioner Cooper**

Commissioner Cooper spoke about being proud of our Police Department and that it is the safest place to live but that we need to provide more communication as to what is being done to keep the City safe. She announced the First Congregational Church with the Winter Park History Museum is holding Patrick Smith’s “A Land Remembered” on October 18 at 7:00 p.m.; announced that the New Warner Chapel Baptist Church will be celebrating the life of Reverend Mitchell Dawkins who passed
away a year ago; announced she will be speaking at the West Minister Clergy Appreciation; and that she appreciated receiving the concurrency report.

d. Commissioner McMacken

Commissioner McMacken asked Public Works Director Attaway about the trash compactors on Central Avenue and if that is still moving forward. Mr. Attaway stated they are working out the billing portion and they will be installed as soon as this is finalized. He provided a general timeframe of two weeks. He spoke about the Peacock project in Central Park that has raised $42,000 and announced the upcoming Homecoming Parade.

e. Mayor Bradley

No report.

The meeting adjourned at 5:16 p.m.

__________________________________
Mayor Kenneth W. Bradley

ATTEST:

______________________________
City Clerk Cynthia S. Bonham, MMC
motion | recommendation

Staff recommends approval of the presented labor agreement.

background

The Winter Park Professional Firefighters Local 1598 IAFF and the city have negotiated a new labor agreement. The existing agreement was for one year and expired on September 30, 2014. The proposed agreement will be for three years and has received a positive vote from the union membership and is supported by city management and fire administration. The document has been reviewed and approved by the city’s labor attorney.

alternatives | other considerations

Failure of the city to agree to this ratified labor agreement will send the parties back to negotiations. No other alternative is currently available nor can a contract be negotiated from the dais.

fiscal impact

The fiscal impact of the agreement is included in the approved FY 2015 budget. Salary adjustments include a 3.5% merit-based increase for years one and two and a 4% increase for year three. The contract includes reopener language for Article addressing Firefighter Pensions.
AGREEMENT BETWEEN CITY OF WINTER PARK, FLORIDA

AND

WINTER PARK PROFESSIONAL FIRE FIGHTERS, LOCAL 1598, IAFF

(“A” Unit)

&

(“B” Unit)

2015-2017
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PREAMBLE

THIS AGREEMENT, executed as of this 1st day of October, 2014, between CITY OF WINTER PARK, FLORIDA, hereinafter called the City, and WINTER PARK PROFESSIONAL FIRE FIGHTERS, LOCAL 1598, IAFF, hereinafter called the Union.
ARTICLE 1 - RECOGNITION

The City recognizes the Union as the sole and exclusive bargaining agent for the following bargaining unit of the City’s employees employed in the Winter Park Fire Department:

INCLUDED IN THE “A” UNIT:

All full-time certified and probationary fire fighters, paramedics, fire engineers employed by the City of Winter Park.

EXCLUDED FROM THE “A” UNIT:

Fire chief, assistant fire chiefs, fire training officer, fire marshal, fire inspector, battalion chiefs, lieutenants, captains, clerical employees and all other employees employed by the City of Winter Park.

INCLUDED IN THE “B” UNIT:

All full-time and probationary certified lieutenants, captains and fire marshal, fire inspector, employed by the City of Winter Park.

EXCLUDED FROM THE “B” UNIT:

All full-time and probationary certified fire fighters, paramedics, engineers, fire training officer, assistant fire chiefs, fire chief, clerical employees, and all other employees employed by the City of Winter Park.
ARTICLE 2 - UNIFORMS AND MAINTENANCE

All trousers, shorts, shirts (tee-shirts), jackets, and caps, if any, and all insignia, which unit employees are required to wear in the performance of their work shall be furnished on an as needed basis by the City to unit employees without cost. The specific items to be furnished by the City shall consist of uniform work pants, uniform work shorts, uniform dress pants, uniform dress shirts, uniform tee shirts, uniform belt, sweater, coveralls, uniform cap and one pair of department approved uniform shoes. Quantities of these items shall be provided on an as needed basis to maintain an agreed upon minimum amount. The employees shall furnish all other items of their clothing worn on duty at their cost. It shall be the obligation of the employees to maintain all items furnished by the City in good and presentable condition, and to notify the City in advance of a need for replacement of any such item.

The City agrees to furnish one towel per unit employee annually, and one set of bed linens (two sheets, one blanket and a pillow case) per unit employee, on an as needed basis, to all unit personnel. It shall be the responsibility of each employee to maintain such towels and linens.

The City shall have the right to establish and to from time to time change the procedure and arrangements for furnishing all of the materials furnished to employees by it under this Article.

The City agrees to reimburse the full cost of eye glasses and contact lenses not to exceed One Hundred and Fifty Dollars ($150.00) and up to Fifty Dollars ($50.00) for wrist watches damaged in the line of duty, provided an adequate proof of such damage, the circumstances of the event and proof of original purchase price are presented to the appropriate manager.
ARTICLE 3 - WITNESS SERVICE

Employees who are required to serve during scheduled duty as witnesses for the City in any judicial or administrative proceeding, or who are required to serve during scheduled duty as witnesses for any party under a valid and lawfully served subpoena in connection with any non-personal matter which arose from the course or scope of their employment, shall be given time off with pay to serve, and shall return to duty immediately upon completion of such service, so long as at least three (3) hours of their work hours or shift is still in effect. Employees who are required to serve in either capacity during times other than their scheduled duty time shall be paid at their base hourly rate for actual hours or fractions thereof necessarily spent by them at the courthouse or other required place of attendance. All such paid time shall be documented by the employee upon request of the department.

All witness fees payable to an employee for or in connection with such service must be endorsed and tendered to the City by the affected employee as a condition to being paid by the City for the time taken off for witness service under the foregoing language of this article.

Actual time spent by an employee serving as a witness for the City, regardless of whether the employee is on scheduled duty during such time; and actual time spent serving as a witness under a valid and lawfully served subpoena for any party in connection with any non-personal matter which arose from the course or scope of the employment of such employee, provided such service occurs and such time is spent while such employee is on scheduled duty, shall be counted as hours worked for purposes of computing statutory overtime under the overtime regulations promulgated under the Fair Labor Standards Act.

Unit members that have been called and placed on stand-by status by an official of the court, thereby restricting their off-duty activities, shall receive two (2) hours compensatory time, for each day they are placed on stand-by. The compensatory time will be counted at a straight-time rate and not be used or included when calculating any overtime for the purposes of compensation under the Fair Labor Standards Act. If a unit member is on stand-by for multiple cases during the same period of time, only
two (2) hours of compensatory time will be allowed to be accrued for each day on stand-by. This benefit will only apply when stand-by is required during a unit member’s off-duty time. Stand-by status will begin when the member is actually called, text, or emailed by the witness coordinator within the two week trial period notifying them that the trial is set to be heard, and only for the day(s) they are told they will be needed for court appearance.

Stand-by status will end once the member is notified the case has been resolved or their testimony will not be required, or when the member actually responds to court. Stand-by status will not apply to subpoenas received for a trial period or for the two week notice of trial unless the member is notified (called, text, or emailed) by a court representative that the trial is set to be heard and their appearance is required.
ARTICLE 4 - JURY SERVICE

Employees summoned by law for jury selection or service shall be granted the necessary time off from scheduled duty with pay upon presentation to their superior officer of satisfactory written evidence relating to such duty. Twenty-four hour shift personnel shall be excused from duty at 2000 (twenty-hundred) hours the day prior to his/her scheduled service. An employee serving on such duty shall report to his assigned work location upon being released for the day if at least three (3) hours of his work hours or shift is still in effect. However, an employee selected to serve on a jury in a pending case need not report to his assigned location until released from service on such case.

This article shall apply only to petit jury service; and shall have no applicability to grand jury service unless the City determines to apply it in full or in part, in its sole discretion, on an individual case basis. Compensation paid by the state, county or other authority issuing any summons or notice for jury service must be endorsed and tendered to the City by the affected employee as a condition to being paid by the City for the time taken off for jury service under the foregoing language of this article.
ARTICLE 5 - DUES CHECKOFF

The City agrees to deduct, each pay period, Union dues from the pay of those employees who individually authorize and request, in writing, that such deductions are made. The City shall not make deductions for payment of initiation fees or fines. Dues thus deducted by the City shall be remitted to the Union by check each pay period. Any change in the amount of dues to be deducted will require a written authorization by the Secretary/Treasurer of the Union, and will be effective the beginning of the following pay period thirty (30) days from receipt of such written authorization.

The payroll deduction authorized shall be revocable by any affected employee. The payroll deduction of Union dues shall be stopped at any time by a written and dated request from such employee delivered to the City Personnel Department. The effective date for stopping dues check-off shall be thirty (30) days after the pay period following the date of such revocation by the employee. If, for any reason, the employee’s employment is terminated the effective date for stopping dues check-off shall be the date of termination.

No deduction shall be made from the pay of any employee for any payroll period in which the employee’s net earnings for that payroll period, after other deductions, are less than the amount of dues to be checked off.

The Union agrees to indemnify and hold harmless the City, its agents, employees and officials from and against any claims, demands, damages or causes of action (including but not limited to claims, etc., based on clerical or accounting errors caused by negligence), of any nature whatsoever, asserted by any person, firm or entity, based on or relating to any payroll deduction required or undertaken under this article, and agrees to defend at its sole expense any such claims against the City or its agents, employees or officials. The term official as used herein includes elected or appointed officials.
ARTICLE 6 - GENDER

Where the words “he”, “him” or “his” are used in this agreement, it shall be understood, unless the context requires otherwise, that such words include the words “she”, “her” and “hers”.
ARTICLE 7 - INSURANCE

The City will make available health, life and long term disability insurance on a group basis to unit employees to the same extent and in the same manner that such insurance is provided to other City employees up to Department Head level. It is understood that “health” as used in this paragraph includes certain dental coverage. The City reserves the right to terminate the said group insurance program or any part thereof at any time.

The health insurance dependent coverage will be optional to all eligible employees. Employees who opt for such insurance will pay such portion as is determined from time to time by the City of the premiums and other costs through deductions from payroll.

The City reserves the right to reduce or enlarge the benefits payable under any coverage, to alter or cease any coverage, to raise or lower any “out of pocket” amounts and to raise or lower any deductibles.

The City shall have the same rights with regard to unit members to agree upon with the provider, to make any changes in the costs of any of the insurance and to require unit employees to bear any portion of the cost of coverage presently paid for in full by the City as it has with regards to its non-bargaining unit employees. It is agreed that, in the event of a premium increase or other increase in the cost to the City of providing any of the insurance, such increase will be paid by the employees in any proportion as determined by the City, including in its entirety. Such increases shall be deducted from wages, and shall be administered in the manner presently in effect.

In addition, the City may make any changes in the program necessary to comply with all applicable laws, including the Patient Protection and Affordable Care Act of 2010, and all applicable regulations under such laws and changes in such laws and regulations. The Union further agrees that the City may make other changes or alterations in cost, coverage, benefits, amounts thereof or any other characteristics that result from circumstances beyond the City’s control.
The City shall not be obligated to bargain over any of the changes referred to in this article or over the effects of any such changes.

The parties also agree that the Union may select one individual to sit as a member of any formal employee review committee or focus group that is formed by City Administration to review health benefits.
ARTICLE 8 - PROTECTIVE CLOTHING

Unit fire suppression personnel shall be provided with the following protective clothing, such clothing to be of a type approved by NFPA, OSHA and NIOSH.

- One fire helmet
- One complete structural firefighting ensemble
- One pair of fire fighter-type gloves
- One pair of fire fighter boots with safety insoles, knee-high
- Firefighter’s protective hood
- SCBA face piece assembly

Such firefighting equipment shall be assigned to each such employee and shall be his responsibility in all respects during his tenure of service. A record shall be kept of all equipment so issued. All such equipment shall remain the property of the City.

Coats, pants, fire helmet, boots and other protective equipment shall be marked with the assignee’s name.

The City will replace, in the manner provided in this article, any of the above-listed items which, in the judgment of the Chief or his designee, are worn out, damaged, or otherwise unfit for the intended use.

Any of the above-listed property which is lost, stolen or destroyed will be replaced under Article C above, but the City may deduct all or part of the cost of replacement from the wages of the employee responsible if the loss, theft or destruction is caused by or attributable to the act or omission of the assignee.

An employee may, at his/her own expense, purchase and utilize a leather helmet meeting all required safety standards. The City will not be responsible for damage, loss or theft of said helmet in excess of the amount it would pay toward the standard City supplied helmet under any circumstances. If the
employee ceases to work for the City within two years of the purchase of a leather helmet, the employee will be responsible to reimburse the City the portion paid by the City. If the employment is terminated after two years from the purchase, the employee can keep the helmet at no charge.

The City agrees to maintain said equipment as outlined by the NFPA 1851.
ARTICLE 9 - SAFETY AND HEALTH

The City and the Union agree to cooperate in making continuing efforts to eliminate accidents and health hazards and in the enforcement of City rules and regulations relating to safety.

The parties agree that the Union may appoint one individual to sit as a member of any safety committee of the City now existing or which may hereafter exist during the term of this agreement. The individual appointed by the Union shall have the same decision making and voting rights as any other committee member. Such individual may participate in committee meetings while on duty without loss of pay if such meetings are scheduled while he is on duty; otherwise his attendance will not be compensated by the City.

The Chief of the Department shall give good faith consideration to implementation of any recommendation made by any such committee during the term of this agreement, which relates to any functions or duties of unit personnel.
ARTICLE 10 - HOLIDAYS

The City, during the term of this agreement, shall recognize, with respect to unit personnel, the following holidays:

1. New Year’s Day (January 1).
2. Dr. Martin Luther King Jr. Day (Third Monday in January) is considered a Floating Holiday for 56-hour employees.
3. Memorial Day (last Monday in May).
4. Independence Day (July 4).
6. Thanksgiving Day.
7. Friday after Thanksgiving.
8. Christmas Eve – half day.
10. Floating holiday (1)

No unit members shall be eligible for any floating holiday or payment therefore until after six months of employment.

Unit members have the option to take any floating holiday as a 24-hour shift off with pay, or to be compensated 14-hours of straight time to be paid out during any pay period in the fiscal year. Nothing herein shall be interpreted as meaning that the recognition by the City of the foregoing holidays can interrupt or interfere with the normal scheduling and working of shifts. The intent of this article is that the above holidays be recognized for unit personnel with additional 14 hours (7 hours for ½ day) compensation per employee per holiday at straight time.

An employee who is on approved Personal Leave or Long-Term Medical Leave on a designated holiday under this agreement shall be paid for the holiday as prescribed above. However, an employee on leave
without pay; on disability leave; on any leave under or allegedly under the Workers’ Compensation law; or on any leave while receiving compassionate leave benefits as prescribed in this agreement shall not receive holiday pay if on any such leave on any designated holiday.
ARTICLE 11 - VOTING

The City agrees to allow each employee who is a registered voter and is scheduled to work from 7:00 A.M. to 7:00 P.M. on the day of a general election reasonable time off with pay to vote. Voting time will be scheduled in the discretion of the Battalion Chief in command in such a fashion as to not interfere with normal work production. The location of the employee’s precinct and the employee’s work schedule shall be considered in scheduling time off.
ARTICLE 12 - MILITARY LEAVE

An employee who is a member of the United States Armed Forces Reserve, including the National Guard, shall be entitled to leave without loss of pay during periods in which the employee is engaged in annual field training, other training exercise, or other similar activities as a reservist as required by his service, other than deployment to active duty. Such leave with pay shall not exceed 408 hours in any one calendar year. In no case shall such per-day pay exceed the regular work day or regular shift pay at the base rate. Copies of all relevant orders must be provided before military leave is granted.

For weekend drills, the employee approved for leave will be granted time off at 1900 hours on Friday (if on duty) preceding the drill and shall return to work on his/her first duty day after the drill is completed. For annual (two week) drills, the member shall be granted time off for the entire time and shall return to work on his/her first duty day after the drill is complete. All time off shall be counted as time worked and be documented as Military Leave (ML). Should a member have a scheduled Kelly Day during Military Leave, the Kelly Day shall be rescheduled.
ARTICLE 13 - BULLETIN BOARDS

The City shall provide the Union with the exclusive use of one bulletin board in each fire station, it being understood that such bulletin boards shall be the same bulletin boards or other bulletin boards equivalent in size to the bulletin boards in existence. Such bulletin boards and the space where they are located are granted to the Union for the sole purpose of posting and disseminating information pertaining to the business and activities of the Union.

No material shall be posted which is of a political nature, or reflects negatively or adversely upon the City or upon any of its employees, officials or its constituent departments or agencies. Nothing shall be posted which is obscene, inflammatory or which would interfere with the operation of the Winter Park Fire Department. All materials placed on any such bulletin board must be signed by the President of the Union.
ARTICLE 14 - PERSONNEL RULES AND ORDINANCES

The parties agree that changes may be made to the Personnel Policy Manual, Standard Operating Guidelines and Job Descriptions provided the City furnishes copies of the proposed amendments to the Union at least ten (10) days prior to the requested change appearing on the agenda, and provided further that the proposed amendments shall be considered by the Civil Service Board and City Commission in the absence of a response after such notice to the Union.

Should Local 1598 express its written opposition or modification to said change, the City Manager agrees to meet with Local 1598 to permit input into the proposed change before submission to the Commission for consideration.
ARTICLE 15 - MANAGEMENT RIGHTS

It is the right of the City to determine unilaterally the purpose of the Winter Park Fire Department, to set standards of services to be offered to the public, to exercise control and discretion over the operations of the Winter Park Fire Department and to direct its employees in that Department.
ARTICLE 16 - WORK DAY, WORK PERIOD, PAY PERIOD, EXTRA DUTY AND OVERTIME

Work Shift and Work Period
Twenty-four (24) hours shall constitute a normal shift for shift personnel. The work period contemplated in Section 7 (k) of the Fair Labor Standards Act will be twenty-one (21) consecutive days.

All employees are required to be present at and on their assigned jobs for the total hours in the work shift unless absence from duty is authorized by the appropriate authority. All absences shall be properly recorded and charged.

Pay Period
The pay period shall be 14 consecutive days, beginning at 7:00 a.m. every other Monday.

Extra Duty Assignments
Employees may be required to work extra duty in addition to regularly scheduled hours. Conditions that warrant utilization of extra duty assignments shall include, but are not limited to, emergency call back and short staffing.

Overtime and Overtime Compensation
Overtime hours and overtime compensation shall be defined and implemented as prescribed by the Fair Labor Standards Act and the United States Department of Labor regulations existing from time to time there under insofar as applicable. The City will treat unit employees under Section 7 (k) of the Fair Labor Standards Act.

No time not worked shall constitute hours worked for Fair Labor Standards Act purposes except as follows. Personal leave, excluding pay out of Personal Leave hours for approved emergency situations, or in the case of termination, shall count as hours worked.
Use of any Long Term Medical Leave as described in Article 37 of this document shall not be counted as hours worked.
All hours worked by employees, and all straight time compensation and overtime compensation will be recorded, calculated and paid on the basis of actual hours. All record keeping shall be in accordance with the requirements of the Fair Labor Standards Act and the above referenced regulations. The manner of record keeping shall be at the City’s discretion.

Utilization of overtime, assignment of overtime and selection of personnel to work overtime shall be for both scheduled and non-scheduled work, and shall be done at the discretion of management.

A Kelly Day, consisting of twenty-four (24) hours off duty, will be scheduled for each 56-hour member at a rate of nine (9) 24-hour periods per twelve-month period. Kelly Days will not count as hours worked for overtime computation purposes.

Unit members will be afforded the opportunity to work-back on their assigned Kelly Day if the daily minimum staffing for their shift would require either a 12 or 24 hour overtime person. Should the unit member choose to work-back on their Kelly Day they will be paid an additional 12 or 24 hours of pay based upon their base hourly rate. It shall remain the decision of management to utilize personnel to fill any overtime position and it shall be the choice of the unit member to accept any offer to work-back an assigned Kelly Day. Unit members may only be offered to work-back on their assigned Kelly Day.

With regards to the scheduling of Personal Leave; the City agrees to maintain the existing process of awarding such Leave and that under the staffing levels in place at time of ratification, no more than three positions would be made available for use of scheduled Personal Leave. In the case where a Kelly Day is scheduled, a total of four 56-hour personnel may be off at any one time.

If more than one person is scheduled on Kelly Day, management will reserve the right to reschedule one (1) Kelly Day to another available position within the current Kelly Day period. In any case, no more than four (4) 56-hour personnel may be scheduled for Kelly Day or Personal Leave at any given time. Management reserves the right to schedule all leave.
Straight-time hourly rates of pay for all 56-hour unit members will, effective October 1, 2014, be based on 2,696 scheduled hours per fiscal year.

The parties agree that straight-time and overtime payment may be advanced or deferred in the pay periods as necessary so that monies received for straight time hours each pay period by employees will be approximately equal in amount. Provided employees receive payment as soon as practicable for all hours worked, the Union waives and disclaims any rights, claims or issues with respect to delays in payment and receipt of earned salary.
ARTICLE 17 - PROMOTIONAL OPPORTUNITIES

It is the policy of the Winter Park Fire Department to consider its own employees for promotional opportunities in employment prior to considering outside applicants.

The procedure relating to promotional opportunities is as set forth in the Winter Park Personnel Policy Manual and the Winter Park Civil Service Code.

In an effort to maintain adequate levels of personnel in all grades it will be the responsibility of the City to initiate the selection process for the positions of Engineer and Lieutenant within 90 days of the creation of such vacancies, filling said vacancies as soon as possible upon certification of the promotional lists by the Civil Service Board.

Nothing in this agreement shall prohibit the Winter Park Fire Department from hiring an outside applicant for any position, if, in the sole discretion of the hiring authority, no employee applicant possesses the necessary qualifications, credentials and skills for the position. All selection decisions made under this article shall be made at the sole discretion of management.
ARTICLE 18 - GRIEVANCE AND ARBITRATION PROCEDURE

Members of the bargaining unit will follow all written and verbal orders given by superiors even if such orders are alleged to be in conflict with this agreement. Compliance with such orders will not prejudice the right to file a grievance within the time limits contained herein, nor shall compliance affect the ultimate resolution of the grievance.

A “grievance” is a claimed violation of this agreement. No grievance will or need be entertained or processed unless prepared in writing in the manner described herein, and unless filed in the manner provided herein within the time limit prescribed herein. A grievance may be filed by either a bargaining unit employee (“employee” as used herein being understood to include the plural for purposes of this Article) or by the Union. Grievances are limited to claims, which are dependent for resolution exclusively upon interpretation or application of one or more express provisions of this agreement. The City need not entertain or process under this article and may refuse to entertain or process any dispute, claim or complaint or other matter not meeting this definition.

Grievances will be processed in the following manner and strictly in accordance with the following stated time limits.

Step 1: An aggrieved employee or the Union shall present in writing the grievance to the aggrieved employee’s immediate supervisor within ten (10) calendar days of the aggrieved employee’s or Union’s knowledge of the occurrence of the action giving rise to the grievance. The immediate supervisor shall reach a decision and communicate it in writing to the grievant within ten (10) calendar days from the date the grievance was presented to him. The failure of the aggrieved employee or the Union to make the grievance known in writing to the immediate supervisor within ten (10) calendar days of such knowledge of the occurrence of the action giving rise to the grievance shall constitute a final and conclusive bar on the merits of the grievance. The phrase “action giving rise to the grievance” shall include a final decision made by a representative of the City, which results at a later time in the action which is the subject of the grievance. In any case in which a grievance is presented to the City without
the Union’s knowledge, and that fact is known to the City, shall within one (1) business day forward a copy of the grievance to a member of the Union’s Executive Board.

Step 2: If the grievance is not resolved with finality at the first step, the aggrieved employee or the Union, within ten (10) calendar days following receipt of the answer in the first step, may forward it to the Battalion Chief assigned to the grievant’s shift at the time of occurrence of the facts giving rise to the grievance. The Battalion Chief shall, within ten (10) calendar days of receipt of the written grievance, conduct a meeting with the aggrieved employee. The aggrieved employee may be accompanied at this meeting by a Union representative. The Battalion Chief shall notify the aggrieved employee in writing of the decision not later than ten (10) calendar days following the meeting date.

Step 3: If the grievance is not fully resolved at the second step, the aggrieved employee or Union may forward the written grievance to the Fire Chief within ten (10) calendar days of receipt of the answer provided in Step 2. The decision of the Fire Chief shall be determinative of the grievance. The City shall notify the aggrieved employee and the Union of the Fire Chief’s decision within ten (10) calendar days following the meeting.

ARBITRATION

If the grievance is not resolved by the foregoing grievance procedure, the Union, within fourteen (14) calendar days after the Fire Chief’s decision in Step 3, may give to the Fire Chief, by hand delivery or by registered or certified mail, a written notice of its desire to submit the matter to arbitration; said written notice to include a written statement of the position of the Union with respect to the arbitrable issues.

Within fourteen (14) calendar days from receipt of such notice, the parties shall meet to select an arbitrator. In the event the parties fail to agree on an arbitrator, both parties shall, within fourteen (14) calendar days, jointly request a list of nine (9) qualified arbitrators. For each individually claimed grievance process and beginning with the Federal Mediation and Conciliation Service (FMCS), the City and the Union agree to alternate the use of arbitration services between the American Arbitration
Association (AAA) and the FMCS. The use of any arbitration service will be limited to only one of the two aforementioned services.

Once the specific service agency is selected, the Union and then the City will alternately eliminate one at a time from said list of names or persons not acceptable until only one remains and this person will be the arbitrator. The City and the Union will alternate in the right to first strike names in successive arbitrations.

As promptly as possible after the arbitrator has been selected, he shall conduct a hearing between the parties and consider the grievance. The decision of the arbitrator will be served upon the employee or employees aggrieved the City and the Union in writing. It shall be the obligation of the arbitrator to rule within twenty-one (21) calendar days after the hearing. The expense of the arbitration, including the fee and expenses of the arbitrator, shall be paid by the losing party. Each party shall be exclusively responsible for compensating its own representatives and witnesses.

The submission to the arbitrator shall be based exclusively on the written grievance as submitted in Steps 1, 2 and 3 of the grievance procedure, and shall include a copy of this agreement.

The power and authority of the arbitrator shall be strictly limited to determination and interpretation of the express terms of this agreement. He shall not have the authority to add to or subtract from or modify any of said terms, or to limit or impair any right that is reserved by this agreement, by statute or otherwise to the City or the Union or the employees, or to establish or change any wages or rate of pay in this agreement.

No decision of any arbitrator or of the City in one case shall create a basis for retroactive adjustment in any other case.

All claims for back wages shall be limited to the amount of wages that the employee otherwise would have earned from the City, less any unemployment compensation or compensation from other sources that he may or might have received during the period for which the back pay was awarded.
In settlement or other resolution of any grievance resulting in retroactive adjustment, including back wages, such adjustment shall be limited to a maximum of thirty (30) calendar days prior to the date of the filing of the grievance at Step 1.

The decision of the arbitrator is final and binding on both parties, and the grievance shall be considered permanently resolved, subject to any judicial relief available to either party under Florida law.

It is agreed, with respect to this grievance and arbitration procedure, that:

A. It is the intent of the parties that grievances must be raised at the earliest possible time. Any grievance, in order to be entertained and processed, must be submitted in writing at Step 1 within ten (10) calendar days after initial knowledge of the action allegedly giving rise to the grievance, which means, as indicated in Step 1 above, within ten (10) calendar days after knowledge of a final decision which results in the action which is the subject of the grievance.

B. A matter otherwise constituting a grievance not presented at Step 1 within the time limit prescribed in Step 1 and in compliance with paragraph A above shall be conclusively barred on the merits following expiration of the prescribed time limit. Such a time-barred grievance need not be entertained or processed, and only factual disputes as to timing will be the subject of any arbitration resulting from the matter. A grievance which is for any reason not advanced to Step 2, Step 3 or to arbitration within the time limits prescribed herein for such advancement shall be similarly permanently withdrawn and barred. Failure on the part of the City to respond within the time limit set forth at any step shall require the aggrieved employee or Union to proceed to the next step, and failure on the part of the aggrieved employee or Union to so proceed within the time limit after expiration of the time limit for the City’s response shall cause the matter to be barred as set forth in this paragraph.

C. A time limit at any stage of the grievance procedure may be extended by written mutual agreement of the Union and the Fire Chief.

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D. All grievances shall be dated and signed by the aggrieved employee or Union representative. Any decision rendered shall be in writing and shall be dated and signed by the City’s representative at that step.

E. In any grievance there shall be set forth in space provided on the grievance form or on attachments, if necessary, all of the following:

1. a complete statement of the grievance and facts upon which it is based;

2. the section or sections of this agreement claimed to have been violated; and

3. the remedy or correction requested.

F. Unless mutually agreed, all grievance hearings will be during working hours.

G. Any grievances filed on behalf of or for the benefit of any employee or employees must specifically name all such employees, and may not be amended after completion to Step 2 to add names. No monetary or other relief shall be granted or awarded to any employee not so named. The only exception to this is that if the Union claims that a grievance affects the entire unit, it may describe the unit generally.

H. In all cases requiring the aggrieved employee or the Union to timely present or advance a grievance to a designated City official, hand delivery during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday, except holidays hereunder, to the office of that official shall be sufficient for compliance with prescribed time limits if the designated official is not personally available for service.

I. Nothing in this agreement shall prohibit the presence of a Union representative at Steps 1, 2 or 3 of this procedure.
ARTICLE 19 - HUMAN RIGHTS

The parties agree that the race, color, sex, national origin, religion or marital status of one or more unit employees shall not be a basis for the application this agreement.
ARTICLE 20 - PHYSICAL FITNESS

All unit employees shall be and remain at all times physically able to effectively, quickly and safely exercise all duties related to fire suppression and fire rescue. The City shall have the right to implement and enforce this article by conducting annual, job-related physical examinations of all unit personnel (to be performed by a licensed medical doctor of the City’s choice at the City’s expense), by setting physical skill, strength, agility and endurance standards as set forth in NFPA 1582 (2000 edition) and by determining by such annual physical examinations whether such standards are met by each unit employee.

The City and the Union shall maintain a Physical Fitness Peer Review Committee. Two employees will be selected by the Union and two by the Fire Chief. Terms shall be for no more than one year, selected annually. Individuals may serve more than one term. The Fire Chief shall designate a fifth non-voting member to the Committee to serve as the moderator. The Peer Review Committee will meet on a quarterly basis for the purpose of monitoring the progress of the department’s fitness program, and as needed to evaluate individual employee situations.

The City and the Union agree that the additional responsibilities of the Peer Review Committee shall be further outlined in Standard Operating Guideline 100.09. All functions of the Peer Review Committee shall be exclusively advisory in nature. The City further agrees to negotiate any substantial changes to Standard Operating Guideline 100.09
ARTICLE 21 - APPENDICES AND AMENDMENTS

Appendices and amendments of this agreement, if any, shall be lettered or numbered, dated, and signed by the parties, and shall constitute part of this agreement.
ARTICLE 22 - COMPENSATORY TIME

The maximum number of compensatory hours which can be accumulated by “A” Unit members is 168; for “B” Unit members who work a 56 hour shift, 168 and for “B” Unit 40 hour employees, 120
ARTICLE 23 - SAVINGS

If any article of this agreement or any portion of any article is ruled to be illegal or otherwise invalid, either as to language or application, by any Court or other tribunal having jurisdiction of the parties and this agreement, such ruling shall not invalidate the remaining articles and portions of articles of this agreement.
ARTICLE 24 - SALARIES

The City agrees to pay base compensation to all unit employees after the date of full ratification of this Agreement at their base rates on that date.

On October 1, 2014 the City will implement the pay ranges identified in Appendix A and will amend all unit members’ hourly rates to those identified in Appendix B.

Should the City during Fiscal years 2015, 2016, or 2017 provide any salary increases to all City employees, other than unit members, that exceed in total the amount referenced in this article for any one individual fiscal year, the additional amount will be granted to unit members in the next full pay period following the effective date of the increase.

The employment performance of all unit members will be evaluated annually on their designated merit date utilizing the TrakStar® employee performance appraisal system.

All increases noted shall be based upon the final ratings awarded by the unit member’s supervisor and approved by the Fire Chief. A minimum overall rating of 2.5 must be achieved to receive any merit increase. Any unit member who receives a rating from 0-2.4 will be scheduled for a re-evaluation six months from their annual appraisal date, and based on their performance, would be eligible for a merit increase at that time. Any actions resulting from a re-evaluation will not change the members original annual merit date.

Beginning on October 1, 2014 and ending on September 30, 2015, any unit member receiving a performance rating of 2.5 to 3.2 will receive a base salary increase of 3.0% and unit members receiving a rating of 3.3, or higher will receive a base salary increase of 3.5%.
Beginning on October 1, 2015 and ending on September 30, 2016, any unit member receiving a performance rating of 2.5 to 3.2 will receive a base salary increase of 3.0% and unit members receiving a rating of 3.3, or higher will receive a base salary increase of 3.5%.

Beginning on October 1, 2016 and ending on September 30, 2017, any unit member receiving a performance rating of 2.5 to 3.2 will receive a base salary increase of 3.5% and unit members receiving a rating of 3.3, or higher will receive a base salary increase of 4.0%.

If the unit members annual merit increase brings them to their maximum pay limit as noted in Appendix A, the increase for that fiscal year may be less than that afforded other unit members. At no point shall a unit member have a base annual compensation above the maximum annual salary listed in Appendix A of this document.

Unit members who are promoted from the classification of Firefighter to Engineer or from Engineer to Lieutenant will receive an increase in base compensation equal to 11%.

Unit members who are promoted from the classification of Firefighter to Lieutenant, and any unit member approved by management to change their medical certification from EMT to Paramedic will receive an increase in base compensation equal to 13%, rounded up, as necessary, to the minimum pay level of the grade.

Any salary change resulting in a base compensation increase of more than 15% will change the affected member’s annual evaluation/merit date to the date of action. Except as otherwise provided in this article, no increases in compensation will be promised or given which would result in an employee’s base compensation being above the maximum salary for his position.

At no time during the duration of this agreement will any unit member be paid base compensation above the maximum amount indicated in Appendix A.
ARTICLE 25 - INCENTIVE COMPENSATION

The parties agree that the City will pay, annually, as incentive compensation, the following amounts to unit personnel, other than probationary employees, who have been continuously employed by the City in the unit for one calendar year and have obtained the following academic credentials.

1. Associate’s Degree: $487.00 per year;
2. Bachelor’s Degree: $650.00 per year.

Such incentive compensation, once earned, shall be paid in equal amounts per pay period commencing in the pay period after the incentive is fully earned. In order for an employee to be eligible for this incentive, the course of study and the degree must be among those approved by the State of Florida as being job related.

The parties further agree that the City will continue to pass on to eligible unit employees the educational incentives authorized by the State of Florida and administered by the State of Florida Bureau of Fire Standards and Training. These incentives will be disbursed in the amounts and at the times as prescribed by State guidelines as issued from time to time. The Union acknowledges that such guidelines may be changed unilaterally by the State of Florida from time to time at the discretion of the State. The City will continue to process the necessary forms to continue disbursement of these incentives so long as such incentives are provided by the State of Florida.

However, nothing in this paragraph shall obligate the City to pay such incentives from its own funds.

Transport Incentive: The City will pay as incentive compensation one dollar and fifty cents ($1.50) per hour for paramedics and EMT's assigned to a rescue/transport unit.

Paramedic Preceptor Incentive: Unit members who received Paramedic Preceptors compensation on September 30, 2014, shall have their hourly rates increased by .32 per hour on October 1, 2014 and will
no longer receive the previously offered paramedic preceptor compensation. On October 1, 2014, the City shall establish a new Paramedic Preceptor program that will provide the following incentive compensation for each hour of training:

- Paramedic Student in P1 – P3 Levels of Training $1.50 per hour
- Paramedic Student in P4 and Provisional Paramedics $2.00 per hour

No incentive will be paid for monitoring any EMT students. Tiller Operator Incentive: The City will pay as incentive compensation one dollar ($1.00) per hour for any qualified Firefighter assigned to the tiller operator position only. The City will determine the level of qualification for tiller operator. Engineers and Lieutenants are not eligible for tiller operator incentive.
ARTICLE 26 - MANDATORY LEVELS OF PROBATIONARY FIREFIGHTER TRAINING

The City shall continue to maintain mandatory training requirements for all entry-level, probationary firefighters.

All newly employed firefighters will be classified as Probationary regardless of the level of medical certification. In addition to producing a satisfactory employee annual appraisal report, a Probationary Firefighter must successfully complete all monthly requirements as set forth by the Department, the Fire Department street familiarization tests, and the Company Fire Inspector Program, in order to successfully complete their probation period.

During the second twelve months of employment all Firefighters must successfully complete the Equipment Operator/Pump Operator Program and all requirements as set forth by the Department for all Firefighters during their second twelve months of employment.

Employees classified as Firefighter shall have twelve (12) months from their first workday in such classification to complete their probation. Completion of all such training programs within the time specified shall be a condition of further employment. Failure to complete such training programs as required by this Article shall be conclusive grounds for termination of employment. The City may, at its sole discretion, grant an additional six (6) months to complete such training programs, if the City believes special circumstances exist justifying such extension. Normally, such circumstances will be limited to an affected employee not having had, due to illness or injury, the full twelve (12) months within which to complete the required training programs.

Training opportunities afforded to probationary firefighters will be scheduled by the City and shall not be considered part of any educational opportunities otherwise offered to non-probationary members.
ARTICLE 27 - ADDITIONAL COMPENSATION FOR WORK IN HIGHER CLASSIFICATION

The City agrees to pay to any unit employee who temporarily assumes and occupies the position and duties of a shift lieutenant engineer or shift commander additional compensation, consisting of 1.10 times the base rate of such employee for each hour worked.

In no event will the additional compensation earned and paid hereunder exceed the per-shift or per-day base compensation of the individual whose position is temporarily assumed and occupied hereunder.
ARTICLE 28 - DETAIL PAY

The City, for the term of this agreement, shall continue its practice of establishing hourly rates of compensation for detail pay. Detail pay, to the extent collected by the City, shall be paid to the entitled unit employees at the hourly rate or rates as established by the City from time to time.
ARTICLE 29 - COMPASSIONATE LEAVE BANK

The Parties agree to establish Compassionate Leave Bank (Bank). The Bank shall operate in strict compliance with the language of this article.

The Bank is available to all unit employees, who must elect in writing to participate: those who so elect are participants. The Bank furnishes benefits equivalent to medical absence leave for participants who experience personal injury or illness (including without limitation, personal injury or illness caused by or related to pregnancy or maternity) and for such reason are unable to perform the essential functions of their assigned positions and therefore desire time off after the expiration of all other forms of paid leave, such as, but not limited to, medical absence leave, annual leave, personal leave and compensatory leave. The Bank is not available for any other purpose. The Bank shall operate in strict compliance with the language of this policy.

The City Human Resources Manager will administer the Bank and will keep the only official records of all hours in the Bank and all hours granted to and used by participants.

The department’s Fitness Peer Review Committee identified in Article 21 will be responsible for reviewing requests for benefits made by all unit members.

Eligibility to be a participant:

The following requirements must all be met for a unit employee to become and remain a participant.

1. Participants shall be unit employees of the Winter Park Fire Department with a minimum of six months continuous at the time of election to participate.

2. Each participant must elect in writing to be a participant between December 1 and December 15 of each year. There will be no exceptions to this, except: (1) otherwise eligible unit employees may elect in writing to be participants for 14 calendar days following full ratification of this Agreement; (2) newly hired unit employees may so elect for a 14 calendar day period immediately following 6 months of continuous employment.
3. Participants must have accrued the following minimum amounts of medical absence leave hours as of the sixteenth day of September occurring before making the election.

56-hour employees
6-12 months (*1) = 84 hours 12-24 months = 168 hours
24-35 months = 252 hours 36-48 months = 336 hours
Over 48 months = 420

40-hour employees
6-12 months = 60 12-24 months = 120
24-36 months = 180 36-48 months = 240
Over 48 months = 300

(*1) Months as used in 3., 4., and 5. Under Eligibility, etc. means months of continuous service as a unit employee.

4. 56 hour participants with 12 months or more service as of the date of their election shall contribute (*2) 48 hours of accrued medical absence leave. Participants with 6-12 months of service as of the date of their election shall contribute 24 hours of accrued medical absence leave. Such participants who only contributed 24 hours to enroll will be assessed the additional 24 hours on the succeeding December 16, in addition to the annual uniform assessment.

5. 40-hour participants with 12 months or more service as of their date of election shall contribute 32 hours of accrued medical absence leave. Participants with 6-12 months of service as of the date of their election shall contribute 16 hours of accrued medical absence leave. Such participants who only contributed 16 hours to enroll will be assessed the additional 16 hours on the succeeding December 16, in addition to the annual uniform assessment.

6. Employees with less than the required amount of hours at the date of their election may become participants, but will only be eligible for a total benefit that is twice their accrued amount of medical absence leave as of the date of such election. Such participants donate the required number of medical absence leave hours as stated in Section 4 & 5 above. Such
participants, upon accrual of the hours of medical absence leave required in 4 & 5 shall be eligible as other participants.

(*2) Contributions shall be simultaneous with elections, except under Limitations, first paragraph, under which the contribution shall take effect automatically upon accrual of the required 168/120 hours

All participants will be uniformly assessed additional medical absence leave hours each year beginning January 2 so as to maintain the balance of hours in the Bank at amounts equal to 48 times the amount of 56 hour members, plus 32 times the amount of 40 hour members. The assessment will take place on that date or the first business day after it if January 2 is a holiday, Saturday or Sunday. The assessment shall be in amounts sufficient in the committee’s sole discretion to maintain or exceed the above-mentioned minimum balance.

Request for Benefits/Criteria for Award

Participants who experience a personal injury or prolonged illness as defined herein, and who have used all available paid leave except for one shift of personal leave (8 hours for 40 hour members or 24 hours for 56 hour members) may request benefits. Requests for benefits shall be made directly to the Human Resources Manager. Benefits will not be granted unless the personal injury or illness is the sole reason the participant is unable to perform the essential functions of his/her assigned position.

All requests for Compassionate Leave benefits shall be forwarded by the Human Resources Manager to the Peer Review Committee for review. A decision shall be made whether to award benefits to the requesting participant within 7 calendar days of receipt of the request by the Human Resources Manager.

The Committee has the authority, in its sole discretion, to require medical information satisfactory to it, and may defer consideration until such information is furnished.

In all cases, it is the participant’s exclusive responsibility to furnish such information.
If the Committee receives with a request for benefits written evidence satisfactory to it that a participant will be unable to perform the essential functions of his/her assigned position solely because
of personal injury or illness, as defined herein, as opposed to any other cause, following the expiration of all other available paid leave, it will grant benefits subject to the remaining provisions of this article. Benefits will not be granted unless the personal injury or illness renders such participant unable to perform the essential functions of his/her assigned position.

A participant may appeal the decision of the Committee to the City Manager within ten business days after being denied benefits. The City Manager shall have total and exclusive discretion to grant or deny benefits. The City Manager’s decision in such regards shall be final.

Withdrawal of Benefits

After approval by the Committee of a request, a participant (other than as described in 6. above) may withdraw up to 240 hours for 56 hour members / 160 for 40 hour members.

If grounds exist, such a participant may request additional hours up to a total of 1456 hours for 56 members / 1040 for 40 hour members, which amounts shall be the maximum amounts allowed per participant. Additional hours shall be issued in blocks of no more than 240 and 160 hours respectively.

Limitations

A participant who has used the maximum medical absence leave hours specified immediately above (1456/1040) shall not be eligible for any additional benefits until such participant has accrued 168 hours for 56 hour employees / 120 hours for 40 hour employees of medical absence leave and contributed an additional 48 hours for 56 hour employees / 40 hours for 40 hour employees.

Medical absence leave that has been contributed to the Bank may not be removed for any reasons other than those described in the Withdrawal of Benefits section of the Article.

Participants are not eligible for the return of and will not receive payment for any contributed medical absence leave hours upon termination of employment with the City, regardless of whether termination was voluntary or involuntary, and regardless of the reasons for termination.
Any time off taken pursuant to this article shall be counted toward the participant’s entitlement to any unpaid disability leave provided in the City’s Personnel Policy Manual.

All terms and conditions regarding said unpaid leave – including, without limitations provisions regarding the non-accrual of medical absence leave and personal leave, non-payment for holidays, and responsibility for payment for group health insurance payments – shall apply to time off taken pursuant to this article.

Participants may not withdraw benefits for any period simultaneously covered by workers compensation or long-term disability payments provided however that a participant out on workers compensation of a period exceeding thirty (30) days may withdraw hours each pay period to cover all deductions and the difference between the workers compensation pay and their average net pay. The average net pay will be calculated using the same thirteen-week period on which workers compensation pay was calculated. Under no circumstances will the use of compassionate leave be allowed to enrich the participant beyond what they would earn if working.

The employee may continue to use the Bank until one of the following occurs: (1) he reaches the maximum limit of hours available as defined in this policy under Withdrawal of Benefits; (2) he returns to work; or (3) he reaches MMI (Maximum Medical Improvement).

Nothing in this Article affects the right of the City to terminate the employment of any participant who exhausts all paid leave and all benefits under this article and who remains unable to perform the essential functions of his/her assigned position.

The City shall have the right to terminate benefits hereunder in cases in which the criteria for benefits are not met or cease to be met.
ARTICLE 30 - UNIT TIME POOL

The City agrees to establish a unit time pool utilizing unit approved mandatory donated hours derived from personal leave hours accrued by unit members. The time is to be used by the unit’s executive board or those members designated by the president for the purpose of attending conferences, seminars, unit meetings, conventions and other functions not covered by City administrative time, as deemed necessary by the president.

The time pool shall require the donation, as previously approve by unit members, of five (5) Personal Leave hours by unit members initially to establish the pool. Subsequent donations shall be required only to maintain the pool at the established level of 225 hours, when those hours drop to 120 hours or below. New unit members will not be assessed until the first reassessment period following their becoming a unit member.

When time is required for the above mentioned purposes, the president shall submit to the chief or his/her designee the required form specifying the number of hours needed for any member of the executive board or his/her designee. The chief or his/her designee will submit the required form to the department’s administrative assistant for forwarding to payroll. The president will submit a letter to the Chief or his/her designee to replenish time pool hours as needed to maintain established levels.

Unit members have the option of donating greater than the five (5) hours of mandatory time required by this article.

If the need for time pool hours necessitates the use of overtime personnel, then those hours required will be deducted from the pool by the City. Pool hours will be charged on an hour-for-hour basis to a total of 36 hours per unit member, per event.

Example: Unit member A is approved to use 24 pool hours to attend a meeting out of town and an overtime person is required to meet minimum staffing which was caused by the use of the pool hours.
The Union Time Pool will be charged 24 hours for member A and 12 hours for the overtime person for a maximum of 36 hours. If no overtime person is required, only those hours needed to cover member A would be deducted. This formula will apply to each individual approved for pool hour use.
ARTICLE 31 - EXEMPT EMPLOYEE BONUS PACKAGE

The parties agree that, during the term of this agreement, the captains, lieutenants, fire marshal and fire inspectors will receive the exempt employee bonus package, which is granted to and received by all City employees who are exempt employees under Section 13(a)(1) of the Fair Labor Standards Act.
ARTICLE 32 - DRUG TESTING

The City and the Union agree that substance abuse at any level in the organization is detrimental to the safety and work performance of all employees. To help ensure that the community can feel confident that the City is providing a drug free workplace, the Union agrees that the City may continue to require drug testing of unit members. Such testing will be in accordance with the requirements of Section 440.102, Florida Statutes (“Section 440.102”).

The City agrees to allow the Union to review all testing procedures under its control upon reasonable request to assure confidence in the integrity of the process. Specimen collection, to the extent of City control of the process, will be performed with due regard for employee privacy.

In the event a unit member eligible to do so has a portion of a specimen retested by a second laboratory, as allowed under Section 440.102(5)(g), Florida Statutes, 1999, if that test is positive, it shall be at the unit members expense, if negative, at that of the City.

Testing of unit members will take place at the following times: 1) annually, during and as part of the unit member’s annual medical examination; 2) post-accident, when the unit member is involved in any accident occurring within the scope of employment with the City which results in physical injury or property damage in excess of $1,000; or 3) at any time in response to reasonable suspicion as defined in Section 440.102. At no time will unit members be subject to random testing. The City will be responsible for the costs incurred for all required drug testing.

Any unit member subjected to testing for any post-accident event, or in response to reasonable suspicion will be assigned to duties which do not include driving/operating any apparatus until such time as the test is confirmed. If accommodations cannot be made to reassign the member to a position where they are not driving/operating apparatus, the member shall be reassigned to administrative duties as determined by their supervisor.
Any unit member who receives a confirmed positive test will, for the first such offense, be required to participate in an Employee Assistance Program (EAP) and will be suspended from duty without pay for a period not to exceed 48 hours for 56 hour employees and 40 hours for 40 hour employees. In addition, follow up testing will be conducted in accordance with F.S 440.102 Section (4)(a)(4). Refusal to participate in the full EAP and follow-up testing will be conclusive grounds for discharge. At any time during the remainder of such unit member’s employment with the City, a second confirmed positive test would result in discharge.

The Union agrees that at any time, including for a first such offense, should a unit member receive a confirmed positive test for a controlled substance contained in the inventory of medications used by the City in the provision of emergency medical services, the unit member will be discharged unless the unit member can establish that such substance was taken pursuant to a current lawfully given and received prescription.
ARTICLE 33 - EDUCATIONAL ASSISTANCE

The City of Winter Park encourages unit members to continue developing and improving their skills for their current job and to prepare for promotional opportunities and advancement in their chosen career path. Therefore, unit members shall be eligible for educational assistance as described in Section 6.10 of the City of Winter Park Personnel Policy Manual.

In addition to the financial assistance offered under this policy, the City agrees to supplement the reimbursable amount approved in Section 6.10 by an additional $500 each year, beginning on October 1st.

The City and the Union agree to make reasonable effort to utilize local educational institutions for the purpose of meeting the training needs of the agency. The City will have the right to recruit advanced training opportunities for unit members and when not available, shall approve opportunities outside the immediate area.

In addition to the educational reimbursement benefits available in Section 6.10, the City of Winter Park will, when funding is available, sponsor selected unit members to training for State Paramedic certification training. Unit members who are selected to participate by the City shall agree to all policies of the Paramedic Training Sponsorship Program. A selection process for all participants in this program shall be established and agreed upon by both the Union and the City. In addition, any unit member who may choose to attend the paramedic curriculum at Valencia College outside of this program shall be provided a letter of support from the City identifying them as employees of the City.

Upon receipt of state of Florida paramedic certification, any reclassification of pay will based upon position availability as a paramedic. It will be the responsibility of the City only to offer such sponsorships when paramedic positions are available; however no guarantee is made to the reclassification of any unit member sponsored under this program.
The City agrees to support the attendance of two (2) unit members to the IAFF Redmond Firefighter Health and Safety Symposium and the Fire Department Instructors Conference (FDIC). Attendees at these events will receive those benefits identified in SOG 430.02 for a Class “A” training event. The City also agrees to follow the City Personnel Policy manual for any conference related expenses for these events. To receive this benefit, unit members will be recommended by the Union Executive Board with final approval made by the Fire Chief. All applications for attendance must be filed in time to receive the maximum discount for early registration to the event. The City reserves the right to select additional unit members over and above the two unit members approved under this Article to attend these events. Any additional Unit members who attend these events will be required to apply under the current City Personnel Policy for conference attendance.

All unit members who are eligible to receive city sponsored educational assistance as described in the Personnel Policy Manual Section 5.15, may, upon approval of the Fire Chief utilize up to 120 hours for 40 hour members and 168 hours for 56 hour members for the purpose of funding approved educational expenses. These expenses may only include those specifically outlined in the current City Personnel Policy Manual Section 5.15.
ARTICLE 34 - PENSIONS

The City agrees to continue to fund the current Defined Benefit (DB) Pension Plan for all qualified unit members as required by Florida Statute. For all unit members who do not qualify for the DB plan, the City agrees to continue to fund the current Defined Contribution (DC) Plan as described in the City Personnel Policy Manual.
ARTICLE 35 - EMERGENCY DEPLOYMENT COMPENSATION

The City agrees to offer compensation to those unit members who are deployed as a result of the City’s participation in the State of Florida Mutual Aid Agreement. Deployment compensation will be paid in the following manner;

Upon notification by the State of Florida to the City of a request for resource assistance, a unit member assigned to deploy, or to back-fill a vacated position, will be compensated for those hours which are reimbursable under the guidelines of the Federal Emergency Management Agency (FEMA). The City will calculate those hours worked by the unit member and compensate for all hours worked under the Fair Labor Standards Act (FLSA).

Unit members not on-duty at the time of the deployment activation will be compensated from the time of confirmed response.
ARTICLE 36 - PERSONAL LEAVE

Beginning October 1, 2011 all permanent, full-time employees shall earn Personal Leave as prescribed in the Personnel Policy Manual Section 5.05. Temporary and part-time employees, if any, shall not be eligible to earn or accrue Personal Leave. Employees are eligible to use accrued Personal Leave after six months from date of hire. Personal Leave is provided at the following annual rates:

All 56-hour UNIT Members:

<table>
<thead>
<tr>
<th>Minimum Length of Service</th>
<th>Personal Leave Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year</td>
<td>272</td>
</tr>
<tr>
<td>2 years</td>
<td>284</td>
</tr>
<tr>
<td>3 years</td>
<td>296</td>
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<tr>
<td>4 years</td>
<td>308</td>
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<td>5 years</td>
<td>320</td>
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<td>6 years</td>
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<td>7 years</td>
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<td>8 years</td>
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<tr>
<td>9 years</td>
<td>380</td>
</tr>
<tr>
<td>10 years &amp; over</td>
<td>392</td>
</tr>
</tbody>
</table>

All 40-hour Members / Fire Inspector & Fire Marshal

<table>
<thead>
<tr>
<th>Minimum Length of Service</th>
<th>Personal Leave Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year</td>
<td>120</td>
</tr>
<tr>
<td>2 years</td>
<td>128</td>
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<td>3 years</td>
<td>136</td>
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<td>4 years</td>
<td>144</td>
</tr>
<tr>
<td>5 years</td>
<td>160</td>
</tr>
<tr>
<td>6 years</td>
<td>168</td>
</tr>
</tbody>
</table>
Newly hired employees starting to work on or before the 15th of the month will accrue Personal Leave for that month. Employees starting to work after the 15th of the month begin accruing Personal Leave the following month.

The maximum number of Personal Leave hours which can be accumulated will be 672 for unit members who work a 56 hour work week; 520 for unit members who work a 40 hour work week.

Any unit member’s Personal Leave accrual amount which on September 30th of each year meets the maximum amount of 672 hours for 56 hour members and 520 hours for 40 hour members will have the opportunity to sell-back at straight time no more than 15% of his total hours; and any 56 hour member who has an accrual balance of 600 hours or a 40 hour member who has an accrual balance of 470 may sell-back at straight time no more than 10% of his total hours.

All sell-back hours will be paid during the first pay period in November. Any other Personal Leave earned in excess of the hours indicated in this article, which is not taken before the end of a fiscal year, or paid out as a part of the sell-back formula is forfeited and lost as of the beginning of the next fiscal year.

Personal Leave shall not be authorized prior to the time it is earned and credited to the employee. On reasonable notice, the City may require an employee to use any part of his accrued Personal Leave. The minimum charge for Personal Leave shall be units of one hour.

Payment for earned unused Personal Leave, other than at layoff, termination or under the sell back provisions in this article will be granted only under extraordinary circumstances and only with the approval of the City Manager or his/her designee. Such approval will only be granted if there is a documented severe financial hardship. The employee requesting payment must submit the request in
writing along with sufficient supporting information to document the hardship. The employee must have enough accrued Personal Leave to leave a minimum of one (1) week in his or her accrual. The request cannot exceed 120 hours for 40 hour employees or 168 hours for 56 hour employees. No more than one request will be approved for any 24-month period.

Employees will be paid at straight time to a maximum of 672 hours for 56 hour unit members and 520 hours for 40 hour unit members for all unused but earned Personal Leave upon layoff or termination from the employment of the City, except that an employee who resigns must give two weeks’ written notice of resignation prior to his last day of work in order to receive such payment and will forfeit such payment by failure to meet this condition. In the event of death of an employee with earned but unused Personal Leave, payment for such earned hours shall be made at straight time to the employee’s beneficiary, personal representative or estate or as provided by the law of Florida.

Use of Personal Leave: Unit members shall schedule the use of Personal Leave in accordance with agreed upon system of both annual and nominal scheduling with the unit members identified supervisor. Scheduling of Personal Leave for 56-hour members must be approved by a Battalion Chief or Division Supervisor a minimum of 48 hours in advance of the assigned work day; and 24 hours in advance for all 40-hour employees. In the case of 56-hour members, a supervisor may award the use of Personal Leave within 48 hours of an assigned shift if the approval will not force the use of overtime to maintain minimum staffing.

The first 40 hours of continuous Personal Leave (scheduled or unscheduled) used by a 40 hour unit member and the first 36 hours of continuous hours of Personal Leave (scheduled or unscheduled) used by a 56 hour unit member to be away from work for any personal illness shall be charged to Personal Leave. Absences extending beyond that time will be recorded in accordance with the Long-Term Medical Leave absence policies in Article 37. Even if a unit member returns to duty, any Long-Term Medical Leave event which is identified by diagnosis of a physician and documented to the City shall be considered as one continuous event for the purposes of recording as Long-Term Medical Leave. Example: Unit Member “A” is ill and uses 36 hours of Personal Leave immediately followed by 36 hours of Long-Term Medical Leave. After being cleared by his physician Unit Member “A” returns to duty for
On the next duty day the unit member once again is ill and is diagnosed by his physician to have the same illness as was the cause of the first use of Long-Term Medical Leave. After providing a physician’s note to the City the time off duty shall be considered one event for the purposes of recording the time as Long-Term Medical Leave.

Unscheduled Personal Leave: Unit members may choose to use Unscheduled Personal Leave for time away from duty for personal medical purposes. Unscheduled Personal Leave may also be used to make possible the employee’s personal appointments with a physician or dentist when it is not possible to arrange such appointments for off-duty hours; such use of Unscheduled Personal Leave shall not exceed the time required to complete such appointments.

All 56 hour employees may use up to 56 hours, and all 40 hour employees may use up to 40 hours, per year of Long Term Medical Leave for paternity leave, adoption of a child, or the illness of an immediate family member. Long Term Medical Leave for family purposes can only be used following the use of 56 consecutive hours (40 hours for 40 hour employees) of Unscheduled Personal Leave for the same purpose. No more than a total of 112 hours (80 hours for 40 hour employees) of paternity leave will be available during any 12 month period. The minimum charge for all Unscheduled Personal Leave is one-half hour.

Compensatory Time: The maximum number of compensatory hours which can be accumulated by “A” Unit members is 168; for “B” Unit members who work a 56 hour shift, 168 and for “B” Unit 40 hour employees, 120.
ARTICLE 37 - LONG-TERM MEDICAL LEAVE

The City shall grant to unit employee’s Long-Term Medical Leave as described below, on the terms and conditions as below set forth.

Long-Term Medical Leave shall be granted to and shall be earned only by permanent, full-time employees. Long-Term Medical Leave shall be accrued at the rate of 9.33 hours per month for 56 hour employees to a maximum allowed accrual of 1,392 hours and at a rate of 6.67 hours per month for 40 hour employees to a maximum allowed accrual of 1,000 hours.

An employee who is unable to work due to illness shall notify his designated supervisor as early as possible prior to his scheduled reporting time, giving the expected period of absence. Such procedure shall be followed for each shift the employee is unable to work unless otherwise noted by a physician’s note. Any employee who fails to notify the appropriate supervisor as above required within three calendar days following the shift missed by such employee will be considered as having resigned without notice.

Long-Term Medical Leave shall be used only in accordance with the City of Winter Park Personnel Policy Manual. Long-Term Medical Leave shall not be authorized prior to the time it is earned and credited to the employee.

Long-Term Medical Leave use is authorized only in the event of the employee’s personal illness, injury, or exposure to a contagious disease, which would endanger other employees.

When a unit member uses Long-Term Medical Leave, the City is responsible for determining to its satisfaction that an employee is too ill to work. The City may require an employee to present medical evidence from a licensed physician that the employee is physically not able to work.
No employee shall be paid under any circumstances for unused Long-Term Medical Leave. An employee who separates from City employment for any reason shall forfeit earned but unused Long-Term Medical Leave.

Long-Term Medical Leave Conversion Option: The City shall offer to all eligible unit members the option to convert a portion of a unit members accrued Long-Term Medical hours under the following situation. A 40-hour unit member who uses less than 40 hours of combined Unscheduled Personal Leave and Long-Term Medical Leave or a 56-hour unit member who uses less than 56 hours of combined Unscheduled Personal Leave and Long-Term Medical Leave has the option to convert a portion of his Long-Term Medical Leave hours to Personal Leave hours in accordance with the formulas described in City Personnel Policy Manual Section 5.06 (E).

To be eligible for any conversion of Long-Term Medical Leave hours under this Article, the unit member must be employed by the City in a qualified position on December 31st of the prior calendar year and must have an accrued Long-Term Medical Leave balance of 160 hours for 40-hour members, and 224 hours for 56-hour members. Conversion of Long-Term Medical Leave will only occur once annually at a time determined by the City.
ARTICLE 38 - EMPLOYEE APPRAISAL SYSTEM

The City and the Union agree that all unit members will participate in the TrakStar® Employee Appraisal system. Each unit member shall complete the required appraisal within the prescribed time limit as established by the City. If during the duration of this agreement the TrakStar system becomes no longer available, the City and the Union agree to seek out a similar electronic employee appraisal system. If none is found, all appraisals will revert back to the previous (paper) employee system appraisal system.
ARTICLE 39 - DURATION

This Agreement shall take effect in accordance with Section 447.309(1), Florida Statutes, on October 1, 2014 and shall terminate on September 30, 2017. If either party wishes to bargain collectively before October 1, 2017 for a new Agreement that party must give written notice to the other to that effect which must be received on or before June 1, 2017. If either party gives such timely written notice, then the initial proposals of each party must be presented and received on or before July 1, 2017. If timely written notice under this Article 39 is not given by one or both parties, this Agreement will continue in effect from fiscal year to fiscal year thereafter, except for the “re-opener” below.

This agreement may be reopened upon written notice by either the City or the Union during the duration of this agreement to discuss Article 34 (Pension). No other issues may be the subject of collective bargaining during the re-opener in the absence of mutual agreement in writing between the City and the Union. During any such negotiations all provisions of this agreement shall continue in full force and effect unless and until new provisions are ratified in full.
SIGNATURE PAGE

Executed: CITY OF WINTER PARK, FLORIDA

________________________________________

Randy B. Knight, City Manager
(Chief Executive Officer)

October 27, 2014

WITNESS:

________________________________________

Rene Brogan, Human Resources Director

October 27, 2014

Executed: WINTER PARK PROFESSIONAL FIRE FIGHTERS, LOCAL 1598, IAFF

________________________________________

Anthony Braish, President L1598

October 27, 2014

ATTEST:

________________________________________

Kevin Dixon, Secretary, L1598

October 27, 2014
Ratified this 27th day of October, 2014

City of Winter Park, Florida

_______________________________________
Kenneth W. Bradley, Mayor

Attest:

_______________________________________
City Clerk

Ratified this 27th day of October, 2014

Winter Park Professional Fire Fighters, Local 1598, IAFF

_______________________________________
Anthony Braish, President L1598

Attest:

_______________________________________
Kevin Dixon, Secretary, IAFF 1598
# FIRE DEPARTMENT PAY GRADES - POSITION TITLES

**EFFECTIVE OCTOBER 1, 2014**

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<thead>
<tr>
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<th>MAXIMUM</th>
<th>POSITION TITLE</th>
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### Purchases over $50,000

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<th>vendor</th>
<th>item</th>
<th>background</th>
<th>fiscal impact</th>
<th>motion</th>
<th>recommendation</th>
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<tr>
<td>Winter Park Public Library</td>
<td>1</td>
<td>Blanket Purchase Order for Annual Organizational Support</td>
<td>Total expenditure included in approved FY15 budget. Amount: $1,045,935</td>
<td></td>
<td>Commission approve Blanket Purchase Order to Winter Park Library for Annual Organizational Support.</td>
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<td>Winter Park Historical Association</td>
<td>3</td>
<td>Blanket Purchase Order for Annual Organizational Support – Quarterly Payments</td>
<td>Total expenditure included in approved FY15 budget. Amount: $60,000</td>
<td></td>
<td>Commission approve Blanket Purchase Order to Winter Park Historical Association for Annual Organizational Support.</td>
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</table>

Commission approved this expenditure at the September 22, 2014 meeting. This Blanket Purchase Order will expire on September 30, 2015.
subject
FY 2015 Budget Amendment to account for Federal Grant for Stormwater

motion | recommendation
Approve the budget amendment as presented.

background
The City Commission is required by Statute to approve any budget adjustments that alter the total amount budgeted in any fund or when funds are transferred between different fund types. In 2013 the City received a grant to make stormwater improvements to the Lk Forest/Howard Dr. Retention Pond. This amendment will attribute the grant funds to the project account so that the total budget balance is properly reflected and will also transfer surplus funds from another project.

This amendment if approved by the Commission will become part of the formal FY15 year-end close out process that will adopt all FY15 amendments by formal ordinance.

alternatives | other considerations
NA

fiscal impact
The total project costs is estimated at $540K with $249K supported by grant funding.
<table>
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<th>Item</th>
<th>Amount</th>
<th>Source Account</th>
<th>Source Acct. Name</th>
<th>Exp. Account</th>
<th>Exp. Acct. Name</th>
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<tr>
<td>Lk. Forest/Howard Dr. Retention Pond</td>
<td>249,000</td>
<td>303-0000-331.39-00</td>
<td>FEDERAL GRANTS</td>
<td>303-3406-602.01-53</td>
<td>LK. FOREST/HOWARD RET POND</td>
<td>Allocates funding reimbursable through a federal DEP grant.</td>
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<tr>
<td></td>
<td>142,399</td>
<td>303-3406-602.01-23</td>
<td>LAND LOCKED LAKES</td>
<td></td>
<td></td>
<td>Allocates surplus funding from another project account.</td>
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subject

Interlocal agreement with the City of Orlando formalizing the financial commitment to the Downtown Performing Arts Center (DPAC).

motion | recommendation

Approve the agreement and authorize the Mayor to execute.

background

During the budget process the City Commission approved the first year of a ten year commitment to DPAC. The discussion centered around $100,000 per year for ten years.

In order for the City of Orlando to be able to bond the commitment and use the funds for construction they are requesting the City of Winter Park enter into the attached interlocal agreement.

alternatives | other considerations

The Commission could choose to not bind future Commissions by putting in a “funding out” clause. This would allow a future commission to choose not to fund that year’s contribution, but it would also make it difficult for the City of Orlando to bond the expected revenue and use if for the construction of the facility.

fiscal impact  $100,000 per year for ten years.
THIS INTERLOCAL AGREEMENT is made and entered into this of the _____ day of
__________ 20____, by and between CITY OF ORLANDO, a Florida municipal corporation,
whose mailing address is P.O. Box 4990, Orlando, Florida 32802-4990, hereinafter referred to as
“CITY”, and CITY OF WINTER PARK, a Florida municipal corporation, whose address is 401
S. Park Avenue, Winter Park, Florida 32789 hereinafter referred to as “WPK”.

W I T N E S S E T H:

WHEREAS, the Dr. Phillips Center for the Performing Arts, Inc. (DPAC), is a 501(c) (3)
not-for-profit organization formed to provide a showcase for regional arts groups, to create a multi-
cultural center for artistic excellence, to develop a center of arts education for children and adults
alike, to establish a destination for Floridians and tourists, to build a welcoming place establishing
community pride, and to create an environment encouraging participation and new experiences; and

WHEREAS, pursuant to the Orlando Performing Arts Center Agreement dated June 20,
2007, between DPAC and the CITY, as amended, DPAC is constructing a new, state of the art
performing arts center in downtown Orlando with funding contributions from the City of Orlando,
Orange County, philanthropy and various other sources; and

WHEREAS, the new performing arts center is being constructed in two (2) stages on a
nine acre, two block area bordered on the West by South Orange Avenue, East by Rosalind
Avenue, North by South Street and South by Anderson Street in downtown Orlando. Stage I,
which is currently under construction and anticipated to be occupied by November 2014, consists
of an approximately 250,000 square foot building that includes a +/- 2,700 seat amplified theater,
+/- 300 seat multipurpose theater, administrative offices, an education center, related front of
house and back of house elements, and an outdoor plaza capable of seating 3,000 (CNL Arts Plaza), and Stage 2 is anticipated to consist of an approximately 115,000 square foot building that includes a +/- 1,700 seat acoustical hall with related front of house and back of house elements.

WHEREAS, the new performing arts center will provide a broad variety of entertainment and cultural events to Central Florida, with diverse and acclaimed programming that includes performances of theater, dance, popular music and family entertainment from the best of national and international talent, and provide educational opportunities for area youth and residents in the area of the performing arts; and

WHEREAS, a new performing arts center in Central Florida will further result in a significant economic impact to the hotel and tourist industry in the area, particularly in Orange, Seminole and Osceola Counties, and will increase the general revenues through the existing tourist taxes; and

WHEREAS, the mutual cooperation of CITY and WPK is critical to achieving the goal of bringing a new performing arts center and all its attendant benefits to the Central Florida area; and

WHEREAS, there is found to be a significant municipal purpose benefitting WPK including increased cultural opportunities for its residents, positive economic impact for its businesses and promotional opportunities for its cultural facilities;

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, the CITY and WPK hereby agree as follows:

Section 1. WPK’s Obligations. WPK agrees to contribute to CITY, as part of the funding committed for construction of the performing arts center the sum of ONE MILLION AND NO/100 DOLLARS ($1,000,000.00), payable annually over a TEN (10) year period commencing October 1,
2014 and ending September 30, 2023, with each annual payment of ONE HUNDRED THOUSAND AND NO/100 DOLLARS ($100,000.00) to be paid no later than one hundred eighty (180) days after the first day of the fiscal year for which the payment is owed. The payment for 2015 would be payable no later than March 1, 2015; the payment for 2016 payable no later than March 1, 2016, etc. This obligation is subject to WPK’s covenant that the funds shall be payable only from non-ad valorem revenues as set forth in paragraph 2.

**Section 2. COVENANT THAT AD VALOREM REVENUES ARE NOT PLEDGED OR ENCUMBERED.** WPK hereby covenants that none of its ad valorem revenues or tax revenue assessed as a percentage of the value of property in the City of Winter Park shall be pledged, encumbered or expended in satisfaction of WPK’s funding obligation that is set out in paragraph 1 hereof. WPK’s funding obligation hereunder is payable solely from non-ad valorem revenues of the City of Winter Park.

**Section 3. CITY’s Obligations.** CITY agrees to use WPK’s contributions, as described above, for construction and debt service for the performing arts center. WPK’s monetary contribution, pursuant to this Agreement, will not be used for any purpose other than as stated above.

**Section 3. Indemnification.**

(a) Each party to this Agreement is responsible for all personal injury and property claims or damages attributable to the negligent acts or omissions arising out of this Agreement of that party and the officers, employees and agents thereof.

(b) The parties further agree that nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available to such parties under the laws of the State of Florida nor as a waiver of sovereign immunity of WPK and CITY beyond the waiver
provided for in Section 768.28, Florida Statutes. In no event will WPK be liable to a third party for any amount in excess of the limitations in FS 768.28, and WPK shall be responsible to CITY under this Agreement only to the extent of the express, written obligations stated herein.

(c) The waiver of a provision herein by any party shall not constitute the further waiver of said provision nor the waiver of any other provision.

(d) The provisions of this Section and the obligations hereunder shall survive the termination of this Agreement.

Section 4. Term. Subject to WPK’s covenant in paragraph 2 hereof, this Agreement shall take effect on January 1, 2015 and shall remain in effect for a period of ____ (__) years and sixty (60) days, terminating on ______, 20__. 

Section 5. Termination. This Agreement may, in whole or in part, only be terminated for cause, by failure of a party to fulfill its obligations under this Agreement. Said termination shall take effect upon delivery of written notice to the breaching party and failure of the party receiving such notice to cure within 10 business days after notice. Termination of this Agreement for one party’s breach shall terminate the obligations of all parties with respect to this Agreement.

Section 6. Force Majeure. In the event any party to this Agreement fails to satisfy an obligation due to a hurricane, flood, tornado or other act of God, or an act of war or terrorism considered force majeure, then that party will be in default of this Agreement; provided however, such default will be considered cured upon the defaulting party recommencing performance after the intervening act ceases its effect. In the event of such occurrence, SPONSOR and OCSC agree to work in good faith regarding the appropriate extension of any dates/timelines set forth in this Agreement which may need to be reasonably altered to adjust for such force majeure event.
Section 7. Waiver of Breach or Default. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing and duly signed by the parties. Failure by any party on one or more occasion to avail itself of a right conferred by or enforce a condition under this Agreement shall in no event be construed as a waiver of its right to avail itself of said right or to enforce said condition in the future.

Section 8. Notices. Whenever either party desires to give notice unto the other parties, notice may be sent to:

For CITY:
Chief Administrative Officer
City of Orlando
P.O. Box 4990
Orlando, Florida 32802-4990

For WINTER PARK
City Manager
401 S. Park Avenue
Winter Park, Florida 32789

Section 9. Entire Agreement.

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

(b) It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with
the same formality and of equal dignity herewith.

**Section 10. Governing Law/Venue.** This Agreement shall be construed in accordance with the laws of the State of Florida. The location for the settlement of any disputes arising out of this Agreement shall be in the County of the party filing the action to enforce the terms herein.

**Section 11. No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement, and third party beneficiaries are expressly disclaimed by this provision. Only the parties to this Agreement have standing to enforce it.

**IN WITNESS WHEREOF,** the parties hereto have made and executed this Agreement for the purposes stated herein.

\[ATTEST:\] CITY OF ORLANDO, FLORIDA

By: ___________________________  
ALANA BRENNER, City Clerk

By: ___________________________  
BUDDY DYER, Mayor

Date: __________________________

Approved as to form and Legality for the use and reliance of the City of Orlando, Florida, only. __________________________, 2014.

____________________________  
MAYANNE DOWNS, City Attorney

ATTEST: __________________________

By: ___________________________  
By: ___________________________
ATTEST:

By: ____________________________
CINDY BONHAM, City Clerk

CITY OF WINTER PARK, FLORIDA

By: ____________________________
KENNETH W. BRADLEY, Mayor

Date: ____________________________
Subject:
Proposed purchase of a residential lot for park, open space and conservation property

Motion | Recommendation:
Request Commission approval for staff to begin procedures toward the purchasing of property located at 2908 Temple Trail. ($95,000. 0.39 acres)

Background:
This will be on the Parks and Recreation Board agenda for October 22, 2014.

The property for sale at 2908 Temple Trail is a .39 acre residential lot located on the north bank of Howell Creek and is adjacent the City’s Howell Branch Preserve. It is a heavily wooded lot that would provide access to Howell Creek and Howell Branch Preserve.

This lot is part of a number of potential park properties that run adjacent to Howell Creek leading into the Lake Waumpi Conservation area that includes 26.40 total acres of open space. The property would become part of Howell Branch Preserve and provide a extension of the conservation area along Howell Creek.

The listing price is $95,000 and is listed as a short sale. The previous owner of the property payed $219,000 for the lot. The purchase of this property would be the first of several possible purchases toward preserving the flood plain conservation area along Howell Creek.

With City Commission approval staff will proceed with securing an approved offer on the property and obtaining an appraisal for confirmation of the property value.

Alternatives | Other Considerations:
This may be the City’s only opportunity to purchase this property for park and conservation purposes.

Fiscal Impact:
The Park Acquisition Fund currently has a balance of $267,339. The Parks and Recreation Impact Fee Fund balance is $710,000.
PROPOSED PROPERTY FOR PURCHASE

2908 Temple Trl  < 29-21-30-0000-00-034 >

Name(s)  
Schulman Bryan N
Schulman Robyn S

Property Name
N/A. Click information icon to contribute.

Mailing Address On File
362 Twelve Oaks Dr
Winter Springs, FL 32708-6192

Physical Street Address
2908 Temple Trl
Winter Park, Fl 32789

Property Use
9600 - Waste Land
Municipality
Winter Park

DIMENSIONS: 100’x120’x135’x242’  .39 acres
PROPOSED PROPERTY FOR PURCHASE

Home Details for 2908 Temple Trl

Single Family Use - WINTER PARK, FL
2908 Temple Trl Short sale. Vacant conservation lot ready for your dream home. Zoned for Dommerich Elementary, Maitland Middle & Winter Park High. Located in Winter Park, and convenient to Winter Park and Maitland shopping, dining & parks.

Provided by: Fannie Hillman + Associates, Inc. P
Broker: Fannie Hillman + Associates, Inc.
Listing Agent: Mary Stuart Day
Listing Date: 01/24/14
Copyright 2014 My Florida Regional Multiple Listing Service, Inc. All rights reserved. Information provided to the listing agency/leader is deemed reliable but is not guaranteed and should be independently verified.

Write a personal note about this listing

Features for 2908 Temple Trl

Information last updated on 08/20/2014 12:00 AM:

- Price: $95,000
- Single-Family Home
- Status: For Sale
- Lot Size: 0.39 acres
- View: City
- MLS/Source ID: 05205153
- Zip: 32789
### subject
City Manager evaluation

### motion | recommendation
A summary of the evaluations will be provided after they are received from the entire Commission.

In accordance with the FY 2015 budget, the City Manager is eligible for up to a 3.5% merit increase.
Subject

SECOND READING OF ORDINANCE

Ordinance supplementing ordinance 2953-14 authorizing the issuance of not exceeding $16,000,000 electric revenue bonds to finance the refunding of a portion of the outstanding Electric Revenue Bonds, Series 2005A.

motion | recommendation

Approve the ordinance supplementing ordinance 2953-14.

background

This past June, the City refunded $7,815,000 of the Electric Revenue Bonds, Series 2005A auction rate security bonds. This refunding was accomplished through a tender offer process that enabled the City to purchase the bonds at 97.0% of par value. A fixed rate loan of 2.74% from Pinnacle Public Finance was obtained to finance the bond refunding. After this refunding, there are still $7,445,000 of the 2005A bonds outstanding.

The interest rate on the 2005A bonds is the default rate defined by a formula in the original bond documents. This formula is 175% of the one month LIBOR. Since 2009, this rate has consistently been 0.50% or less. The concern is that once rates begin rising, our interest rate will increase exponentially.

Recently, the City has been contacted by an institution holding $6,200,000 of the $7,445,000 bonds that are still outstanding expressing an interest in selling the bonds back to the City. Through discussions between the City’s Financial Advisor, Public
Financial Management (PFM), and the bondholder, the bondholder has indicated a willingness to sell the bonds for 96.5% of par value.

PFM has been in contact with the financial institutions that offered the best financing terms for the June refunding. Pinnacle Public Finance continues to offer the best rate that includes flexibility for paying off the loan early. Pinnacle is offering a fixed rate of 2.99% for the full term of the bond.

Purchasing $6,200,000 of the bonds would reduce the City’s variable rate exposure to $1,245,000. The 2.99% fixed rate being offered by Pinnacle is still a very favorable rate for a twenty year loan. If and when interest rates begin rising, the City would likely be in a position to fund the purchase of the remaining $1,245,000 in auction rate bonds using cash on hand.

**alternatives | other considerations**

Leave the bonds in their current auction rate mode. The default rate has averaged less than 0.30% for the last year.

**fiscal impact**

Higher interest costs in the near term on $6,200,000 of the bonds refunded with a 2.99% fixed rate loan. However, the risk of even higher interest costs due to exponential increases in the default rate will have been reduced.
ORDINANCE NO. [_____]‐14

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE 2953‐14 AUTHORIZING THE ISSUANCE OF NOT EXCEEDING $16,000,000 ELECTRIC REVENUE BONDS OF THE CITY TO FINANCE ITS OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A TENDERED FOR PURCHASE BY THE HOLDERS THEREOF AND PAY THE COSTS OF ISSUE THEREOF; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM THE NET REVENUES DERIVED FROM THE ELECTRIC SYSTEM OF THE CITY ON PARITY WITH THE CITY’S OUTSTANDING ELECTRIC REVENUE BONDS; PROVIDING FOR THE SALE OF SUCH BONDS PURSUANT TO A PRIVATE NEGOTIATED SALE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AUTHORITY FOR THIS ORDINANCE. This ordinance is enacted pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes; Chapter 86, Article III, of the Code of Ordinances of the City of Winter Park, Florida (the "City"); Ordinance 2953‐14 and other applicable provisions of law.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared that:

A. The City previously authorized the repurchase of its outstanding Electric Revenue Bonds, Series 2005A of the City (the "2005A Bonds") tendered by holders and finance such tender with proceeds to be derived from the sale of one or more series of its electric revenue bonds issued under Resolution No. 1898‐05 duly adopted by the City on May 9, 2005 (the “Original Resolution”).

B. On June 13, 2014 the City successfully repurchased $7,815,000 of its 2005A Bonds pursuant to a public tender offer and financed the repurchase, in part, with proceeds of a loan from Pinnacle Public Finance, Inc. in the amount of $7,680,000.

C. It is necessary and desirable by the City to issue electric revenue bonds to be designated by the City in an amount not exceeding $6,200,000 to finance an unsolicited offer to tender approximately $6,200,000 of its outstanding 2005A Bonds and to pay the costs of issuance thereof (the “Bonds”).

D. The City may solicit offers from the remaining holders of the 2005A Bonds and issue the Bonds to finance the cost of the purchase of all or a portion of the outstanding 2005A Bonds.

SECTION 3. AUTHORIZATION OF BONDS. The issuance by the City of not exceeding $6,200,000 electric revenue bonds for the purpose described above; to bear interest at
a rate or rates not exceeding the maximum legal rate per annum, to be payable, to mature, to be subject to redemption and to have such designations and other characteristics as shall be provided by subsequent resolution or resolutions of the Commission prior to their delivery; and to be secured on a parity with the lien of the holders of its outstanding electric revenue bonds under the Original Resolution upon and pledge of the net revenues derived by the City from its electric system; is hereby authorized. The Commission may adopt a specific bond resolution (including any necessary resolutions supplemental to the Original Bond Resolution) supplemental to this ordinance, setting forth the maturities (or a mechanism for determining such maturities on or prior to the sale of such Bonds) and the fiscal details and other covenants and provisions necessary for the marketing, sale and issuance of such Bonds. In addition the bond resolution may authorize various interest rate modes and appropriate agreements for such modes, and may establish special accounts and include provisions for the sole benefit of the holders of such Bonds, as circumstances dictate, in order to fully protect the rights of the holders of such Bonds.

SECTION 4. GENERAL AUTHORITY. The Mayor, City Manager, Director of Electric Utilities and Finance Director of the City, or any of them, are hereby authorized, pending adoption of the above resolutions, to do all things and to take any and all actions on behalf of the City, without further action by the Commission, to provide for the financing of the repurchase of 2005A Bonds tendered by the holders of such 2005A Bonds; to solicit bids from financial institutions for the purchase of the electric revenue bonds authorized hereby; and to execute and deliver any commitments from financial institutions regarding the bonds and all other documents and instruments deemed appropriate by any of such officers, the approval of the City and all corporate power and authority for such actions to be conclusively evidenced by the execution and delivery thereof by any of such officers.

SECTION 5. REPEALER. All ordinances, resolutions or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict. Other than as modified and supplemented hereby Ordinance 2953-14 shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon its final passage and enactment.
ENACTED after reading by title at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, Florida, on this ___ day of November, 2014.

ATTEST:

Mayor Kenneth W. Bradley

City Clerk Cynthia S. Bonham
Resolution authorizing the issuance of not to exceed $6,200,000 Electric Revenue Bonds, Series 2014 to refund a portion of the outstanding Electric Revenue Bonds, Series 2005A.

Approve the resolution

This resolution is complementary to the ordinance also on this agenda to purchase an additional $6,075,000 of the City’s Electric Revenue Bonds, Series 2005A. This resolution specifically authorizes a loan with Pinnacle Public Finance to finance the purchase of the bonds. The Pinnacle fixed rate of 2.99% was the lowest that also allowed prepayment of the loan on or after October 1, 2022.

Leave the bonds in their current auction rate mode. The default rate has averaged less than 0.30% for the last year.

Higher interest costs in the near term on $6,075,000 of the bonds refunded with a 2.99% fixed rate loan. However, the risk of even higher interest costs due to increase in the current default rate on the bonds will have been reduced.
RESOLUTION NO. 2145-14

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE NO. 2979-14; AUTHORIZING THE ISSUANCE IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $6,200,000 ELECTRIC REFUNDING REVENUE BOND, SERIES 2014A OF THE CITY FOR THE PURPOSE OF REFUNDING A PORTION OF THE CITY’S OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND TO PAY THE COSTS THEREOF; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; PROVIDING FOR THE PAYMENT OF SUCH BOND FROM THE NET REVENUES DERIVED FROM THE ELECTRIC SYSTEM OF THE CITY; AUTHORIZING A NEGOTIATED SALE OF SUCH BOND; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Park, Florida (the “City”) previously authorized the repurchase of its outstanding Electric Revenue Bonds, Series 2005A of the City (the "2005A Bonds") tendered by holders and financed such tender with proceeds to be derived from the sale of one or more series of its electric revenue bonds issued under Resolution No. 1898-05 duly adopted by the City on May 9, 2005 (the “Original Resolution”); and

WHEREAS, on June 13, 2014 the City successfully repurchased $7,815,000 of its 2005A Bonds pursuant to a public tender offer and financed the repurchase, in part, with proceeds of a loan from Pinnacle Public Finance, Inc. (the “Bank”) in the amount of $7,680,000; and

WHEREAS, it is necessary and desirable by the City to issue electric revenue bonds to be designated by the City in an amount not exceeding $6,200,000 to finance an unsolicited offer to tender approximately $6,200,000 of its outstanding 2005A Bonds (the “Refunded Bonds”) and to pay the costs of issuance thereof; and

WHEREAS, the City upon the advice of its financial advisor, Public Financial Management has determined that the proposal from the Bank to finance the costs of refunding the Refunded Bonds contains the terms and provisions that are most favorable for the City; and

WHEREAS, the City has determined to accept the offer of the Bank to issue a loan evidenced by the City of Winter Park, Florida Electric Refunding Revenue Bond, Series 2014A (the “Bond”) and that it is necessary and desirable to borrow funds (the “Loan”) to pay the purchase price of the 2005A Bonds being tendered; and
**WHEREAS,** the debt service on the Bond shall be payable solely from and secured by the net revenues derived from the electric system of the City (the “Pledged Revenues”) on a parity with the City’s Electric Revenue Bonds, Series 2005A that remain outstanding, Electric Revenue Bonds, Series 2007, Electric Revenue Bonds, Series 2009A, Electric Revenue Bonds, Series 2009B, Electric Revenue Bonds, Series 2010 and Electric Refunding Revenue Bonds, Series 2014 (collectively, the “Parity Bonds”); and

**WHEREAS,** capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Original Resolution; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes, as amended; Chapter 86, Article III, of the Code of Ordinances of the City, the Original Resolution, Ordinance No. 2979-14 enacted by the City on October 27, 2014, and other applicable provisions of law.

**SECTION 2. RECITALS.** It is hereby found, ascertained, determined and declared that:

A. The *WHEREAS* clauses recited above are hereby incorporated herein as a part of this Resolution.

B. The City owns, operates and maintains the System and derives and will continue to derive Net Revenues from revenues, income or earnings from or attributable to its ownership and operation of the System. Such Net Revenues are not now pledged or encumbered in any manner except to the payment from such Net Revenues of the Parity Bonds.

C. Section 9.03U of the Original Resolution provides for the issuance of Additional Parity Bonds under the terms, limitations and conditions provided therein. The City will comply with such terms, limitations and conditions, on or prior to the date of delivery of the Bond, and is therefore legally entitled to issue the Bond as Additional Parity Bonds within the authorization contained in the Original Resolution.

D. The estimated Net Revenues will be sufficient to pay all principal of and interest on the Bond and the Parity Bonds, as the same become due, and to make all sinking fund, reserve, if any, or other payments required by this Resolution and the Original Resolution.

E. It is in the public interest and a valid and proper public purpose to refund the Refunded Bonds.

F. The Bank’s proposal to provide the Loan to the City in an amount not to exceed $6,200,000 at the terms set forth therein is the best proposal to provide financing for refunding the Refunded Bonds.
G. The Pledged Revenues shall be used to pay principal of and interest on the Bond and any other amounts due under the Loan Agreement (as defined herein) or the Bond on a parity with the Parity Bonds.

H. Because of the characteristics of the security pledged to repay the Loan, prevailing conditions in the financial markets, reduced upfront costs of issuance and additional savings to be realized from an expeditious sale of the Bond, it is in the best interest of the City to accept the offer of the Bank to enter into the Loan Agreement and purchase the Bond at a private negotiated sale. Prior to the issuance of the Bond, the City shall receive from the Bank a Lender’s Certificate, the form of which is attached hereto as Exhibit A and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, the form of which is attached hereto as Exhibit B.

I. In consideration of the purchase and acceptance by the Bank of the Bond authorized to be issued hereunder, this Resolution, together with the terms and provisions of the Loan Agreement, shall constitute a contract between the City and the Bank.

SECTION 3. AUTHORIZATION OF LOAN AGREEMENT. To provide for the security of the Bond and to express the contract between the City and the Bank, the City does hereby authorize the execution and delivery on behalf of the City by the Mayor or Vice Mayor under the seal of the City, attested by the City Clerk, of the Loan Agreement by and between the City and the Bank (the “Loan Agreement”). The Loan Agreement shall be in substantially the form attached hereto and marked Exhibit C and is hereby approved, with such changes, amendments, modifications, omissions and additions as may be approved by the execution and delivery thereof to be conclusive evidence of such approval. Subject and pursuant to the provisions of this Resolution and the terms and provisions of the Loan Agreement, there is hereby authorized to be issued the Bond to evidence the City’s obligations under the Loan Agreement. The Bond is authorized to be issued in the principal amount not to exceed $6,200,000 and subject to the provisions of Section 4 hereof.

SECTION 4. AUTHORIZATION OF THE BOND. There is hereby authorized to be issued the “City of Winter Park, Florida Electric Refunding Revenue Bond, Series 2014A,” (the “Bond”) in an aggregate principal amount not to exceed Six Million Two Hundred Thousand Dollars ($6,200,000), which Bond shall secure amounts outstanding under the Loan Agreement and will be repaid in accordance with the terms of the Loan Agreement. The Interest Rate on the Bond shall not exceed 2.99% (subject to adjustment pursuant to the terms of the Loan Agreement) and the Maturity Date shall be not later than October 1, 2033. The Bond shall be executed on behalf of the City with the manual signature of the Mayor or Vice Mayor, and attested by the manual signature of the City Clerk and the official seal of the City. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the City before the Bond so signed and sealed has been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. The Bond may be signed and sealed on behalf of the City by such person who at the actual time of the
execution of such Bond shall hold the proper office of the City, although, on the date of delivery of such Bond, such person may not have held such office or may not have been so authorized.

SECTION 5. USE OF PROCEEDS. The proceeds of the Bond shall be used to (i) pay the purchase price of the 2005A Bonds being tendered, resulting in the refunding of the Refunded Bonds and (ii) pay the costs and expenses associated with issuing the Bond. The Bond will not be secured by any reserve account.

SECTION 6. APPLICATION OF PROVISIONS OF ORIGINAL RESOLUTION. Except as may be provided in the Original Resolution, (a) the Bond shall for all purposes be considered to be Additional Parity Bonds issued under the authority of the Original Resolution; and (b) shall be entitled to all the protection, security, rights and privileges enjoyed by the Parity Bonds.

SECTION 7. GENERAL AUTHORIZATION. The Mayor, Vice Mayor, City Manager, Director of Electric Utilities, Finance Director and any member of the City Commission, the City Clerk and such other officials and employees of the City as may be designated by the City are each designated as agents of the City in connection with the issuance and delivery of the Bond and are authorized and empowered, collectively or individually, to take all actions and steps and to execute all instruments, documents, and contracts on behalf of the City that are necessary or desirable in connection with the execution and delivery of the Bond, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

SECTION 8. PREREQUISITES PERFORMED. The City has performed all acts, conditions, and things relating to the passage of this Resolution as are required by the Constitution and Laws of the State of Florida, and the Ordinances and Resolutions of the City.

SECTION 9. APPLICABLE PROVISIONS OF LAW. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 10. RULES OF INTERPRETATION. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words “herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

SECTION 11. CAPTIONS. The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 12. MEMBERS OF THE CITY COMMISSION EXEMPT FROM PERSONAL LIABILITY. No recourse under or upon any obligation, covenant or agreement of this Resolution, the Loan Agreement or the Bond or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the City Commission, as such, of the City,
past, present or future, either directly or through the City it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the members of the City Commission, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution, the Loan Agreement or the Bond or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such member of the City Commission, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the Loan Agreement and the issuance of the Bond, on the part of the City.

SECTION 13. REPEALER. All ordinances and/or resolutions or parts thereof in conflict with any of the provisions of this Resolution, if any, are hereby repealed.

SECTION 14. NO THIRD PARTY BENEFICIARIES. Except such other persons as may be expressly described in this Resolution, nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person, other than the City and the holders of the Bond, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, all provisions thereof being intended to be and being for the sole and exclusive benefit of the City and the persons who shall from time to time be the holders of the Bond.

SECTION 15. SEVERABILITY. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

[Remainder of page intentionally left blank]
SECTION 16. **EFFECTIVE DATE.** The provisions of this Resolution shall take effect immediately upon its passage and adoption.

ADOPTED after reading by title at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, Florida, on this 27th day of October, 2014.

CITY OF WINTER PARK, FLORIDA

(SEAL)

By ______________________________
Mayor Kenneth W. Bradley

ATTESTED:

By ______________________________
City Clerk Cynthia S. Bonham
EXHIBIT A
FORM OF LENDER’S CERTIFICATE

This is to certify that Pinnacle Public Finance, Inc. (the “Bank”) has not required the City of Winter Park, Florida (the “City”) to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the City in connection with the issuance by the City of its Electric Refunding Revenue Bond, Series 2014A (the “Bond”) securing amounts due to the Bank relating to the loan from the Bank in the amount of $[_____] (the “Loan”) pursuant to a Loan Agreement dated as of November [___], 2014 by and between the City and the Bank (the “Loan Agreement”), and no inference should be drawn that the Bank, in the acceptance of said Bond, is relying on Bryant Miller Olive P.A. (“Bond Counsel”), Brown, Garganese, Weiss & D’Agresta P.A. (“City Attorney”) or Public Financial Management (the “Financial Advisor”) as to any such matters other than the legal opinions rendered by Bond Counsel and by the City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in the Loan Agreement.

We acknowledge and understand that Resolution No. 2145-14 adopted by the City Commission of the City on October 27, 2014 (the “Resolution”) is not being qualified under the Trust Indenture Act of 1939, as amended, and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the City, Bond Counsel, the City Attorney nor the Financial Advisor shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary and are funding the Loan with our own capital and for our own account and not with a present view to a resale or other distribution to the public. We understand that the Loan is evidenced by the Bond and the Bond is issued in a single denomination equal to the principal amount due under the Loan and may be transferred in whole or in part but not in denominations less than $100,000. The Bond will be sold only to (i) an affiliate of the Bank (or subsequent owner of the Bond) or (ii) banks, insurance companies, or similar financial institutions or their affiliates, including pursuant to participation arrangements with or among such entities, and may not result in more than 10 holders of the interests in the Bond.

We are not funding the Loan for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We acknowledge and understand that there will be no CUSIP number obtained for the Loan or the Bond and no credit rating will be obtained on the Bond.

In connection with the potential purchase of the Bond, the Bank is acting solely as purchaser of the Bond for its own account (without a present intent to reoffer) and not as a fiduciary for the City or in the capacity of broker dealer, municipal securities underwriter or
municipal advisor. Neither the Bank nor any of its affiliates has provided, and will not provide, financial, legal, tax, accounting or other advice to or on behalf of the City with respect to the proposed issuance of the Bond. The City has sought and obtained financial, legal, tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the proposed issuance of the Bond from its financial, legal and other advisors (and not the Bank or any of its affiliates) to the extent that the City desired to obtain such advice.

DATED this [___] day of November, 2014.

PINNACLE PUBLIC FINANCE, INC.

By: ________________________________
Name: Cathleen Jimenez
Title: Managing Director and Senior Vice President
EXHIBIT B
FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of Winter Park, Florida (the “City”) for the purchase of the City’s Electric Refunding Revenue Bond, Series 2014A (the “Bond”) securing amounts due under a Loan Agreement by and between Pinnacle Public Finance, Inc. (the “Bank”) and the City in a principal amount of $[______] (the “Loan Agreement”). Prior to the award of the Bond, the following information is hereby furnished to the City:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to the Bank in connection with the issuance of the Bond (such fees and expenses to be paid by the City):

   Chapman and Cutler LLP
   Bank’s Counsel -- $4,000

2. (a) No fee, bonus or other compensation is estimated to be paid by the Bank in connection with the issuance of the Bond to any person not regularly employed or retained by the Bank (including any “finder” as defined in Section 218.386(1)(a), Florida Statutes).

   (b) No person has entered into an understanding with the Bank, or to the knowledge of the Bank, with the City, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the City and the Bank or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Bond.

3. The amount of the underwriting spread expected to be realized by the Bank is $0.

4. The management fee to be charged by the Bank is $0.

5. Truth-in-Bonding Statement:

   The Bond is being issued primarily to refund certain prior bonds of the City.

   Unless earlier redeemed, the Bond is expected to be repaid by October 1, 2033. At a fixed rate of interest of [2.99%], total interest paid over the life of the Bond is estimated to equal $[______].

   The Bond will be payable solely from the Pledged Revenues, as defined in the Loan Agreement, in a manner sufficient to pay the principal of and interest due on the Bond, as described in Resolution No. 2145-14 of the City adopted on October 27, 2014 and the Loan Agreement. Issuance of the Bond is estimated to result in a maximum of approximately $[______] of Pledged Revenues of the City not being available to finance the services of the City in any one year during the life of the Bond.
6. The name and address of the Bank is as follows:

Pinnacle Public Finance, Inc.
8377 E. Hartford Drive
Suite 115
Scottsdale, Arizona 85255

This Disclosure Letter is for informational purposes only and shall not affect or control the actual terms and conditions of the Loan Agreement or the Bond.

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Bank this [_______] day of November, 2014.

PINNACLE PUBLIC FINANCE, INC.

By: ______________________________
Name: Cathleen Jimenez
Title: Managing Director and Senior Vice President
EXHIBIT C
FORM OF LOAN AGREEMENT
LOAN AGREEMENT

dated November [__], 2014

by and between

CITY OF WINTER PARK, FLORIDA
(the “City”)

and

PINNACLE PUBLIC FINANCE, INC.
(the “Bank”)
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The Table of Contents for this Loan Agreement is for convenience of reference only and is not intended to define, limit or describe the scope or intent of any provisions of this Loan Agreement.

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EXHIBIT A - FORM OF BOND
LOAN AGREEMENT

THIS LOAN AGREEMENT (the “Agreement”), made and entered into this [___] day of November, 2014, by and between the CITY OF WINTER PARK, FLORIDA (the “City”), a municipal corporation and public body corporate and politic of the State of Florida duly organized and existing under the laws of the State of Florida and its successors and assigns, and PINNACLE PUBLIC FINANCE, INC., a Delaware corporation (the “Bank”).

WITNESSETH:

WHEREAS, capitalized terms used in these recitals and not otherwise defined shall have the meanings specified in Article I of this Agreement; and

WHEREAS, the City, pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes, as amended; Chapter 86, Article III, of the Code of Ordinances of the City (the “Act”), Resolution No. 1898-05 adopted by the City on May 9, 2005 (the “Parity Bond Resolution”), Ordinance No. 2979-14 enacted by the City on October 27, 2014, Resolution No. 2145-14 adopted by the City on October 27, 2014 and other applicable provisions of law, is authorized to borrow money to finance the refunding of a portion of the City’s outstanding Electric Revenue Bonds, Series 2005A (the “2005A Bonds”); and

WHEREAS, the City desires to borrow $[_______] to finance the refunding of a portion of the 2005A Bonds (the “Loan”) and to secure the repayment of the Loan with a pledge of and lien on the Pledged Revenues (as defined herein); and

WHEREAS, the City issued a request for proposals and received proposals from various financial institutions to provide for the Loan; and

WHEREAS, the Bank is willing to provide the Loan to the City as provided herein, but only upon the terms and conditions of this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
DEFINITION OF TERMS

Section 1.01. Definitions. Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings as follows:

“Act” shall have the meaning assigned to that term in the recitals hereof.

“Agreement” shall mean this Loan Agreement and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

“Bank” shall mean Pinnacle Public Finance, Inc., a Delaware corporation, and its successors or assigns.
“Bond” shall mean the City of Winter Park, Florida Electric Refunding Revenue Bond, Series 2014A issued by the City under the Parity Bond Resolution, Ordinance No. 2979-14 enacted by the City on October 27, 2014, Resolution No. 2145-14 adopted by the City on October 27, 2014 and this Agreement to evidence amounts due under this Agreement, the form of which is attached hereto as Exhibit A.

“Bond Counsel” shall mean, initially, Bryant Miller Olive P.A., or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions.

“Bond Resolution” shall mean collectively, Ordinance No. 2979-14 enacted by the City on October 27, 2014 and Resolution No. 2145-14 adopted by the City on October 27, 2014, which, among other things, authorized and confirmed the borrowing of the Loan and execution and delivery of this Agreement and the issuance of the Bond.

“Business Day” shall mean any day other than a Saturday, a Sunday, or a day on which banks in the City are authorized or required to be closed.

“City” shall mean the City of Winter Park, Florida, a municipal corporation and public body corporate and politic of the State of Florida.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable regulations promulgated thereunder.

“Date of Delivery” shall mean November __, 2014.

“Debt Service” means principal of and interest on the Bonds, and other debt related costs, due in connection with the Bonds and this Agreement.

“Default Rate” shall mean five percent (5%) per annum unless the Taxable Rate is in effect, in which case, the Default Rate means 5.5% per annum.

“Event of Default” shall mean an Event of Default as defined in Section 5.01 of this Agreement.

“Fiscal Year” shall mean the twelve month period commencing October 1 of each year and ending on the succeeding September 30, or such other twelve month period as the City may designate as its “fiscal year” as permitted by law.

“Interest Rate” shall mean the rate of interest to be borne by the Bonds, which shall be a fixed rate equal to 2.99%, which Interest Rate shall be subject to adjustment as provided herein and in the Bond.
“Loan” shall refer to the loan in a principal amount of [______________] Thousand Dollars ($[______]), together with the interest accrued thereon pursuant to and in accordance with this Agreement.

“Maturity Date” shall mean October 1, 2033.

“Owner” or “Holder” shall mean the Bank, as the purchaser and initial holder of the Bonds and any subsequent registered owner or owners of the Bonds.


“Parity Bond Resolution” shall mean Resolution No. 1898-05 adopted by the City Commission on May 9, 2005, as supplemented.

“Pledged Revenues” shall mean the net revenues derived from the electric system of the City.

Section 1.02. Interpretation. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. Any capitalized terms used in this Agreement not herein defined shall have the meaning ascribed to such terms in the Bond Resolution. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

Section 1.03. Titles and Headings. The titles and headings of the Articles and Sections of this Agreement, which have been inserted for convenience of reference only and are not to be considered a part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

ARTICLE II
REPRESENTATIONS AND WARRANTIES OF THE PARTIES

Section 2.01. Representations and Warranties of City. The City represents and warrants to the Bank as follows:

(a) Existence. The City is a municipal corporation and a public body corporate and politic of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full legal right, power and authority to adopt the Bond Resolution, to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the Bond to the Bank. The making, execution and performance of this Agreement on the part of the City and
the issuance and delivery of the Bond have been duly authorized by all necessary action on the part of the City and will not violate or conflict with the Act, the Parity Bond Resolution, or any agreement, indenture or other instrument by which the City or any of its material properties is bound.

(b) **Validity, Etc.** This Agreement, the Bond and the Bond Resolution are valid and binding obligations of the City, enforceable against the City in accordance with their respective terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors’ rights and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) **No Financial Material Adverse Change.** There are no actions, proceedings or investigations pending against the City or affecting the City (or any basis therefor known to the City) which, either in any case or in the aggregate, might result in any material adverse change in the financial condition, business, prospects, affairs or operations of the City or in any of its properties or assets, or in any material impairment of the right or ability of the City to carry on its operations as now conducted or proposed to be conducted, or in the levy, receipt and collection of the Pledged Revenues or in any material liability on the part of the City and none which questions the validity of this Agreement, the Bond or the Bond Resolution or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

(d) **Liens and Encumbrances.** Other than the Parity Bonds and the Bond, there are no pledges of, or liens or encumbrances on, the Pledged Revenues.

(e) **No Litigation.** There are no suits or proceedings pending or to the best knowledge of the City, threatened, in any court or before any regulatory commission, board or other administrative governmental agency against or affecting the City, concerning or affecting the Pledged Revenues or which would have a material adverse affect on the ability of City to fulfill its obligations under this Agreement.

**Section 2.02. Representations and Warranties of Bank.** The Bank represents and warrants to the City as follows:

(a) **Existence.** The Bank is a Delaware Corporation, with full power to enter into this Agreement, to perform its obligations hereunder and to make the Loan. The performance of this Agreement on the part of the Bank and the making of the Loan have been duly authorized by all necessary action on the part of the Bank and will not violate or conflict with applicable law or any material agreement, indenture or other instrument by which the Bank or any of its material properties is bound.

(b) **Validity.** This Agreement is a valid and binding obligation of the Bank enforceable against the Bank in accordance with its terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the
enforcement of creditors’ rights (and specifically creditors’ rights as the same relate to banks) and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) Knowledge and Experience. The Bank (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of making the Loan to the City which is evidenced by the Bond, (ii) has received and reviewed such financial information concerning the City as it has requested in order to fairly evaluate the merits and risks of making the Loan to the City which is evidenced by the Bond; (iii) is directly or indirectly controlled by BankUnited, National Association, a national banking association; and (iv) is purchasing the Bond for its own account and not with a present view toward resale to the public.

ARTICLE III
THE BOND

Section 3.01. The Loan; Purpose and Use. On the date of this Agreement, the Bank shall make available to the City the Loan in the aggregate principal amount of [_____________________] Thousand Dollars ($[______]).

The proceeds of the Loan shall be used to (i) pay the purchase price of the 2005A Bonds being tendered, resulting in the refunding of a portion of the 2005A Bonds and (ii) to pay the costs of issuance of the Bond.

Section 3.02. The Bond. The City shall issue the Bond to the Bank to evidence and secure its obligation to repay the Loan. The Bond shall be substantially in the form set forth as Exhibit “A” to this Agreement. The general terms of the Bond shall be as follows; provided, however, that in the event of a conflict between the terms of this Agreement and the terms of the executed Bond, the terms of the Bond shall prevail:

(a) Principal Amount of Bond. The principal amount of the Bond shall be [_____________________] Thousand Dollars ($[______]).

(b) Interest. The Bond shall bear interest on the outstanding principal amount thereof at the Interest Rate from the Date of Delivery until paid in full, subject to adjustment as provided in subsection 3.02(e) below. Interest on the Bond shall be computed on the basis of twelve (12) thirty (30) day months and a 360-day year. Upon the occurrence of an event of default pursuant to Section 5.01(a) hereof in connection with a failure to pay principal or interest on the Bond when due (subject to any applicable grace or cure period), the Bond shall bear interest at the Default Rate until such payment is made.

(c) Payments. Interest on the Bond shall be paid semi-annually on April 1 and October 1, commencing April 1, 2015, until the Bond is paid in full. Principal on the Bond shall be paid in annual installments beginning on October 1, 2015, and thereafter on each October 1 until paid in full. Principal on the Bond shall be paid as set forth on Schedule I attached to the
Bond, subject to prepayment by the City prior to the Maturity Date as provided in subsection 3.02(d) below. Presentment of the Bond shall only be required upon final payment of principal on the Bond.

(d) Prepayment. The Bond is not subject to prepayment prior to October 1, 2022. Beginning on October 1, 2022, the Bond is subject to prepayment in whole, but not in part, at a price of par, plus accrued interest to the prepayment date. Any prepayment shall be applied first to accrued and unpaid interest to the date of prepayment and then to the unpaid principal.

(e) Adjustments to Interest Rate.

In the event of a Determination of Taxability, the Interest Rate payable on the Bond shall be subject to a full gross-up modification, at the rate of 4.60% (the "Taxable Rate"), effective retroactively to the date on which such Determination of Taxability was made. In addition, upon a Determination of Taxability, the City agrees to pay to the Owner subject to such Determination of Taxability the Additional Amount upon demand. "Additional Amount" means (i) the difference between (a) interest on the Bond for the period commencing on the date on which the interest on the Bond ceased to be excludable from gross income for federal income tax purposes and ending on the earlier of the date the Bond ceased to be outstanding or such adjustment is no longer applicable to the Bond (the "Taxable Period") at a rate per annum equal to the Taxable Rate, and (b) the aggregate amount of interest paid on the Bond for the Taxable Period under the provisions of the Bond without considering the Determination of Taxability, plus (ii) any penalties and interest paid or payable by such Owner to the Internal Revenue Service by reason of such Determination of Taxability. As used herein, “Determination of Taxability” shall mean (a) the receipt by the City or Owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence from the Internal Revenue Service which legally holds that the interest on the Bond is includable in the gross income of the Owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest on the Bond is includable in the gross income of the Owner thereof; or (c) receipt by the City or Owner of a written opinion of Bond Counsel to the effect that the interest on the Bond has become includable in the gross income of the Owner thereof for federal income tax purposes. For all purposes of this definition, a Determination of Taxability shall be deemed to occur on the date as of which the interest on the Bond is deemed includable in the gross income of the Owner thereof for federal income tax purposes.

Section 3.03. Compliance with Section 215.84. The City represents, warrants, and covenants that the Interest Rate, as currently calculated in accordance with Section 215.84, Florida Statutes, is in compliance with Section 215.84, Florida Statutes.

Section 3.04. Conditions Precedent to Funding. Prior to or simultaneously with the delivery of the Bond by the City there shall be filed with the Bank the following, each in form and substance reasonably acceptable to the Bank:
(a) an opinion of counsel to the City to the effect that (i) the City is a municipal corporation duly created and validly existing under the Constitution and laws of the State of Florida, with full legal right, power and authority to enact Ordinance No. 2979-14 to adopt the Parity Bond Resolution, to adopt the Bond Resolution, to issue the Bond, to authorize, execute and deliver this Agreement, to perform its obligations under the Bond, the Bond Resolution and this Agreement and to consummate the transactions contemplated by such instruments; (ii) the Bond Resolution has been duly adopted by the City at a duly convened public meeting following proper public notice, has not been amended or repealed and is in full force and effect, and constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms; (iii) Ordinance No. 2979-14 was duly enacted by the City Commission of the City and the Parity Bond Resolution was adopted at duly called public meetings following proper public notice, and have not otherwise been amended or repealed and is in full force and effect as of the date hereof; (iv) the Bond and this Agreement have been duly authorized, executed and delivered by the City and constitute valid and binding obligations of the City enforceable in accordance with their respective terms (subject as to enforceability of any remedies to any applicable bankruptcy or insolvency laws or other laws affecting creditors’ rights generally, from time to time in effect); (v) to the best of such counsel’s knowledge, the adoption of the Bond Resolution, and the authorization, execution and delivery of the Bond and this Agreement, and compliance with the provisions thereof, will not conflict with, or constitute a breach of or default under, any law, administrative regulation, consent decree, resolution or any agreement or other instrument to which the City was or is subject, as the case may be, nor will such enactment, adoption, execution, delivery, authorization or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City, or under the terms of any law, administrative regulation, ordinance, resolution or instrument, except as expressly provided by the Bond Resolution and this Agreement; (vi) to the best of such counsel’s knowledge, all approvals, consents, authorizations and orders of any governmental authority or agency having jurisdiction in any matter which would constitute a condition precedent to the performance by the City of its obligations under the Bond Resolution, this Agreement and the Bond have been obtained and are in full force and effect; (vii) there is no litigation pending or, to the best of such counsel’s knowledge threatened, to restrain or enjoin the issuance or sale of the Bond or in any way affecting any authority for or the validity of the Bond, the Bond Resolution, this Agreement, the pledge of the Pledged Revenues, Ordinance No. 2979-14 or the Parity Bond Resolution; (viii) neither the corporate existence nor the title of any of the present City Commission Members and officials thereof to their respective offices is being contested; and (ix) the City has complied with all conditions precedent to the issuance of the Bond.

(b) an opinion of Bond Counsel (who may rely on the opinion of Counsel to the City as to certain matters), stating that such counsel is of the opinion that: (i) the Bond Resolution and this Agreement constitute valid and binding obligations of the City, enforceable upon the City in accordance with their respective terms; (ii) the Bond is a valid and binding special obligation of the City, enforceable in accordance with its terms, payable solely from the sources provided therefor in the Bond Resolution and this Agreement; and (iii) assuming compliance
by the City with certain covenants in this Agreement relating to requirements contained in the Code, interest on the Bond is excluded from gross income for purposes of federal income taxation, and interest on the Bond is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on such corporations;

(c) a copy of a completed and executed Form 8038 to be filed with the Internal Revenue Service by the City.

(d) a certificate of the City indicating that since September 30, 2013, there has been no material adverse change in the financial condition, operations or prospects of the City or laws, rules or regulations (or their interpretation or administration) that, in any case, may adversely affect the City’s ability to comply with its obligations hereunder and under the Bond.

(e) such other documents as the Bank or its counsel reasonably may request (including, without limitation, appropriate executed Florida Division of Bond Finance forms).

When the documents and items mentioned in clauses (a) through (e), inclusive, of this Section shall have been filed with the Bank, and when the Bond shall have been executed as required by this Agreement, and all conditions of the Bond Resolution have been met, the City shall deliver the Bond to or upon the order of the Bank, but only against the City’s receipt of the proceeds of the Bond.

Section 3.05. Registration of Transfer; Assignment of Rights of Bank. The City shall keep at the office of the City Clerk in the City’s records the registration of the Bond and the registration of transfers of the Bond as provided in this Agreement. The transfer of the Bond may be registered only upon the books kept for the registration of the Bond and registration of transfer thereof upon surrender thereof to the City together with an assignment duly executed by the Bank or its attorney or legal representative in the form of the assignment set forth on the form of the Bond attached as Exhibit “A” to this Agreement. The Bank, or any subsequent Owner, may assign in whole, or in part, its rights, title and interest in the Bond to (i) an affiliate of the then Owner or (ii) banks, insurance companies or similar financial institutions or their affiliates, including pursuant to participation arrangements with or among such entities; provided, however, the Bond may not be transferred in a denomination less than $100,000 under any circumstances or result in more than ten (10) Owners of the interest in the Bond. In the case of any such registration of transfer, the City shall execute and deliver in exchange for the Bond a new Bond registered in the name of the transferee. In all cases in which the Bond shall be transferred hereunder, the City shall execute and deliver at the earliest practicable time a new Bond in accordance with the provisions of this Agreement. The City may make a charge for every such registration of transfer of the Bond sufficient to reimburse it for any tax or other governmental charges required to be paid (other than a tax or other governmental charge imposed by the City) with respect to such registration of transfer, but no other charge shall be
made for registering the transfer hereinabove granted. The Bond shall be issued in fully registered form and shall be payable in any coin or currency of the United States.

The registration of transfer of the Bond on the registration books of the City shall be deemed to effect a transfer of the rights and obligations of the Bank under this Agreement to the transferee. Thereafter, such transferee shall be deemed to be the Bank under this Agreement and shall be bound by all provisions of this Agreement that are binding upon the Bank. The City and the transferor shall execute and record such instruments and take such other actions as the City and such transferee may reasonably request in order to confirm that such transferee has succeeded to the capacity of Bank under this Agreement and the Bond.

In the event the Bond is mutilated, lost, stolen, or destroyed, the City shall execute a new Bond of like date and denomination as that mutilated, lost, stolen or destroyed, provided that, in the case of such a mutilated Bond, such mutilated Bond shall first be surrendered to the City, and in the case of a lost, stolen, or destroyed Bond, there first shall be furnished to the City evidence of such loss, theft or destruction together with an indemnity satisfactory to it.

Section 3.06. Ownership of the Bond. The person in whose name the Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the Bond shall be made only to the registered owner thereof or such owner’s legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bond, and interest thereon, to the extent of the sum or sums so paid.

The registered owner of a Bond is hereby granted power to transfer absolute title thereof by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against such owner’s assignor or any person in the chain of title and before the maturity of the Bond; provided, however, any transfer shall comply with Section 3.05 hereof. Every prior registered owner of a Bond shall be deemed to have waived and renounced all of such owner’s equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

ARTICLE IV
COVENANTS OF THE CITY

Section 4.01. Performance of Covenants. The City covenants that it will perform faithfully at all times its covenants, undertakings and agreements contained in this Agreement and the Bond or in any proceedings of the City relating to the Loan.

Section 4.02. Payment of the Bond. The City promises that it will promptly pay the Debt Service on the Bond and all other amounts due under this Agreement at the place, on the dates and in the manner provided in Section 3.02 hereof and in the Bond according to the true intent and meaning hereof and thereof.
Section 4.03. **Security for Bond.** The payment of the principal of and interest on the Bond and all other amounts payable under this Agreement or the Bond or in connection therewith shall be secured by a first priority pledge of and lien on the Pledged Revenues. The City does hereby create and grant to the Owner of the Bond a first priority pledge of and lien on the Pledged Revenues to provide for and secure the payment of principal of and interest on the Bond and all other obligations of the City under the Bond and this Agreement. The lien of the Owner of the Bond upon the Pledged Revenues shall be on a parity with the lien upon the Pledged Revenues of the owners of the Parity Bonds. The City shall impose, levy and use its best efforts to collect all Pledged Revenues and other amounts due to it, and shall take no action to impair the collection of the Pledged Revenues.

Section 4.04. **Annual Audit, Budget and Other Financial Information.** The City shall, within a reasonable amount of time after the close of each Fiscal Year, cause the financial statements of the City to be properly audited by a recognized independent certified public accountant or recognized independent firm of certified public accountants, and shall require such accountants to complete their report on the annual financial statements in accordance with applicable law. Such annual financial statements shall contain, but not be limited to, a balance sheet, a statement of revenues, expenditures and changes in fund balance, and any other statements as required by law or accounting convention. The annual financial statements shall be prepared in conformity with generally accepted accounting principles and shall include a separate line item showing the annual amount of the Pledged Revenues received during the subject fiscal year. A copy of the audited financial statements for each Fiscal Year shall be furnished to the Owner of the Bond within 210 days following the close of each Fiscal Year. The City shall provide the Owner of the Bond with such other financial information, including, but not limited to the City’s annual budget, with regard to the City and the Pledged Revenues as the Owner may reasonably request.

Section 4.05. **Federal Income Tax Covenants.**

(A) The City covenants with the Owner from time to time of the Bond that it shall not use the proceeds of the Bond in any manner which would cause the interest on the Bond to be or become includable in the gross income of the Owner thereof for federal income tax purposes.

(B) The City covenants with the Owner from time to time of the Bond that neither the City nor any person under its control or direction will make any use of the proceeds of the Bond (or amounts deemed to be proceeds under the Code) in any manner which would cause the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and neither the City nor any other Person shall do any act or fail to do any act which would cause the interest on the Bond to become includable in the gross income of the Owners thereof for federal income tax purposes.

(C) The City hereby covenants with the Owner from time to time of the Bond that it will comply with all provisions of the Code necessary to maintain the exclusion of interest on the Bond from the gross income of the Owner thereof for federal income tax purposes,
including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

**Section 4.06. Additional Bonds.** The City hereby covenants that it will only issue Additional Parity Bonds in accordance with the requirements set forth in Section 9.03(U) of the Parity Bond Resolution.

**Section 4.07. Rate Ordinance.** The City covenants to fix, establish, maintain and collect rates, fees, rentals and other charges in accordance with the requirements set forth in Section 9.03(F) of the Parity Bond Resolution.

**ARTICLE V**

**EVENTS OF DEFAULT AND REMEDIES**

**Section 5.01. Events of Default.** Each of the following is hereby declared an “Event of Default:”

(a) payment of the principal of or interest on the Bond or other fees or amounts due thereunder or hereunder shall not be made when such amounts are due and payable and such amounts shall remain unpaid for a period of ten (10) days;

(b) the City shall default in the due and timely performance of its covenant with regard to the imposition, levy and collection of the Pledged Revenues.

(c) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bond or in this Agreement and such default shall continue for thirty (30) consecutive days after written notice shall have been given to the City by the Owner specifying such default and requiring the same to be remedied; provided, however, that if, in the reasonable judgment of the Owner, the City shall proceed to take such curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be increased to such extent as shall, in the reasonable judgment of the Owner, be necessary to enable the City to diligently complete such curative action;

(d) any representation or warranty of the City contained in this Agreement or in any certificate or other closing document executed and delivered by the City in connection with the closing of this Loan shall prove to have been untrue in any material respect when executed and delivered;

(e) any proceedings are instituted with the consent or acquiescence of the City, for the purpose of effecting a compromise between the City and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereinafter enacted;
(f) the City admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors, declares a financial emergency or consents to the appointment of a receiver or trustee for itself or shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof;

(g) the City is adjudged insolvent by a court of competent jurisdiction or is adjudged bankrupt on a petition of bankruptcy filed against the City, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the City, a receiver or trustee of the City or of the whole or any part of its property and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or

(h) if, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property and such custody or control shall not be terminated within ninety (90) consecutive days from the date of assumption of such custody or control.

Section 5.02. Remedies. Any Owner may, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights including the appointment of a receiver, existing under State or federal law, or granted and contained in the Bond Resolution and this Agreement, and may enforce and compel the performance of all duties required by this Agreement and the Bond Resolution or by any applicable statutes to be performed by the City, or by any agency, officer, member or employee thereof. The Bondholder shall have no right to accelerate the payment of Debt Service on the Bond.

Section 5.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owner is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

Section 5.04. Waivers, Etc. No delay or omission of the Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to the Owner may be exercised from time to time and as often as may be deemed expedient.

The Owner may waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Agreement or before the completion of the enforcement of any other remedy under this Agreement, but no such waiver shall be effective unless in writing and no such
waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

ARTICLE VI
MISCELLANEOUS PROVISIONS

Section 6.01. Covenants of City, Etc.; Successors. All of the covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time, and upon any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Section 6.02. Term of Agreement. This Agreement shall be in full force and effect from the date hereof until the Bond and all other sums payable to the Bank hereunder have been paid in full.

Section 6.03. Notice of Changes in Fact. Promptly after the City becomes aware of the same, the City will notify the Bank of (a) any changes in any material fact or circumstance represented or warranted by the City in this Agreement or in connection with the issuance of the Bond, and (b) any default under this Agreement, specifying in each case the nature thereof and what action the City has taken, is taking and/or proposes to take with respect thereto.

Section 6.04. Amendments and Supplements. This Agreement may be amended or supplemented from time to time only by a writing duly executed by the City and the Owner.

Section 6.05. Notices. Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the City or the Bank, shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when sent by certified mail, return receipt requested:

As to the City:

City of Winter Park
401 Park Avenue South
Winter Park, Florida 32789-4386
Attention: Finance Director
As to the Bank:

Pinnacle Public Finance, Inc.
8377 E. Hartford Drive, Suite 115
Scottsdale, Arizona 85255
Attention: Cathy Jimenez

Either party may, by notice sent to the other, designate a different or additional address to which notices under this Agreement are to be sent.

Section 6.06. Waiver of Jury Trial. To the extent permitted by applicable law, each of the City and the Bank, knowingly, voluntarily and intentionally waives any right each may have to a trial by jury in respect of any litigation based on, or arising out of, under or in connection with the Bond Resolution, this Agreement, the Bond or any agreement contemplated to be executed in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto.

Section 6.07. Benefits Exclusive. Except as herein otherwise provided, nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the City and the Owner, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the City and the Owner.

Section 6.08. Severability. In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the Bond shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, any amendment or supplement hereto or the Bond, but this Agreement, any amendment or supplement hereto and the Bond shall be construed and enforced at the time as if such illegal or invalid provisions had not been contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof from time to time. In case any covenant, stipulation, obligation or agreement contained in the Bond or in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent from time to time permitted by law.

Section 6.09. Business Days. In any case where the date of maturity of interest on or principal of the Bond or the date fixed for prepayment of the Bond shall not be a Business Day, then payment of such interest or principal shall be made on the next succeeding Business Day with the same force and effect as if paid on the date of maturity or the date fixed for prepayment, but interest on any such principal amount shall accrue through the date payment is received.
Section 6.10. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

Section 6.11. **Applicable Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida.

Section 6.12. **No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the Bond, or in any other instrument or document executed by or on behalf of the City in connection herewith, no stipulation, covenant, agreement or obligation of any present or future member of the City Commission, officer, employee or agent of the City, officer, employee or agent of a successor to the City, in any such person’s individual capacity, and no such person, in his or her individual capacity, shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of the principal of or interest on the Bond or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his or her individual capacity, either directly or through the City or any successor to the City, under any rule or law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise and all such liability of any such person, in his or her individual capacity, is hereby expressly waived and released.

Section 6.13. **Incorporation by Reference.** All of the terms and obligations of the Bond Resolution and Exhibit A hereto are hereby incorporated herein by reference as if all of the foregoing were fully set forth in this Agreement. All recitals appearing at the beginning of this Agreement are hereby incorporated herein by reference.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first set forth herein.

CITY OF WINTER PARK, FLORIDA

(SEAL)

By: ________________________________
   Mayor

ATTEST:

By: ________________________________
   Deputy City Clerk

PINNACLE PUBLIC FINANCE, INC.

By: ________________________________
   Name: Cathleen Jimenez
   Title: Managing Director and Senior Vice President
EXHIBIT A
FORM OF BOND

THIS BOND IS SUBJECT TO TRANSFER RESTRICTIONS MORE FULLY DESCRIBED IN THE LOAN AGREEMENT REFERRED TO HEREIN.

CITY OF WINTER PARK, FLORIDA
ELECTRIC REFUNDING REVENUE BOND,
SERIES 2014A

<table>
<thead>
<tr>
<th>Principal Sum</th>
<th>Bond Rate</th>
<th>Maturity Date</th>
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<tr>
<td>$</td>
<td>2.99%</td>
<td>October 1, 2033</td>
<td>November [__], 2014</td>
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The CITY OF WINTER PARK, FLORIDA (the “City”), for value received, hereby promises to pay to the order of PINNACLE PUBLIC FINANCE, INC., a Delaware corporation, or its registered assigns (the “Holder”), at 8377 E. Hartford Drive, Suite 115, Scottsdale, Arizona 85255, or at such other place as the Holder may from time to time designate in writing, solely from the Pledged Revenues as defined in and in the manner and to the extent described in that certain Loan Agreement by and between the Holder and the City, dated November [__], 2014 (the “Agreement”), the Principal Sum stated above loaned to the City by the Holder pursuant to the Agreement, together with interest thereon at the Interest Rate indicated above, until the Maturity Date or the date the principal amount of this Bond is paid in the manner hereinafter set forth in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, which payments shall be made to the Holder hereof by wire or bank transfer pursuant to wire instructions provided by the Holder, or otherwise as the City and the Holder may agree.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

This Bond shall bear interest at the Interest Rate indicated above, which Interest Rate shall be subject to adjustment as provided in the Agreement, and shall be computed on the basis of a 360-day year consisting of twelve (12) thirty (30) day months.

Upon the occurrence of a Determination of Taxability this Bond shall bear interest at the Taxable Rate as provided in the Agreement. Upon the occurrence of an Event of Default pursuant to Section 5.01(a) of the Agreement, this Bond shall bear interest at the Default Rate as provided in the Agreement.

Interest on this Bond shall be paid semi-annually on April 1 and October 1, commencing April 1, 2015, until paid in full. Principal on this Bond shall be paid in annual installments.
beginning October 1, 2015, and on every October 1 thereafter until the Maturity Date in accordance with the amortization schedule as set forth on Schedule I attached hereto and made a part hereof, subject to prepayment by the City prior to the Maturity Date as provided below.

This Bond is not subject to prepayment prior to October 1, 2022. Beginning on October 1, 2022, the Bond is subject to prepayment in whole, but not in part, at a price of par, plus accrued interest to the prepayment date. Any prepayment shall be applied first to accrued and unpaid interest to the date of prepayment and then to the unpaid principal.

This Bond is authorized to be issued in the Principal Sum under the authority of and in full compliance with the provisions of Chapter 166, Parts I and II, Florida Statutes, as amended; Chapter 86, Article III, of the Code of Ordinances of the City, Resolution No. 1898-05 adopted by the City on May 9, 2005 (the “Parity Bond Resolution”), Ordinance No. 2979-14 enacted by the City on October 27, 2014 and Resolution No. 2145-14 adopted by the City on October 27, 2014 (the “Bond Resolution”); and other applicable provisions of law, and is subject to all terms and conditions of said Bond Resolution and the Agreement.

Notwithstanding any provision in this Bond or the Agreement to the contrary, in no event shall the interest contracted for, charged or received in connection with this Bond (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein.

Payment of the principal of and interest on this Bond and all other amounts payable hereunder and under the Agreement are secured by a first priority pledge of and lien upon the Pledged Revenues in accordance with the terms of the Agreement, such lien being on parity with the lien on the Pledged Revenues of the Parity Bonds.

Upon the occurrence of an Event of Default the Holder shall have such remedies as described in the Agreement.

The City hereby waives presentment, demand, protest and notice of dishonor. This Bond is governed and controlled by the Parity Bond Resolution, Ordinance No. 2979-14 the Bond Resolution and the Agreement and reference is hereby made thereto regarding remedies and other matters.

[Remainder of page intentionally left blank]
IN WITNESS WHEREOF, the City has caused this Bond to be signed by the Mayor, and the seal of the City to be affixed hereto or imprinted or reproduced hereon, and attested by the City Clerk of the City and this Bond to be dated the Date of Issuance set forth above.

CITY OF WINTER PARK, FLORIDA

(SEAL)

By: ________________________________
   Mayor

ATTEST:

By: ________________________________
   City Clerk
ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto ______________________________________ (please print or typewrite name, address and tax identification number of assignee) ______________________________________ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints ______________________________________ Attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Name of Owner: ______________________________________

By: ______________________________________
## Schedule I

**Principal Amortization Schedule**

<table>
<thead>
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<th>DATE</th>
<th>AMOUNT</th>
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**Total**
**Subject:** Final Conditional Use approval for the Whole Foods project and Second Reading of the Ordinance to vacate portions of Galloway Drive and Friends Avenue.

UP Fieldgate US Investments is requesting “final” conditional use approval for their Whole Foods project pursuant to the “preliminary” conditional use approved by the Planning Board on June 3, 2014 and by the City Commission on June 23, 2014, on the properties located at 1000 & 1050 N. Orlando Avenue and 1160 Galloway Drive and 967 Cherokee Avenue, zoned C-3. The Developer is also requesting the second reading of the Ordinance to vacate parts of Galloway Drive and Friends Avenue.

**Planning and Zoning Board Recommendation:**

Motion made by Mr. Sacha, seconded by Mrs. De Ciccio for Approval of the “Final” Conditional Use pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) to incorporate the approvals granted, the variances permitted, the conditions of approval and enforcement methods for those conditions as outlined below:

1. That the site plan be modified to remove the parking spaces for added buffer for the live oak trees to be preserved.

2. That the Development Agreement incorporate the conditions, as discussed regarding project signage, architectural conformity, architectural review of the future buildings, contribution to the smart signal technology and noise control.

3. That this final Conditional use approval does not grant any approval or consent from the City for the use of the Orlando Avenue median other than exclusively for the left hand storage for the Lee Road traffic light and the City shall partner with this developer, the developer of Ravaudage and FDOT to strive for a solution that meets the traffic safety and turning movement needs of both projects.

4. With the assistance of the City of Winter Park, the applicant and the five residential property owners located on Cherokee Avenue shall come together to have discussions to ensure that the impacts from this project are minimized.

Motion carried unanimously with a 5-0 vote. Mr. J. Johnston abstained.

**Summary:**

The City Commission approved the “preliminary” conditional use with same conditions as recommended by P&Z that are listed below plus #7 that they added. The “blue” text indicates what has been done to respond to those conditions as follows:
1. The project being limited to monument signage for all ground signs in lieu of pole signs. This is being accomplished and the sign design is included in this packet.

2. That for the final conditional use review, the applicant review opportunities for preservation of two major live oak trees on-site. The two live oak trees are shown being able to be saved. Staff will require added buffer around those trees so they survive, as a condition of approval.

3. That for the final conditional use review, the city and applicant negotiate for a proportionate share of funding for traffic signal timing improvements. The proportionate share of this smart signal technology for the three intersections impacted by this project is $28,125. This will be a condition of approval.

4. That for the final conditional use review, a location in the rear of the project be provided for a sanitary sewer lift station, as may be required for this project. It has been determined that an on-site sewer lift station is not needed.

5. That there be architectural conformity on the design of the out-parcel developments. This shall be administered by staff with the option of the applicant to appeal to P&Z/City Commission to resolve any design issues. This will be continued as a condition of this final CU approval.

6. That the building and mechanical permits be designed and operate at all times under a maximum of 55 decibels at the property line from any air conditioning or other mechanical equipment to address sound containment of the AC and mechanical equipment and that there be certification as to such design by the engineer of record and any subsequent violation of the specific 55 decibel level shall be grounds for enforcement by the City and compliance by the property owner and/or tenant. This will be continued as a condition of this final CU approval.

7. That the setback be increased to 20 feet for the Whole Food building from the adjacent residential properties to the south. This modification has been made to the site plan.

The Approval Process:

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

The New Plan Submittals:

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

1. Landscape Plan – the specific landscape plan for the project is attached. There are no quantities indicated but there are a substantial number of new trees being added to the site both along the street frontages, within the parking lot and along the Lee Road extension. In order to improve the chances of survival of the mature live oaks within the parking lot in front of the Whole Foods store, the two parking spaces immediately east of that northern most tree island and the one space on the west side of the southernmost tree island also need to be removed in order to provide added protection and minimize root damage.

2. Storm Water Drainage Plans – the specific method of meeting the City and St. Johns River Water Management District drainage criteria is primarily via storm water retention areas located in the rear of the project and to the south of the Lee Road
extension but some of the parking lot areas will also be used for underground storm water exfiltration in order to achieve the required volumes.

3. Site Lighting – The plan contains the site lighting plan and photometrics which meet code and comply with the City’s maximum 16 foot lighting pole height. The project is using the more attractive Sternberg type light fixtures.

4. Final Site Plan – One change for this final site plan is the modification of the formerly proposed stamped concrete to be used for the main entrance drive from Orlando Avenue to a paver block (bricks) material as was discussed by P&Z and the City Commission. Details are also included on the cross section changes to the Orlando Avenue right-of-way pursuant to the FDOT permitting of the Lee Road traffic light. Further design has provided more left turn stacking room or length to the curing for the main entrance drive thus necessitating the closing of the median for Dixon Avenue.

The developer of Ravaudage remains concerned that the use of the median for left hand turns into this project uses up the median space that they need for left hand turn stacking, headed north, for a future traffic light at Glendon Parkway or Solana Avenue. This ultimately is a decision by FDOT, not the City. However, the City’s traffic consultant is helping to mediate this issue. Thus we must condition this approval accordingly.

5. Lee Road Extension – these plans show the new roadway and include cross sections throughout its length. This is a new significant 86 foot wide right-of-way for a boulevard which provides space for landscape medians, ample parkway space for planting live oak street trees along both sides of the new roadway and eight foot wide sidewalks on both sides of the new boulevard for pedestrian and bicycle mobility. However, the applicant told us verbally at the preliminary approval that the sidewalk would be 5-6 feet wide on the west side.

6. Site Signage - these plans include the detail for the monument signage for Whole Foods which meet the design parameters shown at the preliminary CU approval. At present there are no plans for monument signage (other than wall/awning signs) for the three outparcel buildings. If they feel that is essential, then they will need special approval from the City Commission. From what has been presented, the other major retailer will use the monument sign at the corner of Dixon and Orlando and the out-parcels are not entitled to their own individual monument signs.

7. Architectural Conformity – the Development Agreement will outline this requirement, how it is implemented, options for appeal and in particular, the attention that will need to be paid to screening the street views of the service and side walls of the other major retailer.

**Development Agreement:**

As with all final Conditional use approvals there is typically an accompanying Development Agreement submitted to incorporate the approvals granted, the conditions of approval and enforcement methods for those conditions as outlined. That Development Agreement has been prepared and is attached as approved by the City Attorney.

**Neighborhood Meeting:**

To resolve the questions from the neighbors on Cherokee Avenue that arose at the P&Z meeting, the applicant and neighbors met on September 30th. The staff understands their concerns have been met and revised plans submitted to address the following items:
1. Wall Buffer and Pedestrian Opening in the Wall – The plans for Lee Road extension now include a sound and car light buffer for those homes via an eight foot buffer wall as proposed on the other sides of their enclave. They also have added, per the resident’s request, a pedestrian opening in the 8-foot wall at the entrance of the Whole Foods site so the residents can walk to the Whole Foods development.

2. Widen Cherokee Pavement – Per the resident’s request they have widened Cherokee to an 18 ft. width all the way to the end.

3. New Cul Du Sac – Per the resident’s request they have shifted the cul du sac as far west as possible.

4. Landscaping – Per the resident’s request they have added magnolia trees on the Cherokee side of the wall.

5. Cherokee Road Asphalt Overlay – Per the resident’s request they have provided for an overlay for Cherokee Road from the new cul du sac to the western end of the road.

6. Lot Drainage – Per the resident’s information we understand that during heavy rainfall, the westernmost lots have standing water between the Cherokee Road pavement and their front yard fences and it was requested to install French drains. After looking into this issue, rather than just French drains, the developer has determined that they can install yard drains.
ORDINANCE NO. _________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA VACATING AND ABANDONING THE PORTIONS OF GALLOWAY DRIVE AND FRIENDS AVENUE WITHIN THE PROPOSED WHOLE FOODS DEVELOPMENT PROJECT, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING FOR REVERSION IF THE WHOLE FOODS DEVELOPMENT PROJECT IS NOT TIMELY PERMITTED AND CONSTRUCTED.

WHEREAS, the City Commission desires to foster the development of the Whole Foods development project encompassing the properties at 1000 N. Orlando Avenue and 1160 Galloway Drive (former Corporate Square offices); 1050 N. Orlando Avenue (former Winter Park Dodge) and 967 Cherokee Avenue, and

WHEREAS, this Ordinance meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to abutting property owners 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 public works department has provided for participation by the public in the process by providing information as requested and has also rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the proposed Ordinance and held advertised public hearings at which the City Commission has provided for public participation in the process in accordance with the requirements of state law.

NOW, THEREFORE, BE IT ENACTED as follows:

Section 1. The City Commission of the City of Winter Park hereby vacates and abandons that portion of Galloway Drive also known as Elah Street, a 60 foot right of way, Havilah Park as recorded in Plat Book “O”, Page 144 of the Public Records of Orange County, Florida, lying in section 1, township 22 south, range 29 east, being more particularly described as follows:

Beginning at the northwest corner of lot 1, block 4 of said Havilah Park run south 00°17’21" west along the existing east right of way line of Galloway Drive and the West line of said block 4 a distance of 411.01 feet; thence departing said existing East right of way line and said West line run south 89°57’04" west a distance of 60.00 feet to a point on the existing West right of way line of Galloway Drive and the east line of block 1 of said Havilah Park; thence run North 00°17’21" east along said existing West right of way line and said East line a distance of 410.33 feet to the northeast corner of lot 20 of said Block 1 and the existing South right of way line of said Friends Avenue, a 50 foot right of way per said Havilah Park; thence
departing said existing West right of way line and said East line run north 89°18’25” east along said existing South right of way line a distance of 60.00 feet to the point of beginning.

Section 2. The City Commission of the City of Winter Park hereby vacates and abandons that portion of the right-of-way of Friends Avenue lying to the East right-of-way of Orlando Avenue; south of Lots 1, 26-38, per the plat of Allandale Park as recorded in Plat Book “N”, Page 7 and that portion north of Blocks 1 & 4 and north of Elah Street, per the plat of Havilah Park as recorded in Plat Book “Q”, Page 144, Public Records of Orange County, Florida.

Section 3. This ordinance and all agreements and procedures relating to the development of the Whole Foods Development Project is subject to the reversionary interest stated herein. Notwithstanding the vacation and abandonment of municipal right-of-way as provided in Sections 1 and 2 hereof, the subject right-of-way of Galloway Drive and Friends Avenue as set out in Sections 1 and 2 shall be null and void, and the City shall by reversion take title to the public right-of-way otherwise vacated and abandoned if, the Whole Foods Development Project is not fully entitled and building permits issued on or before June 1, 2015. And, if permits for construction are timely issued on or before June 1, 2015, then the Whole Foods Development Project shall be fully constructed and a certificate of occupancy issued on or before June 1, 2017. Unless these deadlines are extended by action of the City Commission, the municipal right-of-way described in Sections 1 and 2 hereof shall by reversion, revert back into the ownership of the City of Winter Park to be used for any lawful purpose consistent with public right-of-way, including but not limited to usage as public roads.

Section 4. That the City reserves and retains a utility easement over the entire area of these right-of-ways until such time as the utilities are relocated and the streets removed, or utility easements are provided to the City.

Section 5. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 6. Subject to the reversionary interest and the conditions for reversion set out in Section 3 hereof, this ordinance shall become effective upon its passage and adoption and shall be recorded in the Public Records of Orange County.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, on the ______ day of _____________, 2014.

__________________________
Mayor

ATTEST:

__________________________
City Clerk
P&Z Minutes – Sept. 2, 2014:

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

Mr. J. Johnston explained that his firm has done work for the applicant and that he will not be participating in the discussion or voting on this item.

Planning Manager Jeffrey Briggs presented the staff report and explained that the applicant, UP Fieldgate US Investments, is requesting “final” conditional use approval for their Whole Foods project pursuant to the “preliminary” conditional use approved by the Planning Board on June 3, 2014 and by the City Commission on June 23, 2014, on the properties at properties at 1000/1050 N. Orlando Avenue and 1160 Galloway Drive and 967 Cherokee Avenue, zoned C-3. He noted that the City Commission approved the “preliminary” conditional use with basically the same conditions as recommended by P&Z and the staff report addressed how those had been accomplished. The “final” CU approval per code is the action to review compliance with the conditions of approval and to review the final civil, landscaping, drainage and lighting details.

He explained that the “final” conditional use provides new plan details for review and discussed those matters. Also, there needs to be a Development Agreement prepared and executed (following approval by the City Attorney) to incorporate the approvals granted, the conditions of approval, and enforcement methods for those conditions as outlined. Staff recommended approval of the “final” conditional use pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) as discussed and subject to the conditions as outlined below:

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

J.J. Johnson, Johnson Real Estate Law, 3660 Maguire Boulevard, Orlando, represented the applicant, UP Development. He said that they feel the project is consistent with the comprehensive plan, that it meets/exceeds all requirements of the land development code, and is compatible with surrounding development patterns. They have complied with all conditions set forth by both the P&Z and City Commission. They agreed with the contents of the staff report. He introduced the members of the development team.

Mr. Bob Cambric, 1614 McKinley Street, Hollywood, Florida, spoke concerning 4 of the 5 residential homes. He explained that the owners had concerns with how and when the process of the applicant working with them will take place. They are very concerned that their concerns will not be addressed until after-the-fact. He stated their concerns with regard to noise, safety, how their power is provided, how water and sewer are provided (they are on septic). Please ensure that those particular conditions are addressed prior to final approval.
Karl Ambrose, 4115 Conley Place Circle, Orlando, owner of the duplex on Cherokee expressed concern that he has not heard from anyone on the development team. He feels that the proposed development will cause hardship for the residential property owners due to noise, traffic, etc.

Isaac Jenkins, 116 Mulberry Street, Eatonville, owner of one of the residential properties on Cherokee, stated he is concerned with noise, lights, traffic. He wanted to know how they will be protected from the major commercial development.

Lurline Fletcher, 811 English Court, spoke in opposition to the request for reasons of traffic and ingress/egress and the negative impact on the remaining residential properties.

Linda Walker-Chappelle, 794 Comstock Avenue, spoke in opposition to the request because she feels that a project is being approved without first having protections set in place for the remaining residential properties.

J.J. Johnson in response explained that they have reached out to these owners but some of these details were not known because the design was not complete. He also explained that a realtor was hired to personally speak with the property owners to make an effort to acquire properties, but no agreements were made in that regard. He reiterated the conditions from the preliminary approval to provide protections for these five properties that include an eight foot privacy wall will be erected to screen the houses from noise, that all trees will be remain behind the existing homes to help with noise, the existing buffer was expanded to 20 feet and the conditions regarding AC/mechanical equipment noise. They are committed to working with the City and the residential property owners. He also stated that they will sit down with the residential property owners in an effort to address their concerns.

No one else wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Sacha, seconded by Mrs. De Ciccio FOR APPROVAL OF THE “FINAL” CONDITIONAL USE pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) to incorporate the approvals granted, the variances permitted, the conditions of approval and enforcement methods for those conditions as outlined below:

1. That the site plan be modified to remove the parking spaces for added buffer for the live oak trees to be preserved.
2. That the Development Agreement incorporate the conditions, as discussed regarding project signage, architectural conformity, architectural review of the future buildings, contribution to the smart signal technology and noise control.
3. That this final Conditional use approval does not grant any approval or consent from the City for the use of the Orlando Avenue median other than exclusively for the left hand storage for the Lee Road traffic light and the City shall partner with this developer, the developer of Ravaudage and FDOT to strive for a solution that meets the traffic safety and turning movement needs of both projects.
4. With the assistance of the City of Winter Park, the applicant and the five residential property owners located on Cherokee Avenue shall come together to have discussions to ensure that the impacts from this project are minimized.

Motion carried unanimously with a 5-0 vote. Mr. J. Johnston abstained.
DEVELOPER’S AGREEMENT FOR
1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue

This Agreement (“Agreement”) entered into and made as of the _____ day of ____________, 2014, by and between the CITY OF WINTER PARK, FLORIDA, 401 S. Park Avenue, Winter Park, Florida, 32789 (hereinafter referred to as the “City”), and UP FIELDGATE US INVESTMENTS – WINTER PARK LLC, a Florida limited liability company, 3201 East Colonial Drive, Orlando, Florida, 32083, (hereinafter referred to as “Owner/Developer”).

Witnesseth

Whereas, UP FIELDGATE US INVESTMENTS – WINTER PARK LLC is the Owner/Developer of certain real property at 1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue, lying within the municipal boundaries of the City of Winter Park, as more particularly described on Exhibit “A” attached to and incorporated into this Agreement by reference (hereinafter referred to as “Property”)

Whereas, the Owner/Developer desires to develop the Property for the operation of a Whole Foods grocery store (approximately 40,965 SF) with a secondary retail store (approximately 36,600 SF) and three out-parcels (approximately 4,000 SF each) as more particularly shown on Exhibit “B”, the final site plan, attached to and incorporated into this Agreement by reference (hereinafter, the “Project”); and

Whereas, the Owner/Developer desires to facilitate the development of the Project, in compliance with the laws and regulations of the City, and of other governmental authorities as well as provide assurances that the Project business operations will be compatible with surrounding properties; and

Whereas, the City of Winter Park has granted conditional use approval in order to facilitate this Project and has also agreed to consent to development of the Project provided that Owner/Developer acknowledge and abide by the restrictions mutually agreed upon for the operation and future use of the Property and such acknowledgement and restrictions are agreed upon to be in the form of a recordable Development Agreement to run with title to the land.

Now therefore, in consideration of the mutual promises and covenants herein contained, the City and the Owner/Developer agree as follows:

SECTION 1. RECITALS
The above recitals are true and correct and form a material part of the Agreement.

SECTION 2. REPLATTING OF PROPERTY
The Owner/Developer consents and agrees to join, plat, and subdivide the Property as necessary to achieve the Project objectives in accordance with the Comprehensive Plan future land use and zoning designations provided by City. The City agrees and consents to Owner/Developer joining, platting, and subdividing the Property to allow for and to encourage third-party occupancy and future conveyance of all or part of the Property. However, signage on the individual fee simple parcels that may evolve from this
SECTION 3. BUILDING ARCHITECTURE
The Owner/Developer consents and agrees to design the out-parcel buildings in architectural conformity with the main retail buildings and to use City’s themed acorn lights along US 17/92. Architectural conformity will be decided by subject to the reasonable determination of the City Planning Department, with the Owner/Developer having the right to appeal such determinations to the Planning and Zoning Board and then to the City Commission within thirty (30) days of the receipt of such determination.

SECTION 4. SIGNAGE
The Owner/Developer consents and agrees to the Project being limited to monument signage for all ground signs in lieu of pole signs and that the location and number of monuments signs shall be subject to the master sign plan, as part of the final conditional use approval by the City Commission. The master sign plan shall continue to govern the Project after the platting of the Property.

SECTION 5. STORM WATER RETENTION
The Owner/Developer consents and agrees to retrofit the Property to conform to the storm water retention requirements of the City and Saint Johns River Water Management District.

SECTION 6. LANDSCAPING
The Owner/Developer consents and agrees to provide enhanced landscaping as required by City staff to create an appealing front door appearance and review opportunities to preserve, using commercially reasonable diligence, the two major live oak trees on-site. Owner/Developer will provide additional buffer around live oak trees as required by City staff.

SECTION 7. TRAFFIC SIGNALS
The Owner/Developer agrees to pay Twenty Eight Thousand One Hundred Twenty Five Dollars ($28,125.00) as its proportionate share of funding for traffic signal timing improvements.

SECTION 8. RIGHT-OF-WAY VACATES AND DEDICATIONS
In consideration for the abandonment and vacating of the city right-of-ways which include a portion of Galloway Drive and all of Friends Avenue and in furtherance of the Project plans approved by the City Commission, the Owner/Developer agrees to convey to the City, by dedicate or warranty deed and bill of sale, to the City of Winter Park, the right-of-way and roadway improvements constructed by the Owner/Developer for the Lee Road extension shown in Exhibit “B”, upon completion and acceptance by the City of those improvements. Thereafter all maintenance of the Lee Road extension that public right-of-way shall be the responsibility of the City.

SECTION 9. SOUND CONTAINMENT
The building and mechanical equipment permits will be designed and operated at all times under a maximum of 55 decibels at the Property line from any air conditioning or other mechanical equipment. At certificate of occupancy, the engineer of record shall provide a certification of compliance with this requirement, and any subsequent violation of the specific 55 decibel level shall be grounds for code enforcement by the City and shall require compliance by the property owner and/or tenant. In such event, upon written notice from City of a violation, Owner and tenant shall cause the property to comply with the 55 decibel level within fifteen (15) days of such notice.

SECTION 10. EXPANSIONS, AMENDMENTS & MODIFICATIONS TO THIS AGREEMENT
Expansions, amendments, and modifications to this Agreement, if requested by the Owner/Developer, may be permitted if approved following review by the City of Winter Park in conformance with the City’s Land Development Code.
SECTION 11. AGREEMENT TO BE BINDING
This Agreement, including any and all supplementary orders and resolutions, together with the approved development plan, the master sign plan, and all final site plans, shall be binding upon the Owner/Developer and their successors and assigns in title or interest. The provisions of this Agreement and all approved plans shall run with the Property including after platting the Property, land and shall be administered in a manner consistent with Florida Statutes and local law.

SECTION 12. ENFORCEMENT
This Agreement may be enforced by specific performance. In the event that enforcement of this Agreement by the City becomes necessary, and the City is successful in such enforcement, the Owner/Developer shall be responsible for all costs and expenses, including attorney’s fees, whether or not litigation is necessary, and if necessary, both at trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement, which costs, expenses and fees shall also be a lien upon the Property superior to all others. Interest on unpaid overdue sums shall accrue at the rate of eighteen percent (18%) compounded annually or at the maximum rate allowed by law.

SECTION 13. GOVERNING LAW; VENUE
This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The Venue for purpose of litigation shall be in Orange County, Florida.

SECTION 14. RECORDING
This Agreement shall be recorded, at Owner/Developer’s expense, among the Public Records of Orange County, Florida no later than fourteen (14) days after full execution. Notwithstanding the foregoing, the same shall not constitute any lien or encumbrance on title to the Property and shall instead constitute record notice of governmental regulations, which regulates the use and enjoyment of the Property.

SECTION 15. TIME IS OF THE ESSENCE
Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this Agreement.

SECTION 16. SEVERABILITY
If any part of this Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Agreement is declared severable.

SECTION 17. 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 Developer or the City of the necessity of complying with the law governing said permitting requirement, condition, term or restriction.

SECTION 18. SUBORDINATION/JOINER
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 join in this Agreement. It shall be the responsibility of the Owner/Developer to promptly obtain the said subordination or joinder, if necessary, in form and substance acceptable to the City Attorney, prior to the City’s execution of the Agreement.

SECTION 19. EFFECTIVE DATE
This Agreement shall not be effective and binding until the latest date that this Agreement is approved by and signed by all parties hereto.
IN WITNESS WHEREOF, the Owner/Developer and the City have executed this Agreement as of the day and year first above written.

Signed, Sealed and Delivered
In the Presence of:

________________________________
Signature of Witness #1
Printed Name: _____________________

________________________________
Signature of Witness #2
Printed Name: _____________________

OWNER:

UP FIELDGATE US INVESTMENTS – WINTER PARK LLC, a Florida limited liability company

By: ________________________________
Scott Fish, Manager

STATE OF FLORIDA )
COUNTY OF ___________ )

The foregoing instrument was acknowledged before me this ___ day of ________, 2014, by Scott Fish, as Manager of UP FIELDGATE US INVESTMENTS – WINTER PARK LLC (Owner/Developer), a Florida limited liability company, who is personally known to me or who has produced ______________________________ as identification and who did (did not) take an oath.

________________________________
Notary Public
Printed Name: _____________________
My commission expires: _______________
CITY OF WINTER PARK, FLORIDA

ATTEST:

_______________________________
By: ____________________________
Signature of Witness            Kenneth W. Bradley, Mayor
Printed Name: __________________

_______________________________ ATTEST:
By: ____________________________
City Clerk

STATE OF FLORIDA  )
COUNTY OF ORANGE  )

The foregoing instrument was acknowledged before me this ____ day of __________, 2014, by Kenneth W. Bradley, Mayor, of the City of Winter Park, Florida, who is personally known to me, and they acknowledged executing the same freely and voluntarily under authority vested in them and that the seal affixed thereto is the true and corporate seal of the City of Winter Park, Florida.

_______________________________
Notary Public
Printed Name: __________________
My commission expires: __________
EXHIBIT “A”

Attach legal description of the Property
EXHIBIT “B”

Attach Site Plan of the Project
DEVELOPER'S AGREEMENT FOR
1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee Avenue

THIS AGREEMENT ("Agreement") entered into and made as of the _____ day of
_________________, 2014, by and between the CITY OF WINTER PARK, FLORIDA, 401 S. Park Avenue,
Winter Park, Florida, 32789 (hereinafter referred to as the “City”), and UP FIELDGATE US
INVESTMENTS – WINTER PARK LLC, a Florida limited liability company, 3201 East Colonial Drive,
Orlando, Florida, 32083, (hereinafter referred to as "Owner/Developer").

WITNESSETH

WHEREAS, UP FIELDGATE US INVESTMENTS – WINTER PARK LLC is the Owner/Developer
of certain real property at 1000/1050 N. Orlando Avenue, 1160 Galloway Drive and 967 Cherokee
Avenue, lying within the municipal boundaries of the City of Winter Park, as more particularly described
on Exhibit "A" attached to and incorporated into this Agreement by reference (hereinafter referred to as
"Property")

WHEREAS, the Owner/Developer desires to develop the Property for the operation of a Whole
Foods grocery store (approximately 40,965 SF) with a secondary retail store (approximately 36,600 SF)
and three out-parcels (approximately 4,000 SF each) as more particularly shown on Exhibit "B", the final
site plan, attached to and incorporated into this Agreement by reference (hereinafter, the "Project"); and

WHEREAS, the Owner/Developer desires to facilitate the development of the Project, in
compliance with the laws and regulations of the City, and of other governmental authorities as well as
provide assurances that the Project will be compatible with surrounding properties; and

WHEREAS, the City of Winter Park has granted conditional use approval in order to facilitate this
Project and has also agreed to consent to development of the Project provided that Owner/Developer
acknowledge and abide by the restrictions mutually agreed upon for the operation and future use of the
Property and such acknowledgement and restrictions are agreed upon to be in the form of a recordable
Development Agreement to run with title to the land.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained,
the City and the Owner/Developer agree as follows:

SECTION 1. RECITALS
The above recitals are true and correct and form a material part of the Agreement.

SECTION 2. REPLATING OF PROPERTY
The Owner/Developer consents and agrees to join, plat, and subdivide the Property as necessary
to achieve the Project objectives in accordance with the Comprehensive Plan future land use and zoning
designations provided by City. The City agrees and consents to Owner/Developer joining, platting, and
subdividing the Property to allow for and to encourage third-party occupancy and future conveyance of all
or part of the Property.
SECTION 3. BUILDING ARCHITECTURE
The Owner/Developer consents and agrees to design the out-parcel buildings in architectural conformity with the main retail buildings and to use City's themed acorn lights along US 17/92. Architectural conformity will be decided by the City Planning Department, with the Owner/Developer having the right to appeal such determinations to the Planning and Zoning Board and then to the City Commission within thirty (30) days of the receipt of said determination.

SECTION 4. SIGNAGE
The Owner/Developer consents and agrees to the Project being limited to monument signage for all ground signs in lieu of pole signs and that the location and number of monuments signs shall be subject to the master sign plan, as part of the final conditional use approval by the City Commission. The master sign plan shall continue to govern the Project after the platting of the Property.

SECTION 5. STORM WATER RETENTION
The Owner/Developer consents and agrees to retrofit the Property to conform to the storm water retention requirements of the City and Saint Johns River Water Management District.

SECTION 6. LANDSCAPING
The Owner/Developer consents and agrees to provide enhanced landscaping as required by City staff to create an appealing front door appearance and review opportunities to preserve, using commercially reasonable diligence, the two major live oak trees on-site. Owner/Developer will provide additional buffer around live oak trees as required by City staff.

SECTION 7. TRAFFIC SIGNALS
The Owner/Developer agrees to pay Twenty Eight Thousand One Hundred Twenty Five Dollars ($28,125.00) as its proportionate share of funding for traffic signal timing improvements.

SECTION 8. RIGHT-OF-WAY DEDICATION
The Owner/Developer agrees to convey to the City, by warranty deed and bill of sale, the right-of-way and roadway improvements constructed by the Owner/Developer for the Lee Road extension, shown in Exhibit "B", upon completion and acceptance by the City of those improvements. Thereafter all maintenance of the Lee Road extension shall be the responsibility of the City.

SECTION 9. SOUND CONTAINMENT
The building and mechanical equipment will be designed and operated at all times under a maximum of 55 decibels at the Property line. At certificate of occupancy, the engineer of record shall provide a certification of compliance with this requirement, and any subsequent violation of the specific 55 decibel level shall be grounds for code enforcement by the City and shall require compliance by the property owner and tenant. Upon written notice from City of a violation, Owner and tenant shall comply with the 55 decibel level within fifteen (15) days of such notice.

SECTION 10. EXPANSIONS, AMENDMENTS & MODIFICATIONS TO THIS AGREEMENT
Expansions, amendments, and modifications to this Agreement, if requested by the Owner/Developer, may be permitted if approved following review by the City in conformance with the City's Land Development Code.

SECTION 11. AGREEMENT TO BE BINDING
This Agreement, including any and all supplementary orders and resolutions, together with the approved development plan, the master sign plan, and all final site plans, shall be binding upon the Owner/Developer and their successors and assigns in title or interest. The provisions of this Agreement and all approved plans shall run with the Property including after platting the Property, and shall be administered in a manner consistent with Florida Statutes and local law.
SECTION 12. ENFORCEMENT
This Agreement may be enforced by specific performance. In the event that enforcement of this Agreement by the City becomes necessary, and the City is successful in such enforcement, the Owner/Developer shall be responsible for all costs and expenses, including attorney’s fees, whether or not litigation is necessary, and if necessary, both at trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement, which costs, expenses and fees shall also be a lien upon the Property superior to all others. Interest on unpaid overdue sums shall accrue at the rate of eighteen percent (18%) compounded annually or at the maximum rate allowed by law.

SECTION 13. GOVERNING LAW; VENUE
This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The Venue for purpose of litigation shall be in Orange County, Florida.

SECTION 14. RECORDING
This Agreement shall be recorded, at Owner/Developer’s expense, among the Public Records of Orange County, Florida no later than fourteen (14) days after full execution. Notwithstanding the foregoing, the same shall not constitute any lien or encumbrance on title to the Property and shall instead constitute record notice of governmental regulations, which regulates the use and enjoyment of the Property.

SECTION 15. TIME IS OF THE ESSENCE
Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this Agreement.

SECTION 16. SEVERABILITY
If any part of this Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Agreement is declared severable.

SECTION 17. 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 Developer or the City of the necessity of complying with the law governing said permitting requirement, condition, term or restriction.

SECTION 18. 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 join in this Agreement. It shall be the responsibility of the Owner/Developer to promptly obtain the said subordination or joinder, if necessary, in form and substance acceptable to the City Attorney, prior to the City’s execution of the Agreement.

SECTION 19. EFFECTIVE DATE
This Agreement shall not be effective and binding until the latest date that this Agreement is approved by and signed by all parties hereto.
IN WITNESS WHEREOF, the Owner/Developer and the City have executed this Agreement as of the day and year first above written.

Signed, Sealed and Delivered
In the Presence of:

__________________________________________
Signature of Witness #1
Printed Name: _____________________________

__________________________________________
Signature of Witness #2
Printed Name: _____________________________

OWNER:

UP FIELDGATE US INVESTMENTS – WINTER PARK LLC, a Florida limited liability company

By: ____________________________
    Scott Fish, Manager

STATE OF FLORIDA     )
COUNTY OF _____________ )

The foregoing instrument was acknowledged before me this ___ day of __________, 2014, by Scott Fish, as Manager of UP FIELDGATE US INVESTMENTS – WINTER PARK LLC (Owner/Developer), a Florida limited liability company, who is personally known to me or who has produced ________________________________ as identification and who did (did not) take an oath.

__________________________________________
Notary Public
Printed Name: _____________________________
My commission expires: ______________
ATTEST:

By: ____________________________
   Kenneth W. Bradley, Mayor

By: ____________________________
   City Clerk

STATE OF FLORIDA  )
COUNTY OF ORANGE   )

The foregoing instrument was acknowledged before me this ___ day of __________, 2014, by
Kenneth W. Bradley, Mayor, of the City of Winter Park, Florida, who is personally known to me.

__________________________________________
Notary Public
Printed Name: ____________________________
My commission expires: ____________________
EXHIBIT “A”

1000 N Orlando Avenue

LOTS 1, 2, 3, 4, 5, 6, 7, 14, 15, 16, 17, 18, 19 AND 20, BLOCK 1, HAIL PARK, ACCORDING TO THE PLAT THEREOF ASRecorded IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

1050 N Orlando Avenue

PARCEL 1:


COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, RUN SOUTH 118 FEET, WEST 443 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 212 FEET, WEST 330 FEET, NORTH 212 FEET, EAST 330 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE NORTH 72.00 FEET OF THE EAST 125.00 FEET OF THE WEST 330 FEET OF THE EAST 773.00 FEET OF THE SOUTH 212 FEET OF THE NORTH 330 FEET OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22, SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA;

PARCEL 2:

BEGIN 443 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, RUN SOUTH 118 FEET, WEST 330 FEET, NORTH 118 FEET, EAST 330 FEET,

LESS AND EXCEPT ROADWAY ON NORTH; AND


PARCEL 3:

LOTS 1 THRU 9, INCLUSIVE, AND LOTS 13 THRU 38, INCLUSIVE, ALANDALE PARK, ACCORDING TO THE PLAT THEREOF ASRecorded IN PLAT BOOK N, PAGE 7, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

PARCEL 4:

LOTS 10, 11 AND 12, ALANDALE PARK, ACCORDING TO THE PLAT THEREOF ASRecorded IN PLAT BOOK N, PAGE 7, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.
PARCEL 5:

THAT PARCEL OF LAND LYING SOUTH OF THE SOUTHERLY RIGHT OF WAY LINE OF DIXON AVENUE AND NORTH OF THE NORTHERLY RIGHT OF WAY LINE OF FRIENDS AVENUE AND EAST OF ALANDALE PARK AS RECORDED IN PLAT BOOK N, PAGE 7, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHEAST CORNER OF LOT 25 OF SAID ALANDALE PARK, THENCE RUN NORTH 00°44'12" EAST ALONG THE EAST LINE OF SAID LOT 26 AND LOT 25 OF SAID ALANDALE PARK A DISTANCE OF 301.15 FEET TO THE NORTHEAST CORNER OF SAID LOT 25, SAID NORTHEAST CORNER BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF DIXON AVENUE, THENCE RUN NORTH 89°52'27" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF DIXON AVENUE 11.60 FEET TO THE NORTHWEST CORNER OF THE FOLLOWING DESCRIBED PARCEL (HEREINAFTER "PARCEL 2"):

PARCEL 2:


THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE OF DIXON AVENUE RUN SOUTH 00°01'54" WEST ALONG THE WEST BOUNDARY LINE OF PARCEL 2 AND THE WEST BOUNDARY LINE OF THE FOLLOWING DESCRIBED PARCEL:


COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, RUN SOUTH 118 FEET, WEST 443 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 212 FEET, WEST 330 FEET, NORTH 212 FEET, EAST 330 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE NORTH 72.00 FEET OF THE EAST 125.00 FEET OF THE WEST 330 FEET OF THE EAST 773.00 FEET OF THE SOUTH 212 FEET OF THE NORTH 330 FEET OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22, SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA;

WHICH BOUNDARY LINE IS ALSO THE WEST LINE OF THE EAST 773.00 FEET OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, A DISTANCE OF 301.12 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID FRIENDS AVENUE; THENCE RUN SOUTH 89°52'27" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE OF FRIENDS AVENUE A DISTANCE OF 15.30 FEET TO THE POINT OF BEGINNING.

1160 Galloway Drive

ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10, BLOCK 4, HAIL PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY,
FLORIDA; TOGETHER WITH THAT PORTION OF THE NORTH 1/2 OF QUAKER AVENUE (NOW ABANDONED AS PER RESOLUTION SHOWN IN OFFICIAL RECORDS BOOK 1390, PAGE 601), WHICH LIES IMMEDIATELY ADJACENT TO THE SOUTH LINE OF BLOCK "4", HAIL PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

TOGETHER WITH

THAT PORTION OF GALLOWAY DRIVE ALSO KNOWN AS ELAH STREET, A 60 FOOT RIGHT OF WAY, HAVILAH PARK AS RECORDED IN PLAT BOOK O, PAGE 144 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LYING IN SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 4 OF SAID HAVILAH PARK RUN SOUTH 00°17'21" WEST ALONG THE EXISTING EAST RIGHT OF WAY LINE OF GALLOWAY DRIVE AND THE WEST LINE OF SAID BLOCK 4 A DISTANCE OF 411.01 FEET; THENCE DEPARTING SAID EXISTING EAST RIGHT OF WAY LINE AND SAID WEST LINE RUN SOUTH 89°57'04" WEST A DISTANCE OF 60.00 FEET TO A POINT ON THE EXISTING WEST RIGHT OF WAY LINE OF GALLOWAY DRIVE AND THE EAST LINE OF BLOCK 1 OF SAID HAVILAH PARK; THENCE RUN NORTH 00°17'21" EAST ALONG SAID EXISTING WEST RIGHT OF WAY LINE AND SAID EAST LINE A DISTANCE OF 410.33 FEET TO THE NORTHEAST CORNER OF LOT 20 OF SAID BLOCK 1 AND THE EXISTING SOUTH RIGHT OF WAY LINE OF SAID FRIENDS AVENUE, A 50 FOOT RIGHT OF WAY PER SAID HAVILAH PARK; THENCE DEPARTING SAID EXISTING WEST RIGHT OF WAY LINE AND SAID EAST LINE RUN NORTH 89°18'25" EAST ALONG SAID EXISTING SOUTH RIGHT OF WAY LINE A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 24,640 SQUARE FEET, OR 0.566 ACRES MORE OR LESS.

967 Cherokee Drive

BEGIN 5 CHAINS SOUTH AND 450 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, THENCE RUN SOUTH 5 CHAINS, THENCE RUN WEST 5 CHAINS, THENCE RUN NORTH 5 CHAINS AND THENCE RUN EAST 5 CHAINS TO THE POINT OF BEGINNING; LESS AND EXCEPT THE SOUTH 114 FEET THEREOF.

TOGETHER WITH

A PARCEL OF LAND LYING WEST OF THE FOLLOWING DESCRIBED PARCEL:

BEGIN 5 CHAINS SOUTH AND 450 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, THENCE RUN SOUTH 5 CHAINS, THENCE RUN WEST 5 CHAINS, THENCE RUN NORTH 5 CHAINS AND THENCE RUN EAST 5 CHAINS TO THE POINT OF BEGINNING, LESS AND EXCEPT THE SOUTH 114 FEET THEREOF. (HEREINAFTER REFERRED TO AS PARCEL "A");

AND SAID PARCEL LYING EAST OF LOTS 1, 2, 3, AND A PORTION OF LOT 4, BLOCK 4, HAVILAH PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA;

AND SAID PARCEL LYING EAST OF THE PLATTED RIGHT OF WAY OF FRIENDS AVENUE AS SHOWN ON SAID HAVILAH PARK AND ALSO SHOWN ON ALANDALE PARK, ACCORDING TO THE
PLAT THEREOF AS RECORDED IN PLAT BOOK N, PAGE 7, ALL OF THE PUBLIC RECORDS OF
ORANGE COUNTY, FLORIDA;

AND SAID PARCEL BOUNDED TO THE NORTH BY AN EASTERLY EXTENSION OF THE NORTH
RIGHT OF WAY LINE OF SAID FRIENDS AVENUE;

AND SAID PARCEL LYING WEST OF THE WEST LINE OF THE WEST 330 FEET OF THE EAST 773
NORTHEAST ¼ OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 29 EAST, ORANGE COUNTY,
FLORIDA.

ALTOGETHER SAID PARCEL BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF LOT 26 OF AFORESAID ALANDALE PARK, THENCE RUN
N89°17'00"E ALONG AN EASTERLY EXTENSION OF THE AFORESAID NORTH RIGHT OF WAY LINE
OF FRIENDS AVENUE, A DISTANCE OF 15.08 FEET TO A POINT ON THE WEST LINE OF THE
WEST 330 FEET OF THE EAST 773 FEET OF THE SOUTH 212 FEET OF THE NORTH 330 FEET OF
THE AFORESAID SOUTHEAST ¼ OF THE NORTHEAST ¼; THENCE RUN S00°29'19"E ALONG SAID
WEST LINE A DISTANCE OF 28.54 FEET TO A POINT ON THE NORTH LINE OF THE AFORESAID
PARCEL "A"; THENCE DEPARTING SAID WEST LINE RUN S89°15'26"W ALONG THE NORTH LINE
OF SAID PARCEL "A" A DISTANCE OF 7.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL
"A"; THENCE RUN S00°29'19"E ALONG THE WEST LINE OF SAID PARCEL "A" A DISTANCE OF
216.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE DEPARTING SAID
WEST LINE RUN S89°15'26"W ALONG A WESTERLY PROJECTION OF THE SOUTH LINE OF SAID
PARCEL "A" A DISTANCE OF 1.79 FEET TO A POINT ON THE EAST LINE OF THE AFORESAID
BLOCK 4, HAVILAH PARK; THENCE RUN ALONG SAID EAST LINE OF BLOCK 4, HAVILAH PARK
AND THE EASTERLY PLATTED RIGHT OF WAY LINE OF THE AFORESAID FRIENDS AVENUE THE
FOLLOWING COURSES AND DISTANCES: N00°34'56"W A DISTANCE OF 216.08 FEET, S89°43'59"W
A DISTANCE OF 6.22 FEET, N00°04'17"E A DISTANCE OF 28.42 FEET TO THE POINT OF
BEGINNING.

ALTOGETHER CONTAINING 858 SQUARE FEET, MORE OR LESS.
EXHIBIT "B"

Attach Site Plan of the Project
Mr. Johnston explained that his firm has done work for the applicant and that he will not be participating in the discussion or voting on this item.

Planning Manager Jeffrey Briggs presented the staff report and explained that the applicant, UP Fieldgate US Investments, is requesting “final” conditional use approval for their Whole Foods project pursuant to the “preliminary” conditional use approved by the Planning Board on June 3, 2014 and by the City Commission on June 23, 2014, on the properties at properties at 1000/1050 N. Orlando Avenue and 1160 Galloway Drive and 967 Cherokee Avenue, zoned C-3. He noted that the City Commission approved the “preliminary” conditional use with basically the same conditions as recommended by P&Z and the staff report addressed how those had been accomplished. The “final” CU approval per code is the action to review compliance with the conditions of approval and to review the final civil, landscaping, drainage and lighting details.

He explained that the “final” conditional use provides new plan details for review and discussed those matters. Also, there needs to be a Development Agreement prepared and executed (following approval by the City Attorney) to incorporate the approvals granted, the conditions of approval, and enforcement methods for those conditions as outlined. Staff recommended approval of the “final” conditional use pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) as discussed and subject to the conditions as outlined below:

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

Mr. Briggs responded to Board member questions and concerns.

J.J. Johnson, Johnson Real Estate Law, 3650 Maguire Boulevard, Orlando, represented the applicant, UP Development. He said that they feel the project is consistent with the comprehensive plan, that it meets/exceeds all requirements of the land development code, and is compatible with surrounding development patterns. They have complied with all conditions set forth by both the P&Z and City Commission. They agreed with the contents of the staff report. He introduced the members of the development team.

Mr. Bob Cambric, 1614 McKinley Street, Hollywood, Florida, spoke concerning 4 of the 5 residential homes. He explained that the owners had concerns with how and when the process of the applicant working with them will take place. They are very concerned that their concerns will not be addressed until after-the-fact. He stated their concerns with regard to noise, safety, how their power is provided, how water and sewer are provided (they are on septic). Please ensure that those particular conditions are addressed prior to final approval.

Karl Ambrose, 4115 Conley Place Circle, Orlando, owner of the duplex on Cherokee expressed concern that he has not heard from anyone on the development team. He feels that the proposed development will cause hardship for the residential property owners due to noise, traffic, etc.
Isaac Jenkins, 116 Mulberry Street, Eatonville, owner of one of the residential properties on Cherokee, stated he is concerned with noise, lights, traffic. He wanted to know how they will be protected from the major commercial development.

Lurline Fletcher, 811 English Court, spoke in opposition to the request for reasons of traffic and ingress/egress and the negative impact on the remaining residential properties.

Linda Walker-Chappelle, 794 Comstock Avenue, spoke in opposition to the request because she feels that a project is being approved without first having protections set in place for the remaining residential properties.

J.J. Johnson in response explained that they have reached out to these owners but some of these details were not known because the design was not complete. He also explained that a realtor was hired to personally speak with the property owners to make an effort to acquire properties, but no agreements were made in that regard. He reiterated the conditions from the preliminary approval to provide protections for these five properties that include an eight foot privacy wall will be erected to screen the houses from noise, that all trees will be remain behind the existing homes to help with noise, the existing buffer was expanded to 20 feet and the conditions regarding AC/mechanical equipment noise. They are committed to working with the City and the residential property owners. He also stated that they will sit down with the residential property owners in an effort to address their concerns.

No one else wished to speak concerning the request. Public Hearing closed.

Motion made by Mr. Sacha, seconded by Mrs. De Cicco FOR APPROVAL OF THE “FINAL” CONDITIONAL USE pursuant to the condition that a Development Agreement be executed (following approval by the City Attorney) to incorporate the approvals granted, the variances permitted, the conditions of approval and enforcement methods for those conditions as outlined below:

1. That the site plan be modified to remove the parking spaces for added buffer for the live oak trees to be preserved.
2. That the Development Agreement incorporate the conditions, as discussed regarding project signage, architectural conformity, architectural review of the future buildings, contribution to the smart signal technology and noise control.
3. That this final Conditional use approval does not grant any approval or consent from the City for the use of the Orlando Avenue median other than exclusively for the left hand storage for the Lee Road Traffic light and the City shall partner with this developer, the developer of Ravaudage and FDDT to strive for a solution that meets the traffic safety and turning movement needs of both projects.
4. With the assistance of the City of Winter Park, the applicant and the five residential property owners located on Cherokee Avenue shall come together to have discussions to ensure that the impacts from this project are minimized.

Motion carried unanimously with a 5-0 vote. Mr. J. Johnston abstained.
Subject: Second Reading of the Ordinance to Regulate Medical Marijuana Treatment Centers.

The staff is presenting for City Commission review, an Ordinance to establish regulations for the location and operation of medical marijuana treatment centers within the City. The proposed regulations are patterned after the regulations adopted in 2012 for pain management clinics.

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. J. Johnston to approve the proposed ordinance regulating medical marijuana facilities. Motion carried with a vote of 4-2. R. Johnston and S. De Ciccio voted against the motion.

Summary:

This Ordinance is a comprehensive regulation on the location and operating characteristics for any future medical marijuana treatment center. This Ordinance required a P&Z recommendation because it amends the Zoning Code to establish (again similar to pain management clinics) permitted locations within the I-1 zoning district, subject to separation distances. Only Sections 3 and 4 of the attached Ordinance were relevant to P&Z and the only sections of the Ordinance that P&Z provided a recommendation.

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

No one knows if the Constitutional Amendment will pass and if it does how it will be implemented by the Florida Legislature. Some states have successfully implemented the availability of medical marijuana without impact on the character and quality of business districts and other states have not done so. Staff feels it is prudent at this time to determine potential locations pending the outcome of implementation by the State of Florida.
REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE RELATING TO MEDICAL MARIJUANA TREATMENT CENTERS, AMENDING SECTION 58-78, LIMITED INDUSTRIAL AND WAREHOUSE (I-1) DISTRICT, OF CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE III, ZONING TO ALLOW “MEDICAL MARIJUANA TREATMENT CENTERS” AS A PERMITTED USE BY SETTING FORTH SITING STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA TREATMENT CENTERS.

Planning Manager Jeffrey Briggs gave the staff report and explained that the City Commission has requested the opportunity to review an Ordinance to establish regulations for the location and operation of medical marijuana treatment centers within the City. The proposed regulations are patterned after and are similar to the regulations adopted in 2012 for pain management clinics. He explained that the reason this is on a Planning Board agenda is that this proposed Ordinance establishes (again similar to pain management clinics) that they are permitted uses only within the I-1 zoning district, subject to separation distances. He noted that only those Sections 3 and 4 of the Ordinance are relevant to P&Z and the only sections of the Ordinance requiring P&Z recommendation. Any amendment to the Zoning Code requires a P&Z recommendation.

The area properly zoned I-1 with sufficient separations from residential and potentially open for these businesses would be the area along Solana Avenue between Denning Drive and Orlando Avenue. There must be an area where such businesses can be located within the City, the Ordinance would not be valid. Mr. Briggs explained that no one knows if the Constitutional Amendment will pass and if it does how it will be implemented by the Florida Legislature. Some states have successfully implemented the availability of medical marijuana without impact on the character and quality of business districts and other states have not done so. So to be prudent at this time, the potential locations are limited pending the outcome of implementation by the State of Florida. If later these businesses are more like “professional clinic” than retail stores then the zoning locations can be re-examined. Staff recommended approval. Mr. Briggs responded to Board member questions and concerns.

The following residents spoke and expressed opposition to the request:

Betti Gorenflo, 571 Lakefront Boulevard, stated that she feels that the proposed ordinance does not represent the character of City and further that the issue needs more research.

Lurline Fletcher, 811 English Court and Linda Walker-Chappelle, 794 Comstock Avenue objected to the locations so close to the Hannibal Square neighborhood.

No one else wished to speak concerning item. Public Hearing closed.

There was considerable discussion by the P&Z Board on the need for this Ordinance given that the Constitutional Amendment has yet to pass and the Legislature has yet to establish administrative or legislative rules for the implementation. Other members expressed interest in being proactive on this topic and that the ordinance could always be amended to open up additional locations if the nature of such businesses was consistent with the city’s character.

Motion made by Mr. Sacha, seconded by Mr. J. Johnston to approve the proposed ordinance regulating medical marijuana facilities. Motion carried with a vote of 4-2. R. Johnston and S. De Cicco voted against the motion.
ORDINANCE NO.: __________

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

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

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

WHEREAS, in 1996, the state of California became the first state to legalize the use of medical marijuana, and several other states subsequently enacted laws legalizing medical marijuana in various circumstances; and

WHEREAS, the California Police Chiefs Association developed a Task Force on Marijuana Dispensaries that prepared the “White Paper on Marijuana Dispensaries” (“White Paper”), which white paper was published in 2009; and

WHEREAS, the White Paper on Marijuana Dispensaries examined the direct and indirect adverse impacts of marijuana dispensaries in local communities and indicated that marijuana dispensaries may attract or cause ancillary crimes, and may result in adverse effects, such as marijuana smoking in public, the sale of other illegal drugs at dispensaries, loitering and nuisances, and increased traffic near dispensaries; and

WHEREAS, the White Paper further indicates that the presence of marijuana dispensing businesses may contribute to the existence of a secondary market for illegal, street-level distribution of marijuana; and

WHEREAS, the White Paper outlines the following typical complaints received from individuals regarding certain marijuana dispensary study areas: high levels of traffic going to and from the dispensaries, people loitering in the parking lot of the dispensaries, people smoking marijuana in the parking lot of the dispensaries, vandalism near dispensaries, threats made by dispensary employees to
employees of other businesses, and citizens worried that they may become a crime victim due to their proximity to dispensaries; and

WHEREAS, the White Paper found that many medical marijuana dispensary owners had histories of drug and violence-related arrests, that records or lack of records showed that some owners were not properly reporting income generated from the sales of marijuana, that some medical marijuana businesses were selling to individuals without serious medical conditions, and that the California law had no guidelines on the amount of marijuana which could be sold to an individual; and

WHEREAS, the White Paper ultimately concludes that there are many adverse secondary effects created by the presence of medical marijuana dispensaries in communities; and

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

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

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

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

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

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

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

WHEREAS, the City Commission of the City of Winter Park has determined that it is advisable and in the public interest to promulgate certain requirements, including, but not limited to recordkeeping and reporting requirements, hours of operation, prohibitions of on-site consumption, and lease restrictions, to regulate the operation of medical marijuana treatment centers and to minimize the potential adverse secondary effects of such centers on the surrounding properties and the citizens; and

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

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

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

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

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

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

Sec. 54-30. Definitions.

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

Debilitating Medical Condition means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis or other conditions for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

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

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

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

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

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

**Physician** means a physician who is licensed under Chapter 458 or 459, Florida Statutes.

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

**Qualifying patient** means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

**Sec. 54-31. Registration and operational regulations for medical marijuana treatment centers.**

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

(b) **Persons responsible.** A physician shall be designated as responsible for complying with all requirements related to registration and operation of the medical marijuana treatment centers. The designated physician and all other persons operating the medical marijuana treatment center shall ensure compliance with the following regulations. Failure to so comply shall be deemed a violation of this article and shall be punishable as provided in section 54-34.

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

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

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

(g) **Adequate inside waiting area required.** No medical marijuana treatment center shall provide or allow outdoor seating areas, queues, or customer waiting areas. All activities shall be conducted within the building and adequate indoor waiting areas shall be provided for all patients and business invitees. Outdoor sales of medical marijuana, including, but not limited to sales from mobile units or at outdoor markets, are specifically prohibited. The medical marijuana treatment centers shall not permit any patient or business invitee to stand, sit (including in a parked car), gather, or loiter outside of the building where the clinic operates, including in any parking area, sidewalk adjacent, right-of-way, or neighboring property for any period of time longer than that reasonably required to arrive and depart. The medical marijuana treatment centers shall post a conspicuous sign stating that no loitering is allowed on the property. The medical marijuana treatment center will cooperate with law enforcement at all times to ensure gathering and/or loitering does not occur.

(h) **Queuing of Vehicles.** The persons responsible for the operation of medical marijuana treatment center shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical marijuana treatment center shall take all necessary and immediate steps to ensure compliance with this paragraph.
(i) *No Drive-Through Service.* No medical marijuana treatment center shall have a drive-through or drive-in service aisle. All dispensing, payment for and receipt of said marijuana shall occur from within or inside the medical marijuana treatment center.

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

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

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

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

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

(m) *Inspections.* A medical marijuana treatment center shall permit, law enforcement access to the property to conduct compliance inspections.
(n)  Compliance with other laws. A medical marijuana treatment center shall at all times be in compliance with all federal and state laws and regulations, the City of Winter Park City Code and the Orange County Code. In the event of a direct conflict between the City and County Codes, the City Code shall apply.

Sec. 54-32. Landlord Responsibility.

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

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

Sec. 54-33. Certification affidavit by applicants for related uses.

(a) Certification affidavit by applicants for related uses. Any application for a business certificate under chapter 54, article III, as a medical marijuana treatment center as defined in section 54-30, shall be accompanied by an executed affidavit certifying registration with the State of Florida, and the City of Winter Park as a medical marijuana treatment center. The failure of an applicant to identify the business in the application for a business certificate as a medical marijuana treatment center, which meets the definition of medical marijuana treatment center as defined in section 54-30, will result in the immediate expiration of the business certificate and immediate ceasing of all activity conducted in the medical marijuana treatment center.

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

Sec. 54-34. Penalties.

Any person violating any of the provisions of this article shall be deemed guilty of an offense punishable as provided in section 1-7, Article II Code Enforcement Citations, and also by revocation of a business certificate and code enforcement violations referred to the code enforcement board.
SECTION 3. Section 58-78, Limited Industrial and Warehouse (I-1) District, of Chapter 58, Land Development Code, Article III, Zoning is hereby amended to read as follows:

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

***

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

***

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

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

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

***

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

Sec. 58-95. Definitions.

***

Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the state Department of Health and regulated under Article III of Chapter 54 of the City Code of Ordinances.
SECTION 5. CONFLICTS. All ordinance or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. CODIFICATION. This ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

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

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

___________________________________
Kenneth W. Bradley, Mayor

ATTEST:

___________________________________
Cynthia S. Bonham, City Clerk
Subject: Ordinance to Implement the Sale of 300 N. Pennsylvania Avenue

The City Charter requires an Ordinance to be adopted for the sale of any City property.

This Ordinance authorizes the sale of the property at 300 N. Pennsylvania Avenue to PhMD Private Health Medical Concierge (Dr. Ivan Castro) subject to the terms of the proposal approved by the City Commission on September 22, 2104.

This Ordinance and the subsequent sale will reserve to the City two easements. One easement is a five foot sidewalk easement for the existing sidewalk along the Pennsylvania Avenue frontage that was constructed as part of the Pennsylvania Avenue streetscape program. The second is an electric utility easement for the transformer/switch gear boxes back in the northeast corner of the site and for the underground wiring along the north and east property lines.

Staff Recommendation is for Approval
ORDINANCE NO. _________

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AUTHORIZING THE CONVEYANCE OF THE CITY OWNED PROPERTY LOCATED AT 300 NORTH PENNSYLVANIA AVENUE PURSUANT TO THE PROPOSAL APPROVED BY THE CITY COMMISSION ON SEPTEMBER 22, 2014, SUBJECT TO RESERVATION OF EASEMENTS; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, Section 2.11 of the Charter of the City of Winter Park, Florida, authorizes the City Commission, by ordinance to convey or authorize by administrative action the conveyance of any lands of the City; and

WHEREAS, the City undertook an advertised and notice of disposal solicitation for the purchase of the city owned property at 300 N. Pennsylvania Avenue consistent with the adopted purchasing and sale of policies of the City (BID # NOD 18-2014) and also consistent with the requirements of Chapter 163, Florida Statutes which was subsequently approved by the City Commission on September 22, 2014; and

WHEREAS, the City has determined that there is not a municipal use of this property and that the proposed development will be of benefit to the City and the Community Redevelopment Area; and

WHEREAS, the City Commission deems it advisable to convey City property to PhMD Private Health Medical Concierge pursuant to the terms of the proposal approved by the City Commission on September 22, 2014.

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

SECTION 1. The recitals stated hereinabove are incorporated herein by reference and are made fully a part of this Ordinance.

SECTION 2. The property that is authorized to be conveyed by the City to PhMD Private Health Medical Concierge is the property identified in Exhibit “A” attached hereto and made a part hereof by reference, with a street address of 300 North Pennsylvania Avenue, Winter Park, Florida.

SECTION 3. The City Commission of the City of Winter Park hereby approves the transfer and conveyance of 300 North Pennsylvania Avenue, Winter Park, Florida to PhMD Private Health Medical Concierge, subject to the terms of the proposal approved by the City Commission on September 22, 2014 and subject to reservation of a sidewalk easement along Pennsylvania Avenue and an electric utility easement, as the City Commission deems it to be in the public interest.
SECTION 4. This Ordinance shall constitute the authorization by the City Commission pursuant to Section 2.11 of the Charter of the City of Winter Park, Florida, for the transfer and conveyance of the property set forth above, and the City Commission of the City of Winter Park hereby authorizes the Mayor to execute such contracts and deeds on behalf of the City, as may be required.

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

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

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

_________________________________________
Mayor Kenneth W. Bradley

ATTEST:

_________________________________________
City Clerk, Cynthia S. Bonham
EXHIBIT “A”
CITY PROPERTY


Parcel ID#: 05-22-30-9400-23-140
subject
The owners of the residence at 1200 Lakeview Drive requested the historic designation of their 1946 Minimal Traditional style property.

motion | recommendation
The Historic Preservation Board voted in favor to recommend listing 1200 Lakeview Drive on the Winter Register of Historic Places at a public hearing on October 8, 2014. A Resolution of the City Commission is attached.

background
The full staff report is attached.

alternatives | other considerations
The owners initiated the historic designation request.

fiscal impact
None.
RESOLUTION NO._____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DESIGNATING THE PROPERTY LOCATED AT 1200 LAKEVIEW DRIVE, WINTER PARK, FLORIDA AS A HISTORIC RESOURCE ON THE WINTER PARK REGISTER OF HISTORIC PLACES.

WHEREAS, there are located within the City of Winter Park historic sites, areas, structures, buildings, improvements and appurtenances, both public and private, both on individual properties and in groupings, that serve as reminders of past eras, events, and persons important in local, state and national history; or that provide significant examples of past architectural styles and development patterns and that constitute unique and irreplaceable assets to the City; and

WHEREAS, the City Commission recognizes that the sites and properties of historical, cultural, archaeological, aesthetic and architectural merit contribute to the public health, welfare, economic well-being and quality of life of the citizens of Winter Park; and

WHEREAS, there is the desire to foster awareness of and civic pride in the accomplishments of the past; and

WHEREAS, the Winter Park Historic Preservation Board determined that the property at 1200 Lakeview Drive meets the criterion for historic resource status through its association with the Post World War II final period of development in the Virginia Heights neighborhood in Winter Park and as an example of Minimal Traditional style architecture.

NOW, THEREFORE, be it resolved by the City Commission of the City of Winter Park, Florida that:

The City Commission of the City of Winter Park hereby supports and endorses the designation of 1200 Lakeview Drive as a historic resource on the Winter Park Register of Historic Places.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park held in City Hall, Winter Park on this 27th day of October 2014.

ATTEST:

_______________________________
Kenneth W. Bradley, Mayor

City Clerk Cynthia S. Bonham, MMC
HDA 14-003  Request of Jack and Janne Lane to designate their property at 1200 Lakeview Drive, Winter Park Florida to the Winter Park Register of Historic Place. Zoned R-1AA. Parcel ID #07-22-30-8908-14-071.

The residential property at 1200 Lakeview Drive was built in 1946 and is located in the 1925 Virginia Heights subdivision. The owners, Jack and Janne Lane are requesting designation of their property to the Winter Park Register of Historic Places. No certificate of review request is planned at this time.

**Description.** The one story house at 1200 Lakeview Drive was built in the Minimal Traditional style. It is the first home directly located on the shore of Lake Virginia in the Virginia Heights subdivision. The massing is generally rectangular on a continuous foundation. The moderate-pitched roof is clad in composition shingles with the primary roof in a side gable configuration, and front gable featured over therecessed entry and two car garage. The eaves have moderate overhang. The wall surfaces are masonry. The primary entrance is centered on the main body of the house, and is recessed under a gable front roof feature that has a louvered vent. The recessed entry porch has decorative ironwork columns and railings. The entry porch is flanked by fixed glass picture windows with side sash windows and inoperable shutters. An upscale version of Minimal Traditional, the west end of the house has an attached two bay garage incorporated under the main roof accented by a front gable that repeats the entry roof. The property is in excellent condition.

**Architecture.** Residential building generally stopped during the World War II years of 1941 to 1945. When construction began again, designs inspired by historical precedents were mostly discontinued to be replaced by variations of modern style that had begun to emerge in the pre-war years. The Minimal Traditional style was the earliest of these. The style drew inspiration from earlier Tudor Revival, Colonial and Craftsman designs but was greatly simplified with moderate rooflines and traditional details. The Minimal Traditional style was the forerunner to Ranch style homes of the 1950s and 60s, and the modern variations that have remained popular. Minimal Traditional style homes introduced horizontal picture windows, popularized attached garages, and moved outdoor space from front porches to backyard porches and patios. The post war building boom tract housing was dominated by the style.
**Background.** By the 1920s, the Florida Land Boom was in full swing. This was an unprecedented period of growth that followed World War I. Immediately upon the end of the war, real estate activity rose to a frenzied pitch. Property values climbed dramatically. In Winter Park, new subdivisions were platted and lots sold and re-sold for quick profits. Platted in January 1922 by J. H. Bradshaw, W. H. McRainey, James H. Hirsch and Julian H. Harris, Virginia Heights was touted as “Winter Park, Florida’s finest new subdivision” in a real estate postcard. It was developed by the National Realty Company of Indianapolis.

The property was platted by civil engineer E. F. White. The street design is a modified grid that responds to the eastern shore of Lake Virginia and to the creek that runs from Lake Sue to Lake Virginia. The developers included a park at the northern end of College Point which is deeded to Virginia Heights property owners. A vintage postcard shows the neighborhood as it was platted and as it is today with one exception; a road was not extended across the wetlands between Lakes Sue and Virginia. Many historic homes from the earliest development of Virginia Heights and the original street plan lend the neighborhood its distinctive charm. Until the 1920s Florida Land Boom, the area was primarily undeveloped woodlands tapped by the local turpentine industry. The “Dinky Line” railroad ran along the shore of Lake Virginia.

After World War II, home building completed development within the neighborhood. The dominant domestic architectural style during the 1940s was Minimal Traditional. By the 1950s, the end of Virginia Heights’ period of significance, Ranch and Contemporary Rambler style homes were the norm.

This property was built by Winter Park businessman B. F. Kessler and has also been owned by J. Earl and Margaret Oliphant and Rollins professor James MacPherson and his wife Constance before the Lane family purchased it in 1971.

**RECOMMENDATION:** The property represents the final phase of historic development during Virginia Heights’ period of significance. It is a fine example of the Minimal Traditional style. Staff’s recommendation is for APPROVAL to designate the house at 1200 Lakeview Drive as a historic resource in the Winter Park Register of Historic Places.
Historic Designation Application

1. 1200 Lakeview Dr.
   Building address

   Jack & Janne Lane 1200 Lakeview 614-3381
   Owner's name(s) Address Telephone

   Applicant's name (if different from above) Address Telephone

2. I, Jack & Janne Lane, as owner of the property described above, do hereby authorize the filing of this application for historic designation for that property.

   Owner's Signature
   Aug. 29, 2014
   Date

Historic Preservation Commission Office Use

Criteria for Designation

1. Association with events that have made a significant contribution to the broad patterns of history including the local pattern of development; or
2. Association with the lives of a person or persons significant in our past; or that
3. Embodies the distinctive characteristics of a type, period, or method of construction or that represents the work of a master, or that possesses high artistic values or that represents a significant and distinguishable entity whose components may lack individual distinction; or
4. Has yielded or are likely to yield information important in prehistory or history.

07-22-30-8908-08-010 1946
Legal description Year built

Historic name of building (if any) Historic district name (if any)

Date received: 8-29-14 HPC Meeting: 10-8-14
Case File No.: HPA 14-003 Florida Master Site File No.: OR-

☐ Local Historic Landmark ☑ Local Historic Resource

For full description see attached letter
Lindsey Hayes, Chief Planner  
City of Winter Park  

August 12, 2014

Lindsey,

In an earlier conversation you suggested that before applying for historic designation for our house on 1200 Lakeview Drive, we should wait to see if the Commission will change the historic district ordinance. At this time, we have no confidence that the Commission in the near future, if ever, will make these changes. Therefore, I would like to make a case for placing our home on the Winter Park Historic Register. Here is our rationale for inclusion:

Our home is a Ranch Style that was constructed by the millions in the period after World War II, reflecting the social and economic conditions of that period. To quote from one source: These houses “are noted for their long, close-to-the-ground profile and their minimal use of exterior decoration. They fuse modern ideas and styles with notions of informal and casual Western living.” Authorities have recently begun to recognize the historic importance of the ranch style as a design worthy of preservation. We can no longer say, therefore, that this style has no historic significance compared to other styles, as previous Winter Park Surveys have seemed to imply.

For many years the house was owned by the Oliphants, one of the prominent families in post-war Winter Park. It was later purchased by James and Connie McPherson. Jim was a long time Rollins College faculty member. We have owned the house since 1971.

Most importantly, this house has been located at 1200 Lakeview since 1946 and therefore is one of the defining homes on this end of Lakeview Drive. In fact, it is one of the 8 (out or original 20) over fifty-year houses left on Lakeview that gives us some sense of what street must have looked like 70 years ago. We might say, in this sense, that our house “belongs” here. Given the history of development on Lakeview in the last three decades, when we must leave there is every chance the house will be demolished and replaced by a McMansion. If we do not preserve houses such as ours, how are we ever to hold on to our sense of the past?

For these reasons we are applying to have this house on 1200 Lakeview placed on the Winter Park Historic Register.

Thank you for your consideration in this matter.

Jack C. Lane

Janne J. Lane
1200 Lakeview Dr

1200 Lakeview Dr
1200 Lakeview Dr

Winter Park, FL 32789

0130 - Sfr - Lake Front
Municipality
Winter Park

Values, Exemptions and Taxes
Property Features
Sales Analysis
Location Info

Property Description
VIRGINIA HEIGHTS G/107 LOT 1 BLK H

Total Land Area 17,543 sqft (+/-) | 0.40 acres (+/-) GIS Calculated Notice

Land

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Page 1 of 1 (1 total records)

Buildings

Important Information

| Model Code:         | 01 - Single Fam Residence |
| Type Code:          | 0103 - Single Fam Class III |
| Building Value:     | $144,734                   |
| Estimated New Cost: | $253,919                   |

Structure

| Actual Year Built: | 1946 |
| Beds:              | 3    |
| Baths:             | 2.0  |
| Floors:            | 1    |

Page 1 of 1 (1 total records)

Extra Features

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http://www.ocpafl.org/searches/ParcelSearch.aspx

9/11/2014
Aerial View of Virginia Heights ca 1920s
1200 Lakeview Drive
HDA 14-003
4. Action Items.

HDA 14-003 Request of Jack and Janne Lane to designate their property at 1200 Lakeview Drive, Winter Park Florida to the Winter Park Register of Historic Place. Zoned R-1AA. Parcel ID #07-22-30-8908-14-071.

Senior Planner Lindsey Hayes presented the staff report. She explained that the residential property at 1200 Lakeview Drive was built in 1946 and is located in the 1925 Virginia Heights subdivision. The owners, Jack and Janne Lane are requesting designation of their property to the Winter Park Register of Historic Places. Ms. Hayes presented historical information of the subject property. She noted that the subject property represents the final phase of historic development during Virginia Heights' period of significance. Staff's recommendation is for APPROVAL to designate the house at 1200 Lakeview Drive as a historic resource in the Winter Park Register of Historic Places.

The applicants were present to respond to Board member questions or concerns. No one wished to speak in favor of or in opposition to the request. Public Hearing closed.

The Board expressed overwhelming support of the request and thanked the applicant’s for coming forward for the voluntary request for designation.

Motion made by Mrs. De Vane, seconded by Ms. Talbert recommending to designate 1200 Lakeview Drive to the Winter Park Register of Historic Places. A roll call vote was taken and all Board members voted yes. Motion carried unanimously with a 6-0 vote.
Subject: Revised Site Plan for the Morse Townhome project.

This agenda item requests City Commission approval to amend the Conditional Use for a revised site plan for the eight unit townhouse project at 403/421 W. Morse Blvd.

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mr. Weldon to approve the request to revise the site plan for the townhouse project at 403 and 421 West Morse Boulevard. Motion carried unanimously with a 7-0 vote.

Summary:

On June 3, 2014 the Planning Board voted unanimously to recommend approval of a proposed eight unit townhouse project at 403 & 421 W. Morse Boulevard. On June 23, 2014 the City Commission approved that project with the condition, as recommended by P&Z, that the existing live oak tree on the north property line be preserved.

The developers then had the live oak tree surveyed including the extent of the canopy and consulted with the City’s Chief of Forestry, Dru Dennison. The conclusion was that the original site plan with two units fronting on Virginia Avenue could not be built as presented without significant damage to the live oak tree and its canopy. As a result, the site plan has been revised by moving one of those townhouse units back into the northwest corner of the site. This then provides the space and separation from the live oak tree needed for its preservation and protection. Attached are the original site plan and the revised site plan.

The only issue is that by relocating the townhouse unit, it now occupies land originally intended for visitor parking. The parking requirement is 2.5 spaces for each unit. Each townhouse has a two car garage but based on the eight units, there are four visitor spaces needed. The revised site plan has room for only two visitor spaces. Thus, the developers are asking for approval of the revised site plan and a variance for the two visitor parking spaces based upon the hardship or special conditions and circumstances caused by preserved the existing live oak tree. Staff notes that in this location there is ample on-street visitor parking available.
Proposed Site Plan - October 2014
REQUEST OF PHIL KEAN DESIGN GROUP TO: REVISE THE SITE PLAN FOR THE TOWNHOUSE PROJECT AT 403 AND 421 WEST MORSE BOULEVARD.

Planning Manager Jeffrey Briggs presented the staff report. He explained that on June 3, 2014, the Planning Board voted unanimously to recommend approval of a proposed eight unit townhouse project at 403 & 421 W. Morse Boulevard. The project was also approved by the City Commission on June 23, 2014 with the condition, as recommended by P&Z, that the existing live oak tree on the north property line be preserved. He updated the Board members on what has been happening with the project. He said that the developers had the live oak tree surveyed including the extent of the canopy and consulted with the City's Chief of Forestry, Dru Dennison. The conclusion was that the original site plan with two units fronting on Virginia Avenue could not be built as presented without significant damage to the live oak tree and its canopy. As a result, the site plan has been revised by moving one of those townhouse units back into the northwest corner of the site. This then provides the space and separation from the live oak tree needed for its preservation and protection. Attached are the original site plan and the revised site plan. The only issue is that by relocating the townhouse unit, it now occupies land originally intended for visitor parking. The parking requirement is 2.5 spaces for each unit. Each townhouse has a two car garage but based on the eight units, there are four visitor spaces needed. The revised site plan has room for only two visitor spaces. Thus, the developers are asking for approval of the revised site plan and a variance for the two visitor parking spaces based upon the hardship or special conditions and circumstances caused by preserved the existing live oak tree. Staff notes that in this location there is ample on-street visitor parking available.

Phil Kean, the applicant, 229 Alexander Place, agreed with staff recommendations. He also responded to Board member questions and concerns. No one wished to speak in favor of or in opposition to the request. Public Hearing closed.

The Board members expressed their satisfaction with the revised site plan and felt that the tree preservation condition from the City was the need for the variance, not a variance initiated by the applicant. The Board also recognized that ample on-street parking exists on Virginia Avenue for visitors.

Motion made by Mr. Sacha, seconded by Mr. Weldon to approve the request to revise the site plan for the townhouse project at 403 and 421 West Morse Boulevard. Motion carried unanimously with a 7-0 vote.
Subject: Request for an after-the-fact Subdivision or Lot Split of 1252 Lakeview.

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

Planning and Zoning Board Recommendation:

Motion made by Mr. Gottfried, seconded by Mr. Sacha to deny the after-the-fact subdivision request for 1252 Lakeview Drive. Motion carried with a vote of 4-2. (Gottfried, Sacha, Slocum, and R. Johnston voted in favor of the motion for denial. J. Johnston and De Ciccio voted against the motion for denial.)

Summary:

Property History: There is quite a bit of relevant history to this request. In 1973 Mr. Passalaqua purchased and owned both the parcel at 1252 Lakeview Drive and the adjoining parcel at 1270 Lakeview Drive, as one combined property. In 1976 Mr. Passalaqua sold only the portion of the property that held the existing home at 1270 Lakeview Drive and maintained a vacant parcel (thereafter given the address of 1252 Lakeview Drive). Mr. Passalaqua was under the impression from discussions with the City, via his attorney, that if he kept a 50 foot lot then it would be buildable. However, as the attached letters from his attorney, Jim Moreland indicate, the vacant lot had to be 50 feet wide throughout its’ length. The property at 1252 Lakeview is not 50 feet wide throughout its’ length. Thus, the City determined that the parcel was not buildable. The issues were then and still are today that Mr. Passalaqua subdivided the property without City approval and split the property without maintaining the minimum dimensions for a buildable lot meeting the Zoning standards and also did not meet the absolute minimum standard for a nonconforming lot which is to be 50 feet wide throughout its’ length.

In 1978, Mr. Passalaqua requested variances for the substandard lot dimensions from the Board of Adjustment. At that time, the staff believed that a variance was the proper procedure for the substandard dimensions. That variance was denied. Those minutes are attached. The variance denial was subsequently appealed to Circuit Court which upheld the City’s denial of the variances.
In 1990, the legal opinion of the City was modified and it was felt that the proper venue for subdivision or lot split requests was under the Subdivision Code (not the Zoning Code) and thus the subdivision or lot split venue was appropriate via the Planning Commission and City Commission review. Thus, in 1990 Mr. Passalacqua requested an after-the-fact subdivision or lot split with the required variances from the R-1AAA zoning as to the lot dimensions. The Planning Commission recommended denial on April 3, 1990 and the City Commission denied the request on April 10, 1990. Those minutes are attached.

**Current Status of 1252 Lakeview Drive:** While 1252 Lakeview Drive is not a buildable lot, it is not without value to the owner. The property holds a boathouse built by Mr. Passalacqua which provides access to the Chain of Lakes and contributes value to the property across the street at 1251 Lakeview Drive, that is in the same ownership as 1252 Lakeview. This connection of ownership is not unlike others along Lakeview Drive that have their lakefront access and boathouse across the street from the homesite. These two properties are not legally tied to each other, so any other person wishing to gain lakefront access to the Chain of lakes could purchase 1252 Lakeview Drive.

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

**Legal Status of this Request:**

Mr. Passalcaqua has wanted to revisit the denials from 1978 and 1990 for some time but the City has not permitted as a reapplication. That is based on the legal principal of “res judicata”. See attached memo from the city attorney. As staff understands it, that legal principle says that once something is decided by the Court, then it is decided and one can’t go back with the same facts and ask again.

The applicant now says that this is “substantially changed” from the previous request. It is not “substantially changed” in that the dimensions of the parcel have changed or the variances required. Their position is that it is “substantially changed” because it is 24 years since the last application and now the owner is offering a voluntary condition of approval that the resultant house will be no larger than 3,000 square feet. To that end, they have provided a conceptual plan which shows the layout and design for such a home capped at 3,000 square feet. This is a situation where the City Commission, as a quasi-judicial body will need to determine if you agree that this is “substantially changed” from the request that was denied in 1990.

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

The opposite viewpoint that this is not “substantially changed” is that this is the same lot size, same variances and same request to establish buildability. The Planning Board discussed this matter and it was their opinion that since 24 years had elapsed since the previous request and as there is a new condition of approval, offered, the Planning Board wished to review the matter based on the merits of the request.
Subdivision Variances Required:

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

Conformance to the Comprehensive Plan policy criteria:

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

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

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

Staff Recommendation: The planning staff recommendation in 1990 was for denial and it was also for denial for this current request today in 2014, as the request still contains the same elements cited for the 1990 recommendation for denial which are the substantial variances from the R-1AAA zoning standards and the inconsistency with the neighborhood standards per the Comprehensive Plan.

Petitions: At the end of this packet are two petitions. One is from the applicant in favor of the request and the other is from the adjacent neighbor that was collected following the P&Z meeting in opposition to the request.
Chairman James Johnston called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Chairman, Peter Gottfried, Shelia De Cicco, Tom Sacha, Randall Slocum and Ross Johnston. Absent: Robert Hahn and Peter Weldon. Also Present: City Attorney Catherine Reischmann. Staff: Planning Manager, Jeff Briggs and Recording Secretary Lisa Smith.

Approval of minutes – August 5, 2014

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the August 5, 2014, meeting minutes. Motion carried unanimously with a 6-0 vote.

PUBLIC HEARINGS

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

Mr. Briggs noted that City Attorney Catherine Reischmann was present for this public hearing to respond to any legal issues that may arise. Planning Manager Jeffrey Briggs explained that the applicant, Joseph Passalaqua, is requesting approval of an after-the-fact subdivision or lot split so that the property at 1252 Lakeview Drive will be determined to be a buildable lot. He stated that the applicant is voluntarily offering a condition of approval that the resultant single family home will be no larger than 3,000 square feet. Further, there are variances necessary as the proposed lot does not meet the minimum dimensions of the R-1AAA district. Mr. Briggs provided the Board members with a detailed historical chronology of the subject property from 1973 up to the present. He said that currently 1252 Lakeview Drive is not a buildable lot, but it is not without value to the owner. He said that the property holds a boathouse built by Mr. Passalacqua which provides access to the Chain of Lakes and contributes value to the property across the street at 1251 Lakeview Drive which is in the same ownership as 1252 Lakeview. This connection of ownership is not unlike others along Lakeview Drive that have their lakefront access and boathouse across the street from the home-site. These two properties are not legally tied to each other, so any other person wishing to gain lakefront access to the Chain of lakes could purchase 1252 Lakeview Drive.

Mr. Briggs provided details of the legal status of this request. He said that the applicant has wanted to revisit the denials from 1978 and 1990 for some time but the City has not permitted a re-application.
The explanation that it is based on the legal principal, as staff understands, of “res judicata”. He touched on a memo from the City Attorney that provided further insight to the Board with regard to the principal in question. Mr. Briggs discussed the pros/cons of what constitutes a substantial change, the subdivision variances, conformance to the comprehensive plan policies, the proposed redevelopment plans. He summarized by stating that the planning staff recommendation in 1990 was for denial and to the planning staff today in 2014. He stated that he feels that the request still contains the same elements cited for the 1990 recommendation for denial which are the substantial variances from the R-1AAA zoning standards and the inconsistency with the neighborhood standards per the Comprehensive Plan. Also, staff is uncomfortable with the legal argument that this is a “substantially changed” application. He said that if this request is denied, then can they apply again next year offering only a 2,500 square foot home and then apply again the year after offering only a 1,500 square foot home. Staff recommended denial of the request. Mr. Briggs responded to Board member questions and concerns.

Rebecca Wilson with the Lowndes Law firm represented the applicant. She introduced the members of the redevelopment team. She used a power point presentation to present the facts of their request. She indicated that the property has a curb cut for lot that was put in when rebricking, undergrounding of power and new lighting installed that anticipates a home in the future. She noted that the applicant paid his proportionate share for the costs of those improvements. She showed pictures of the current conditions of the property. She noted that what is different today is that the applicant has committed to the voluntarily submitted a size restriction of 3,000 feet (proposed garage will be included in square footage). She said that the limitation in square footage is in an effort to fit in with the existing neighborhood and has submitted a site plan that demonstrates all setbacks being met. Development would be limited to the proposed site plan. It also shows that home can be sited without impacting lot 5 (to the south) and lot 3 (to the north) views of the lake. She indicated that they are not asking for variances for side, front or rear setbacks or for impervious coverage. With regard to Comprehensive Plan test, the property is located within a special planning area on the current comprehensive plan that is colored yellow for single family use. The applicant has been paying taxes on the property as a single family lot for 40+ years. The current configuration maintains the Virginia Heights 1922 plat between Oxford down to Sterling (eight lots and what would be eight homes). Letters were provided to city staff from previous city officials that the subject property was a buildable lot if it were created as 50 feet wide throughout its length and they are only a small dimension less than that. She requested that the Board grant the after-the-fact subdivision and requested variances. Mrs. Wilson responded to Board member questions and concerns. Also submitted was a petition with over 100 signatures in favor of the request.

John Bill, attorney, represented the neighboring property owners, the Foley’s, who live at 1270 Lakeview Drive. He stated that the Foley’s still object to the application has been heard twice by City and denied both times. He indicated that there has been prior litigation concerning the subject property and the denials were upheld in court. He stressed that there have been no changes since the 1990 denial. The request is still to construct a home on subject property and the size of that home is irrelevant. The current request does not comply with Subdivision Code, Section 58-376, by demonstrating the conditions necessary for the variances. They do feel that res judicata applies to this request. They did not feel that the applicant has proven a hardship. There have been no subdivision requests approved on any lakefront property. Street bricking does not warrant a change in character to the neighborhood. Tone, character and feel of neighborhood has not changed. Mr. Bill requested denial consistent with the 1990 decision and responded to Board member questions and concerns.

Grant Downing, attorney, spoke concerning the request to further support the Foley’s position.

Adaire Fluno, adjacent neighbor at 1234 Lakeview Drive, spoke in opposition to the request and stated she felt the issue had been decided back in 1990.

Bill Sullivan, 1362 Richmond Road, spoke in opposition to the request. He read his letter of opposition into the record.
No one else wished to speak concerning the request. Public Hearing closed.

City Attorney Katie Reischmann, provided the Board members with an extensive overview of administrative res judicata. She explained what constitutes a "substantial change", i.e. the passage of 24 years, and whether the 1990 and 1979 defects have been addressed by the new application. She noted that another issue for the Board to consider is whether the lot split is appropriate due to the fact that it is after-the-fact. She noted that this is the only after the fact subdivision request presented to the Board. Further does it meet the land development code standards Sec. 58-377 (lot split as defined by staff) and Sec. 58-376 (variance standards as defined by staff).

Mr. J. Johnston stated that he feels that the time of 24 years since the request was last reviewed is sufficient for him to feel the application should be move forward and be judged on its merits. Additionally, they are now bringing something specific and different in this application (i.e. a site plan and a binding commitment to limit the size of the home). He said that he feels that is enough to overcome res judicata. He said that he does not feel that what the applicant is proposing is out of character with the surrounding neighborhood. He said that he feels that it is more of a fairness issue.

Mrs. De Ciccio agreed with Mr. J. Johnston concerning res judicata. She said that she supports the request.

Mr. Sacha stated that he does not feel that significant changes have occurred to warrant any change.

Mr. R. Johnston stated fundamentally the current request does not have his support due to the significant size of the variances requested in lot size from the R-1AAA zoning standards and the .

Mr. Gottfried stated he did not feel as if anything since 1990 has changed. He noted that he voted for denial of the request in 1990 when he was a city commissioner. He did not support creating a 53-foot lot on lakefront property. He said that he feels that feels that the climate in the city is changing and there are strong concerns with regard redevelopment in the City.

Motion made by Mr. Gottfried, seconded by Mr. Sacha to deny the after-the-fact subdivision request for 1252 Lakeview Drive. Motion carried with a vote of 4-2. (Gottfried, Sacha, Slocum, and R. Johnston voted in favor of the motion for denial. (J. Johnston and De Ciccio voted against the motion for denial.)
Properties Within 500 ft. radius - dotted line
MEMORANDUM

TO: Catherine D. Reischmann

FROM: L. Robin McKinney

RE: Variance or Subdivision Request for 1252 Lakeview Drive

DATE: May 30, 2012

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

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

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

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

Res judicata applies to decisions of administrative bodies, including those bodies dealing with zoning regulations, “unless it can be shown that since the earlier ruling thereon there has been a substantial change of circumstances relating to the subject matter with which the ruling was concerned, sufficient to prompt a different or contrary determination.” See Metropolitan Dade County Board of County Commissioners v. Rockmatt Corporation, 231 So. 2d 41, 43 (Fla. 3d 1970) (citing City of Miami Beach v. Prevatt, 97 So. 2d 473).
Where there has not been a substantial change in circumstances, however, the doctrine of *res judicata* has been applied to bar reconsideration of an issue previously decided by the administrative body. In *Burger King Corp. v. Metropolitan Dade County*, 349 So. 2d 210, 211 (Fla. 3d DCA 1977), a landowner sought a rezoning from RU-4L (limited apartments) to RU-SL (professional office) and, at the same time, sought a use variance that would allow him to operate a Burger King restaurant on the property. The Dade County Commission granted the rezoning, but denied the use variance because of the numerous objections from the public. See *id.* at 211. Several years earlier, the owner had unsuccessfully sought to have the property rezoned to BU-I (neighborhood business) for the purpose of operating a Burger King restaurant there.

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

In the case at issue, the City has twice denied the property owner’s requests concerning his unapproved, subdivided lot. It is unlikely that the applicant can show a substantial change in circumstances, because the neighborhood has not undergone significant changes in character. He would most likely not be entitled to a variance or a subdivision approval, because without a substantial change in circumstances, the doctrine of administrative *res judicata* would govern the City’s action on future variance or subdivision requests.
August 19, 2014

VIA MAIL & EMAIL

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

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

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

Dear Catherine and Jeff,

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

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

We have reviewed your memorandum dated May 30, 2012 (the "Memo"). Based on our recent correspondence and the findings of the Memo, we would like to clarify the basis for your findings that administrative res judicata bars Mr. Passalacqua's Requests. While we believe the Memo is generally correct regarding the elements of administrative res judicata, we believe that Mr. Passalacqua's Requests are not barred by such doctrine since there has been a substantial change in circumstances warranting the approval of Mr. Passalacqua's request for a variance and subdivision.
August 19, 2014
Page 2

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

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

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

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

In regards to the new facts related to the maximum buildable area of the proposed residence, Mr. Passalaqua has changed the previous building plans by limiting the residence to 3,000 square feet which would bring his proposed residence below the Code of Ordinances of the City of Winter Park (the “City”) FAR maximum. Such change is clearly more substantial than the slight change of a home plate location evidenced under the Gunn case. The fact that the Requests have substantially changed the application building size and include submission of a site plan evidence the substantial change in
conditions and facts that justify the Requests. Additionally, the new site plan evidencing the location of a residence on the Property is an additional submission and a new set of facts which distinguishes the Requests from the prior application; therefore baring res judicata.

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

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

Very truly yours,

M. Rebecca Wilson

MRW/TLT
Enclosure
cc: Mr. Joseph Passalacqua
Aug 26, 2014

My mother Mathilde Fluno and
J. Adair Fluno live at 1234
Lalor St. We are against
the building of Joseph
Passalacqua at 1252 Lalor St.
Dr. The property should
never have been placed in
the first place.

Thank you for your

Adair Fluno
Dear Planning and Zoning Board;

We reviewed the request and have read all the reports there are a few points as a neighbor we wish to make clear.

1. Mr. Passalaqua originally subdivided the property without consulting or receiving permission from the city back in 1973. Back then it appears the City sent a clear message that if you do things without permission you may not always receive forgiveness. The burden was on the applicant or his predecessors to work with the City on what amounted to a Subdivision re-plat. The City has regulations to prevent citizens from infringing on the adjacent neighbors rights. The lot is simply too small for the request.

2. Ad Nauseam: the Applicant has requested in the 70’s for this variance “lot split” and was denied by the City Commission. Then Mr. Passalaqua not liking the City’s findings sued the city in Circuit Court and lost, tried again in the 90’s and was denied by the city. And then again today through causing the Citizens and the City duress of another potential lawsuit via a letter dated August 19, 2014 from Mr Passalaqua’s Attorney, Becky Wilson of LDDK&R citing an obscure ruling Gunn Vs Board of County Commissioners Dade County citing “New Plans materially change the aspects of the Case”

What has changed? Has Mr. Passalaqua mysteriously discovered additional width on his property?

We agree on one aspect of Mr. Passalaqua request “settled law” as pointed out in Becky Wilsons letter unfortunately for Mr. Passalaqua the settled law is the fact that the lot is unbuildable. One could assume that this request was made thinking there was no remaining Institutional memory in the City. This request in its nature due to the pre-existing facts is Antagonistic.

We request the Planning and Zoning Board send a message to the applicant and his Counsel, such actions and behavior will not be tolerated and unanimously deny this “request”

Bill and Kate Sullivan
1362 Richmond Road
Winter Park, Fl 32789
(407)296-6322
August 27, 2014

VIA ELECTRONIC MAIL AND U.S. MAIL DELIVERY

creischmann@orlandolaw.net
Catherine Reischmann, Attorney
111 North Orange Avenue
Suite 2000
Orlando, Florida 32802

jbriggs@cityofwinterpark.org
Jeffrey Briggs, Manager
Planning and Community Development
City of Winter Park
401 Park Avenue South
Winter Park, Florida 32789

Re: August 19, 2014 Application to Request a Variance and Lot Split in Order to Make the Property a Buildable Lot

Dear Ms. Reischmann and Mr. Briggs:

Please recall that the undersigned represents Peter F. Foley, III, and his wife, Antionette Foley, the owners of 1270 Lakeview Drive, Winter Park, Florida 32789 (hereinafter the "Foley Property"). We are in receipt of the August 19, 2014 letter from Lowndes, Drosdick, Doster, Kantor & Reed, P.A., by and through Rebecca Wilson, transmitting that certain Application to Request a Variance and Lot Split in Order to Make the Property a Buildable Lot (the "Application"). Please let this letter serve as a formal response thereto.

The doctrine of administrative res judicata controls here such that the Application should be denied. Mr. Wilson’s August 19, 2014 letter refers to and addresses the May 30, 2012 Memorandum to Catherine D. Reischmann from L. Robin McKinney (copy enclosed). The Memorandum states in pertinent part:

F:\JNERS\Mary\FOLEY\Reischmann-Briggs ltr.wpd
August 27, 2014 (2:29pm)
Issue: Whether the legal doctrine of administrative res judicata applies to bar property owner's potential request for a variance or subdivision, where both requests were previously denied.

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

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

In the fourth section entitled "Analysis," Ms. McKinney addresses the key decisions on administrative res judicata and states:

Res judicata applies to decisions of administrative bodies, including those bodies dealing with zoning regulations, "unless it can be shown that since the earlier ruling thereon there has been a substantial change of circumstances relating to the subject matter with which the ruling was concerned, sufficient to prompt a different or contrary determination." (citation omitted). (emphasis added).

I would agree that this is a correct statement of the law in this regard. Thereafter, Ms. McKinney addresses some of the leading cases on this matter and in her "Conclusion" states:

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

In her letter of August 19, 2014, Ms. Wilson relies heavily on the case of Gunn v. Board of County Commissioners, 481 So.2d 95 (Fla. 3d DCA 1986). The Gunn case is completely distinguishable from the facts at hand. In Gunn, the trial court had affirmed a special exception granted by the Dade County Commission for the construction of a softball field on premises operated as a private country club. Id. at 95. Gunn held:

Although a generally similar request had been denied two years earlier, the new proposal differed from the first in repositioning home plate - at a greater distance from nearby residences - to a point where the outfield had been located, and vice versa. The definitive decision in Coral Reef Nurseries Inc. v. Babcock Co. supra. 410 So.2d at 651-654 points out both that the prior zoning ruling is not binding when there has been a substantial change of circumstances and that the determination of whether such a change has in fact occurred lies primarily within the discretion of the zoning authority itself. (citation omitted). Under these rules, we may not interfere with the commission's implicit conclusion that the rearrangement of the field, which arguably reduced the noise and inconvenience to the neighboring homes, was a meaningful alteration of the proposal it had previously rejected. (emphasis added).

Gunn was not a case that addressed whether or not a neighborhood had undergone a significant change in character or density. Here, Mr. Passalacqua can adduce no evidence that this particular neighborhood, Virginia Heights, has undergone a significant change in character, such that it would support this type of increased residential density.

The following Florida appellate cases, all found that administrative res judicata was applicable such that a subsequent application was denied: Miller v. Booth, 702 So.2d 290 (Fla. 3d DCA 1997); Hasam Realty Corporation v. Dade County, 486 So.2d 9 (Fla. 3d DCA 1986); Taub v. Metropolitan Dade County, 296 So.2d 566 (Fla. 3d DCA 1974); Garden State Properties, Inc. v. Dade County, 410 So.2d 655 (Fla. 3d DCA 1982); Metropolitan Dade County Board of County Commissioners v. Rockmart Corporation, 231 So.2d 41 (Fla. 3d DCA 1970); Holiday Inns, Inc. v. City of Jacksonville, 678 So.2d 528 (Fla. 1st DCA 1996); and Burger King Corporation v. Metropolitan Dade County, 349 So.2d 210 (Fla. 3d DCA 1977). Burger King, is particularly instructive. In Burger King, the appellant requested a change from a limited apartment zoning classification to a professional offices classification and a requested variance to permit the first story of the building to house a Burger King. Id. at 210. The Burger King court held:

This current attempt liberalizing the classification of this particular piece of property marks the third time that the Dade County
Commission has heard arguments on whether to permit construction of a "Burger King" and the second time that we have been asked to rule upon the correctness of the Commission's decision. During the time between our prior decision, cited above, and the present, we have not been shown a substantial change of circumstances applicable to the property sufficient to overcome either the effect of administrative or judicial res judicata. (citation omitted). As such, we hold that either doctrine is applicable as a bar to the relief appellant seeks... Even assuming that res judicata does not apply, appellant has failed to show the requisite "unnecessary hardship" so as to be entitled to a variance on its property. (citation omitted). The only "hardship" claimed by appellant is one of economic disadvantage, which does not constitute a hardship sufficient to warrant the granting of a variance. (citation omitted). (emphasis added).

Nothing has changed since Mr. Passalacqua's prior applications. The lot itself, and its dimensions, have not changed. The zoning classifications have, in fact, become more stringent over time. The character of this particular neighborhood has not changed. Whether the proposed residence is 3,000 feet or even 1,000 feet, is immaterial to the determination. Mr. Passalacqua is attempting to build a residence on a 9,858 square foot lot where a 25,000 square foot lot is mandated. Similarly, the current zoning requirement contemplates a minimum of 125 foot frontage on Lake Virginia in order to support a residence. Here, there is only 69 feet of frontage. If this Application/variance is permitted, this will result in the proposed structure being located only seven and one-half feet - not ten feet, away from the properties on either side of this lot (the Foleys and the Adairs). The sketch annexed to the August 19, 2014 letter depicts the narrowest point of lot 4 as being 49.75 feet less than the minimum fifty foot lot width mandated. At 9,858 square, in lieu of 25,000 square feet for a lot to support a building in this area, this represents less than forty percent of the mandated square footage. I attach as well for your convenience my July 17, 2014 letter in connection with the June 27, 2014 Request for Lot Split and Variance on behalf of Mr. Passalacqua. As that letter noted, it was Mr. Passalacqua himself who created this very problem when he purchased in one transaction, in 1973, the property which is now the subject matter of this Application, and the property which is now owned by my client, the Foleys. Mr. Passalacqua in turn sold the property presently owned by my clients to the predecessors in title to the Foleys and retained the parcel that is at issue here. In other words, to the extent the lot dimensions are not capable, under the current zoning, to support a buildable lot, it was Mr. Passalacqua who created this problem, and as per Burger King, the only "hardship" that Mr. Passalacqua can claim is an economic disadvantage which he himself created.

For your consideration, I enclose a copy of the April 13, 1990 Orlando Sentinel article which reported Mr. Passalacqua's unsuccessful attempts to render the same lot buildable almost twenty-five years ago, and a copy of that certain Order Denying Petition for Certiorari, in the case styled Joseph Passalacqua v. Board of Adjustment of the City of Winter Park, Florida, William E. Doster, Chairman. Case Number: 78 7151, in the Circuit Court of the Ninth Judicial Circuit, in and for
Orange County, Florida. I enclose as well for your consideration the Public Notice published March 15, 1989 from the City of Winter Park relating to the Planning and Zoning Commission agenda which reflects that Mr. Pacy made the same request in 1990.

Respectfully therefore, for the foregoing reasons, we would request that the Application be denied.

Very truly yours,

John H. Bill

JHB/mrw
enclosures

cc: Peter F. Foley, III, w/enc.
    Antoinette Foley, w/enc.
    Grant T. Downing, Esq., w/enc., via e-mail
    Gene H. Godbold, Esq., w/enc., via e-mail
    Mary Rebecca Wilson, Esq., w/enc., via e-mail
    Janet M. Lower, Esq., w/enc., w/enc., via e-mail
Petition

We the following bonafide residents of Winter Park, Florida are in favor of a residential home to be built at 1252 Lakeview Drive, Winter Park, Florida, provided it adheres to building codes of the City of Winter Park, Florida.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  S. Hatt, L. B.</td>
<td>1650 Pompano Dr.</td>
</tr>
<tr>
<td>2  Rachelle Franzlani</td>
<td>1700 Melting Pl., Orlando FL 32814</td>
</tr>
<tr>
<td>3  Jon A. Hill</td>
<td>3492 Bougainville Dr., Winter Park FL 32792</td>
</tr>
<tr>
<td>4  Michelle Jones</td>
<td></td>
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<tr>
<td>5  Craig Swain</td>
<td>1009 Anchorage Ct., Winter Park FL</td>
</tr>
<tr>
<td>6  Veronica Parker</td>
<td>134 Airman Dr., WP 32789</td>
</tr>
<tr>
<td>7  Julian Anderson</td>
<td>6630 Concord Way, WP</td>
</tr>
<tr>
<td>8  Pamela Mendez</td>
<td>1630 Concord Way</td>
</tr>
<tr>
<td>9  Joie Cadle</td>
<td>1601 Palm Ave, Winter Park</td>
</tr>
<tr>
<td>10 Rob Cadle</td>
<td>1611 Palm Ave, Winter Park</td>
</tr>
<tr>
<td>11 Alwy Windham</td>
<td>657 Baltimore Rd., WP</td>
</tr>
<tr>
<td>12 C. R. King</td>
<td>700 N 48th St., WP</td>
</tr>
<tr>
<td>13 Nancy Miles</td>
<td>687 Penn Place, WP</td>
</tr>
<tr>
<td>14 Melvin Field</td>
<td>1112 Preserve Point Dr., WP</td>
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<tr>
<td>15 Viola Marrow</td>
<td>5328 Halyard Ct., WP</td>
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<tr>
<td>16 Irving R. Werner</td>
<td>1017 Greenpine Dr., WP</td>
</tr>
<tr>
<td>17 Andrew Bennett</td>
<td>1695 Lee Rd, WP 3208</td>
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<tr>
<td>18 Tom Oyer</td>
<td>1104 32250, WP 32789</td>
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<tr>
<td>19 Clara Tirsh</td>
<td>100 Atalaya Ln, WP 32789</td>
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<thead>
<tr>
<th>NAME</th>
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<tbody>
<tr>
<td>Damiaa Buckett</td>
<td>2781 Abbey Road, Winter Park, FL</td>
</tr>
<tr>
<td>Donna Stetler</td>
<td>2888 St George Ave W.P. 32789</td>
</tr>
<tr>
<td>Charline Baskett</td>
<td>1726 Glenridge Way W.P. 32789</td>
</tr>
<tr>
<td>Pat Sommera</td>
<td>1718 Glenridge Way W.P. 32789</td>
</tr>
<tr>
<td>Terry Weiss</td>
<td>1710 Glenridge Way W.P. 32789</td>
</tr>
<tr>
<td>Amanda S Davenport</td>
<td>2030 St George Ave, Winter Park 32789</td>
</tr>
<tr>
<td></td>
<td>2020 St George Ave, Winter Park 32789</td>
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<td></td>
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<tr>
<td>Donald Springer</td>
<td>102 S Antique Ave</td>
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<td></td>
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<tr>
<td>Rd. R Carver</td>
<td>1220 Harding St. W.P. 32789</td>
</tr>
<tr>
<td>Gertrude Smiley</td>
<td>1321 Medinah Ct. W.P. 32789</td>
</tr>
<tr>
<td>Jack Russell</td>
<td>200 St Andrews Blvd, Winter Park 32782</td>
</tr>
<tr>
<td>Richard G Smith</td>
<td>1936 Whitehall Pk. W.P. 32782</td>
</tr>
<tr>
<td>Ted Baumgarten</td>
<td>90 Palmer Ave, Winter Park 32789</td>
</tr>
<tr>
<td>Suzanne Graham</td>
<td>1808 Magnolia Ave WP 32789</td>
</tr>
<tr>
<td>Nina Fire</td>
<td>1732 Mizell Ave WP 32789</td>
</tr>
<tr>
<td>Tony Cairo</td>
<td>1732 Mizell Ave WP 32789</td>
</tr>
<tr>
<td>Annette Rodriguez</td>
<td>1500 Jay Road, WP F 32789</td>
</tr>
<tr>
<td>Maria Tippens</td>
<td>660 North Blvd Ave Winter Park F 32785</td>
</tr>
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Petition

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<tr>
<th>NAME</th>
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<tbody>
<tr>
<td>Cy P. Emsweller</td>
<td>2600 Salisbury Blvd, W.P. 32789-3444</td>
</tr>
<tr>
<td>Mary E. Betterton</td>
<td>2680 Salisbury, W/P 32789</td>
</tr>
<tr>
<td>Matthew E. Pick</td>
<td>2631 Salisbury, W/P 32789</td>
</tr>
<tr>
<td>Deborah Shaw</td>
<td>2621 Salisbury, W/P 32789</td>
</tr>
<tr>
<td>Paul A. Crane</td>
<td>2641 Salisbury, W/P 32789</td>
</tr>
<tr>
<td>Yvonne Church</td>
<td>2681 Salisbury, W/P 32789</td>
</tr>
<tr>
<td>Gyula Goreczy</td>
<td>2741 Salisbury Blk 32789</td>
</tr>
<tr>
<td>Felicia Goreczy</td>
<td>2741 Salisbury Blk 32789</td>
</tr>
<tr>
<td>Miguel A. Brandt</td>
<td>2740 Salisbury Blvd 32789</td>
</tr>
<tr>
<td>Abigail Reed</td>
<td>2420 Salisbury Blvd 32789</td>
</tr>
<tr>
<td>D. Lee Smith</td>
<td>2130 Salisbury Blvd 32789</td>
</tr>
</tbody>
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Petition

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<tr>
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<tbody>
<tr>
<td>Chris Williams</td>
<td>440 Old Hwy Drive, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Paulinna Kachurkova</td>
<td>8425 Euston Road, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Isaac Warshower</td>
<td>2361 Roxbury Rd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Sandra Warshower</td>
<td>2361 Roxbury Rd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Casey Diedrich</td>
<td>2482 Roxbury Rd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Dallas Diedrich</td>
<td>2641 Salisbury Blvd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Janisa Chmielewski</td>
<td>2641 Salisbury Blvd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Brian Barrows</td>
<td>7385 Pennsylvania Ave, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Luciano Cuhu</td>
<td>2641 Salisbury Blvd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Sarah Messinger</td>
<td>2641 Salisbury Blvd, Winter Park, FL 32789</td>
</tr>
</tbody>
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Petition

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<tr>
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</thead>
<tbody>
<tr>
<td>Elizabeth Sharp</td>
<td>2581 Salisbury Blvd, Winter Park, FL</td>
</tr>
<tr>
<td>Lester &amp; Cheryl White</td>
<td>2581 Salisbury Blvd, Winter Park, FL</td>
</tr>
<tr>
<td>Mike Stump</td>
<td>2426 Euston Rd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Justin Whipple</td>
<td>2601 Salisbury Blvd, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Cynthia L.</td>
<td>406 Oleander Dr, WP 32789</td>
</tr>
<tr>
<td>Rachel Roper</td>
<td>406 Oleander Dr, WP 32789</td>
</tr>
<tr>
<td>Judy Stump</td>
<td>2404 Euston Pl, Winter Park, FL 32789</td>
</tr>
<tr>
<td>Tom &amp; Karen</td>
<td>2484 Euston Rd, WP 32789</td>
</tr>
<tr>
<td>Ann Tobin</td>
<td>2501 Salisbury Blvd, WP 32789</td>
</tr>
<tr>
<td>Angela Masters</td>
<td>2581 Roxbury Rd, 32789</td>
</tr>
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</tr>
<tr>
<td>Gordon Jones</td>
<td>128 Pine Ave</td>
</tr>
<tr>
<td>Bob Griswold</td>
<td>611 N. Orlando Ave. #186 WP 32789</td>
</tr>
<tr>
<td>Don Sexton</td>
<td>1879 Village Green</td>
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<tr>
<td>Paul Jennings</td>
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<tbody>
<tr>
<td>1  HARDY L. DOWNING</td>
<td>1903 Summer Drive</td>
</tr>
<tr>
<td>2  RICK SWISHEER</td>
<td>1009 Anchorage Ct.</td>
</tr>
<tr>
<td>3  Hansen Herman</td>
<td>2457 Fitzwill Dr.</td>
</tr>
<tr>
<td>4  Julie Dinklage</td>
<td>436 Seymann Ave</td>
</tr>
<tr>
<td>5  Chris Sangster</td>
<td>1660 Chestnut Ave</td>
</tr>
<tr>
<td>6  Douglas Sangster</td>
<td>1660 Chestnut Ave</td>
</tr>
<tr>
<td>7  Carol Zurcher</td>
<td>1016 Anchorage Court</td>
</tr>
<tr>
<td>8  Thomas A. Thomas</td>
<td>1140 Ketes Ave</td>
</tr>
<tr>
<td>9  Eric Windell</td>
<td>2504 Torfarshire Dr.</td>
</tr>
<tr>
<td>10 Taylor Thomas</td>
<td>512 Clarendon Ave</td>
</tr>
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<tr>
<td>RICK SWISHER</td>
<td>1009 ANCHORAGE Ct.</td>
</tr>
<tr>
<td>HANSER HERMAN</td>
<td>2457 Fitzhugh Dr.</td>
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<td>1140 KETES AVE</td>
</tr>
<tr>
<td>ERIK DINBY</td>
<td>2514 FORFARSHIRE DR.</td>
</tr>
<tr>
<td>TAYLOR THOMAS</td>
<td>512 CLARENDON AVE</td>
</tr>
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</table>

1. KELLY HUBER 1541 FOREL AVE.
2. GARY AYLLON 1201 VIG LAGAN
3. PETER ALLPORT 891 E LAKI SUM AVE.
4. ELIZABETH W. RILEY 100 S. INTERLACEN AVE
5. LINDA T. RILEY 100 S. INTERLACEN AVE
6. JOAN PRINCE 1301 Chestlidge Pl.
7. JOHN N. CLAYTON 874 6th England Ave
8. CLAIR WARNER 871 VIRGINIA DRIVE
9. DAWN BELL 101 S. NEW YORK AVE
Petition

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<tr>
<td>1. Danielle Buckett</td>
<td>2781 Abbey Road, Winter Park, FL</td>
</tr>
<tr>
<td>2. Donna Seiter</td>
<td>2033 St George Ave, WP, Fl 32789</td>
</tr>
<tr>
<td>3. Colleen Bantalt</td>
<td>1726 Glenridge Way, WP 32789</td>
</tr>
<tr>
<td>4. Fred Jamaraco</td>
<td>1118 Glenridge Way, WP 32789</td>
</tr>
<tr>
<td>5. Gary Weis</td>
<td>1710 Glenridge Blvd WP 32789</td>
</tr>
<tr>
<td>6. Hanalei P. Danner</td>
<td>2030 St George Ave, Winter Park Fl 32789</td>
</tr>
<tr>
<td>7. David Jones</td>
<td>2026 St George Ave, Winter Park Fl 32789</td>
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<td>8. John L.</td>
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<td>Sony Esley</td>
<td>151 N. Orlando Ave. #18 WP 32789</td>
</tr>
<tr>
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<td>Will Young</td>
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</tr>
<tr>
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</tr>
<tr>
<td>Kenneth Desch Jorgi</td>
<td>324 Heath Cir. 32789</td>
</tr>
<tr>
<td>Leslie &amp; Dick</td>
<td>324 Heath Circle 32789</td>
</tr>
<tr>
<td>Karin Engshina</td>
<td>311 E. Morse 3:3 WP 32789</td>
</tr>
<tr>
<td>Grace Jorgi</td>
<td>1512 Granville Dr. WP Fl 32789</td>
</tr>
<tr>
<td>James</td>
<td>&quot;</td>
</tr>
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<tr>
<td>1. Carl Malach</td>
<td>640 Agy Way W. P 32789</td>
</tr>
<tr>
<td>2. Ogwyn McCain</td>
<td>700 Palmer Ave, WP 32789</td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
<tr>
<td>4. Clara Freeman</td>
<td>1920 Woodcrest Drive 32792</td>
</tr>
<tr>
<td>5. Joseph King</td>
<td>1471 Highland Rd 32782</td>
</tr>
<tr>
<td>6. Alicee McKee</td>
<td>7042 Gossard Drive 32789</td>
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<tr>
<td>Thomas D. Johnson</td>
<td>322 Turkey Run Winter Park, FL 32789</td>
</tr>
<tr>
<td>Jerilyn J. Johnson</td>
<td>322 Turkey Run Winter Park, FL 32789</td>
</tr>
<tr>
<td>Marion D. Miller</td>
<td>2147 Turkey Run Winter Park, FL 32789</td>
</tr>
<tr>
<td>Max Brown</td>
<td>2192 Turkey Run Winter Park, FL 32789</td>
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<tr>
<td>1. Holly Santee</td>
<td>2296 Borrodos Dr. Winter Park, FL</td>
</tr>
<tr>
<td>2. Lauren Frantz</td>
<td>648 Fitzwalter Dr. Winter Park, FL, 32792</td>
</tr>
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<td>Bee Galey</td>
<td>CS N Orlando Ave #150 WP 32789</td>
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<tr>
<td>Don Sexton</td>
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<tr>
<td>M. Hughes</td>
<td>1331 College Point</td>
</tr>
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<td>Caroline Pallaro</td>
<td>1205 Via del Mar</td>
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<td>Richard Dossel</td>
<td>324 Heath Crk. 32789</td>
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<td>A. L. T. D. C.</td>
<td>1512 Granville Dr. WP. FL 32789</td>
</tr>
<tr>
<td>Linda B. McNeil</td>
<td></td>
</tr>
</tbody>
</table>

1. Elizabeth B. B. 2719 Howard Dr WP 32789
2. Elizabeth E. E. 102 S Antelope Ave #506 WP 32789
**Petition to uphold the zoning laws for buildable lot on Chain of Lakes in Winter Park, FLORIDA**

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</thead>
<tbody>
<tr>
<td>Jeannette Colado</td>
<td>[Signature]</td>
<td>651 N. Park Ave, WP</td>
<td></td>
<td>9-14-14</td>
</tr>
<tr>
<td>Pat Roseman</td>
<td>[Signature]</td>
<td>1350 College Pk. WP</td>
<td></td>
<td>9-15-14</td>
</tr>
<tr>
<td>Susan Winter</td>
<td>[Signature]</td>
<td>1351 College Pk. WP</td>
<td></td>
<td>9-15-14</td>
</tr>
<tr>
<td>Sally Penn</td>
<td>[Signature]</td>
<td>1400 Highland Rd</td>
<td></td>
<td>9-15-14</td>
</tr>
<tr>
<td>Barbara Hicks</td>
<td>[Signature]</td>
<td>144 Stirling Ave</td>
<td></td>
<td>9-15-14</td>
</tr>
<tr>
<td>Robert A. Hicks</td>
<td>[Signature]</td>
<td>144 Stirling Ave</td>
<td></td>
<td>9-15-14</td>
</tr>
<tr>
<td>Janet Lawlor</td>
<td>[Signature]</td>
<td>1341 College Pk. WP, FL</td>
<td></td>
<td>9-15/14</td>
</tr>
<tr>
<td>Michelle Einberg</td>
<td>[Signature]</td>
<td>1911 Englewood Rd</td>
<td></td>
<td>9-16/14</td>
</tr>
<tr>
<td>Mary S. Day</td>
<td>[Signature]</td>
<td>401 N. Interlachen Ave.</td>
<td></td>
<td>9-16/14</td>
</tr>
<tr>
<td>Peter F. Foley</td>
<td>[Signature]</td>
<td>1270 Lakeview Dr. WP</td>
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<tr>
<td>Tram Rhodes</td>
<td>Murray</td>
<td>2726 W Mill Hill Dr</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Eric R. Langan</td>
<td>Edith</td>
<td>560 Palmer Ave</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Jane Langan</td>
<td>June</td>
<td>560 Palmer Ave</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Ruth Owen</td>
<td>Ruth</td>
<td>151 Stirling Ave</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Bill Lambert</td>
<td>Blanchard</td>
<td>1341 College Pk</td>
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<td>9/17/14</td>
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<td>Joseph Young</td>
<td>John</td>
<td>1531 College Pk</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Gill Young</td>
<td>William</td>
<td>1331 College Pk</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Leonard Garber</td>
<td>David</td>
<td>1071 Lakeview Dr</td>
<td></td>
<td>9/17/14</td>
</tr>
<tr>
<td>Antonette Foley</td>
<td>Antoinette</td>
<td>1270 Lakeview Dr</td>
<td></td>
<td>9-17-14</td>
</tr>
<tr>
<td>Don Thomas</td>
<td></td>
<td>790 N Interlachen Ave</td>
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### Printed Name | Signature | Address | Comment | Date  
---|---|---|---|---
Bob Simms | [Signature] | 1304 Rainbow WP |  | 9/12/14
Drew Haven | [Signature] | 1511 chestnut Ave, WP |  | 9/12/14
G. Alexander | [Signature] | 1160 Whitehall Drive WP |  | 9/15/14
Ana Simms | [Signature] | 1201 Tom Greene WP |  | 9/15/14
Michael Hale | [Signature] | 1630 May Field Ave, WP |  | 9/15/14
Elizabeth Skowronski | [Signature] | 4848 Steed Terrace WP |  | 9/17/14
Michael Brash | [Signature] | 1541 Magnolia Ave WP |  | 9/17/14
Jaime Membrano | [Signature] | 1000 Via Merano Ct |  | 9/17/14
Caroline Gardinl | [Signature] | 1000 Via Merano Ct |  | 9/17/14
Pierre Vogelbacher | [Signature] | 1637 Magnolia Ave |  | 9/17/14
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<tr>
<td>José M. Lachman</td>
<td>/s/</td>
<td>700 Oxford Rd.</td>
<td>too small</td>
<td>9/13/14</td>
</tr>
<tr>
<td>Molly Oksner</td>
<td>/s/</td>
<td>260 E Lake Sue W P 32785</td>
<td>too small; high density</td>
<td>9/13/14</td>
</tr>
<tr>
<td>Cynthia Fox</td>
<td>/s/</td>
<td>1000 Douglas Ave ALT SPIES A 32785</td>
<td>too small; The People should have a voice</td>
<td>9/14/14</td>
</tr>
<tr>
<td>Ken Kimbrough</td>
<td>/s/</td>
<td>1451 Highland Rd. W P 32785</td>
<td>VERY SMALL LOT</td>
<td>9/14/14</td>
</tr>
<tr>
<td>Oman Kimbro</td>
<td>/s/</td>
<td>1451 Highland Rd. W P 32785</td>
<td>too small; not in keeping w/ neighborhood</td>
<td>9/14/14</td>
</tr>
<tr>
<td>Kate Sullivan</td>
<td>/s/</td>
<td>1362 Richmond Rd. 32785</td>
<td>too small lot</td>
<td>9/13/14</td>
</tr>
<tr>
<td>Bill Sullivan</td>
<td>/s/</td>
<td></td>
<td></td>
<td>9/13/14</td>
</tr>
<tr>
<td>Jennifer Whitney</td>
<td>/s/</td>
<td>1230 Lakeview Drive, Winter Park 32789</td>
<td>lot much too small</td>
<td>9/18/14</td>
</tr>
<tr>
<td>Becky Perez</td>
<td>/s/</td>
<td>1441 Richmond Rd wp 32789</td>
<td>no more - lot too small no density!</td>
<td>9/16/14</td>
</tr>
<tr>
<td>Angel Harley</td>
<td>/s/</td>
<td>740 Virginia Dr. 32789</td>
<td>too much lobbying</td>
<td>9/15/14</td>
</tr>
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Petition to uphold the zoning laws for buildable lot on Chain of Lakes in Winter Park, FLORIDA

Petition summary and background

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4. The lot at its narrowest point is less than 50 ft.

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We, the undersigned, are concerned residents of Winter Park who urge our City Commissioners to act now to oppose any after-the-fact subdivision or lot split approval so that 1252 Lakeview Drive, zoned R-1AAA will remain an unbuildable lot. The proposed lot would have 52.2 feet of frontage on Lakeview Drive; 70 feet of frontage on Lake Virginia and have 9,858 square feet of total lot area. Variances are requested for these lot dimensions in lieu of the minimum requirements for lost sizes within this R-1AAA zoning of 150 Feet of Frontage on the street and lake and 25,000 square feet of lot area.

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<tbody>
<tr>
<td>Marie Henderson</td>
<td>Marie Henderson</td>
<td>3108 Cabinet Drive, Orlando, FL</td>
<td>Property should never been subdivided! Too small to build on. Ridiculous!</td>
<td>9/12/14</td>
</tr>
<tr>
<td>Adaire Fluno</td>
<td>Adaire Fluno</td>
<td>1234 Lakeview Drive, Winter Park</td>
<td></td>
<td>9/12/14</td>
</tr>
<tr>
<td>Ruth Fluno</td>
<td>Ruth Fluno</td>
<td>1234 Lakeview Drive, Winter Park</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clayton Snavel</td>
<td>Clayton Snavel</td>
<td>1825 Glenn Road</td>
<td></td>
<td>9/13/14</td>
</tr>
<tr>
<td>Leslie Baker</td>
<td></td>
<td>230 Stirling</td>
<td></td>
<td>9/13/14</td>
</tr>
<tr>
<td>Jan May</td>
<td>Jan May</td>
<td>338 Victoria Ave</td>
<td></td>
<td>9/13/14</td>
</tr>
<tr>
<td>Mary Holland</td>
<td>Anna H.</td>
<td>220 East Reedy Way</td>
<td></td>
<td>9/13/14</td>
</tr>
<tr>
<td>Margore Holland</td>
<td>MCHIIIO</td>
<td>&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jack Low</td>
<td>J. Low</td>
<td>1200 Liberation Pk.</td>
<td></td>
<td>9/13/14</td>
</tr>
<tr>
<td>Ann Lacambria</td>
<td></td>
<td>5100 Oxford Rd.</td>
<td></td>
<td>9/13/14</td>
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<tr>
<td>Kevin Aya</td>
<td></td>
<td>1794 Richmond Rd.</td>
<td></td>
<td>10/5/14</td>
</tr>
<tr>
<td>Stephen</td>
<td></td>
<td>1544 Richmond Rd.</td>
<td></td>
<td>10/5/14</td>
</tr>
<tr>
<td>Sim Sekaran</td>
<td></td>
<td>420 Melrose Ave.</td>
<td></td>
<td>10/5/14</td>
</tr>
<tr>
<td>Pam Brandon</td>
<td></td>
<td>1399 Richmond Rd.</td>
<td></td>
<td>10/5/14</td>
</tr>
<tr>
<td>Steve Brandon</td>
<td></td>
<td>1399 Richmond Rd.</td>
<td></td>
<td>10/5/14</td>
</tr>
<tr>
<td>Julia Williams</td>
<td></td>
<td>1304 Richmond Rd.</td>
<td></td>
<td>10/6/14</td>
</tr>
<tr>
<td>Marianne McKenna</td>
<td></td>
<td>1285 Richmond Rd.</td>
<td></td>
<td>10/6/14</td>
</tr>
<tr>
<td>GENE RANDALL</td>
<td></td>
<td>1285 RICHMOND ROAD</td>
<td></td>
<td>10/6/14</td>
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<tbody>
<tr>
<td>Margarette Dembrower</td>
<td></td>
<td>1560 Mizell Ave. WP, FL 32789</td>
<td></td>
<td>9.18.2014</td>
</tr>
<tr>
<td>Ray D. Coladao</td>
<td></td>
<td>337 Beloit Ave. WP, FL 32789</td>
<td></td>
<td>9.18.2014</td>
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<tr>
<td>EDWAIRK</td>
<td></td>
<td>1450 Bonnie Ben</td>
<td>NO</td>
<td>9-17-14</td>
</tr>
<tr>
<td>Kathryn Campbell</td>
<td></td>
<td>1351 Richmond Rd.</td>
<td>NO</td>
<td>9-17-14</td>
</tr>
<tr>
<td>Stafford Eppard</td>
<td></td>
<td>1353 Essex Rd.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Patricia Eppard</td>
<td></td>
<td>1353 Essex Rd.</td>
<td>no density</td>
<td>9-17-14</td>
</tr>
<tr>
<td>Robert Miller</td>
<td></td>
<td>800 Miles Ave</td>
<td>NO</td>
<td>9/19/14</td>
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### Printed Name | Signature | Address | Comment | Date
--- | --- | --- | --- | ---
Emily Williams |  | 1403 Alabama Dr |  | 9/18/14
Luci Wilm |  | 1602 Alabama Dr |  | 9/18/14
Donna Colaco | Donna Colaco | 327 Beloit Ave. |  | 9/18/14
John Bowman | John Bowman | 2300 Wright Ave. W.P |  | 9-18-14
DA碧桂 |  | 2405 Everwint Rd UP |  | 9-19-14
Kay Sweeney | Kay Sweeney | 1812 Strohm Rd |  | 9-19-14
Charles Rosenfelt |  | 1812 Stonehurst Rd WP |  | 9-19-14
Charles Rosenfelt | Charles Rosenfelt | 1812 Stonehurst Rd WP |  | 9-19-14
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<tr>
<td>Ian Reeves</td>
<td></td>
<td>1700 Sunset Dr.</td>
<td>WP Homeowner</td>
<td>9.12.14</td>
</tr>
<tr>
<td>Laura Reeves</td>
<td></td>
<td>1700 Sunset Dr.</td>
<td></td>
<td>9.12.14</td>
</tr>
<tr>
<td>John R. Tavenner</td>
<td>John R. Tavenner</td>
<td>945 Minnesota Ave.</td>
<td>WP Resident</td>
<td>9.15.14</td>
</tr>
<tr>
<td>Daniel Taylor</td>
<td></td>
<td>1252 Walker Avenue</td>
<td>WP Resident</td>
<td>9/15/14</td>
</tr>
<tr>
<td>Marissa C. Spain</td>
<td></td>
<td>1228 Via Del Mar</td>
<td>WP Native Resident</td>
<td>9/15/14</td>
</tr>
<tr>
<td>Angel Navas</td>
<td></td>
<td>650 West Common Ave.</td>
<td>WP Resident</td>
<td>9/15/14</td>
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<td>Cathy Chariton</td>
<td>Cathy Chariton</td>
<td>2411 Gallery View Dr. #6 32782</td>
<td></td>
<td>9/18/14</td>
</tr>
<tr>
<td>Karen Brethauer</td>
<td>Karen Brethauer</td>
<td>420 Content Ave.</td>
<td></td>
<td>9/18/14</td>
</tr>
<tr>
<td>Ginger Nelson</td>
<td>Ginger Nelson</td>
<td>3417 Arbor Dr. 3UP</td>
<td></td>
<td>9/18/14</td>
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Subject: Request to Consolidate and Re-Subdivide properties on West Canton and North Capen Avenues into 12 single family lots.

This agenda item requests City Commission approval for consolidation and subdivision approval to combine and then re-subdivide the properties at 755/761/781/783/785/831/835 West Canton Avenue and at 437/439/441 North Capen Avenue, zoned R-1A, into twelve (12) single family lots. Variances are requested for the single family lot dimensions comprised on average of 62.15 feet in width and 7,071 square feet of lot area in lieu of the 75 feet of lot width and 8,500 square foot lot area standard for R-1A.

Planning and Zoning Board Recommendation:

Motion made by Mr. Sacha, seconded by Mrs. De Ciccio recommending approval of the lot consolidation and subdivision requests subject to the proposed plan and voluntary development agreement restrictions and provisions. Motion carried unanimously with a 7-0 vote.

Summary:

As background, at the April 8th P&Z meeting, the Planning Board tabled a request by the applicant to rezone the property to R-3 and R-4 zoning districts for a 28 unit project. There were 17 speakers in opposition to the requests and a petition presented with 130 signatures of citizens in opposition. Per the direction of the P&Z Board, there were subsequent ‘community meetings’ of about 50 neighbors who gathered to discuss options and to agree upon a consensus recommendation from the neighborhood. From those meetings, it was apparent that the neighbors were and are steadfastly in opposition to any changes in the Comp. Plan FLU or Comp. Plan policies or Zoning.

At the September 2nd P&Z meeting the rezoning request was revised to R-2 zoning together with a development plan comprised of four (4) single family lots, three (3) duplex lots and two (2) triplex lots and to approve a Conditional Use in the R-2 zoning for the proposed residential townhouse project of 16 units in two story buildings with an aggregate project size of approximately 41,334 square feet. Again there was significant neighborhood and citizen opposition to the density and clustering of residential units into duplexes and triplexes. The P&Z Board voted 4-2 for denial and the request was subsequently withdrawn by the applicant.
Site and Context: There are ten properties involved in this request. They are all designated Single Family Residential in the Comprehensive Plan and all zoned R-1A. Altogether the ten properties encompass 77,045 square feet (1.77 acres).

Subdivision Proposal: The attached subdivision proposal is for twelve (12) single family lots. Four of these lots at 437/439/441 N. Capen Avenue and at 755 W. Canton Avenue remain unchanged and are the same dimensions as currently exist. The balance of the six (6) other properties are to be re-subdivided into eight (8) lots. Four of those lots are 60.8 feet wide and have 7,442 square feet of lot area and the remaining four lots are 63.5 feet wide and average 6,702 square feet of lot area. Those eight lots average 62.15 feet wide and 7,071 square feet of lot area. As with all Subdivision requests, the Code calls for the following two comparisons:

Zoning Test: The zoning test is the comparison of the proposed lot sizes to the minimum standards for new R-1A lots. Those minimum dimensions are 75 feet of lot width and 8,500 square feet of lot area. In this case, variances are requested for these eight lots to have an average frontage of 62.15 feet and 7,071 square feet of lot area.

Comprehensive Plan Test: Per the policies of the Comprehensive Plan and text of the Subdivision Code, the decisions on subdivisions within existing neighborhoods is to be based on an analysis of the comparable lot sizes of properties in the same zoning district within a 500 foot radius. This is a door that swings both ways. In some cases, based on the neighborhood standard, it can require lot sizes larger than the minimums established in the zoning code. The City has had cases where this was used to deny lot splits/subdivisions even when they met the minimum standards of the zoning because they did not meet or where not comparable to the larger neighborhood standard lot size. In other cases, the Comprehensive Plan test works to justify variances to those minimum zoning dimensions based on comparable lot sizes in the immediate surrounding neighborhood.

Excepting out the two Church properties, within the surrounding neighborhood radius of 500 feet there are 80 single family residential properties that are zoned comparable R-1A. Of those 80 properties, there are 60 properties (75%) that are between 50-54.5 feet wide. There are 19 properties (23.75%) that are 60 feet wide and one which is 70 feet wide (1.25%). The average lot width is 54.5 feet and the average lot size is 5,975 square feet. Thus the proposed lots meet the Comprehensive Plan test by exceeding the neighborhood average and median lot sizes.

Development Agreement:

In order to provide certainty for the applicant, the City and the neighbors and to provide for comparably sized homes within this development, this request is accompanied by a Development Agreement prepared by the applicant. It provides certainty that the final plat will conform to the dimensions and layout as presented. It provides for the City, assurances as to the maintenance and common usage of the alley easements/alley tracts. It also provides to the applicant the ability to spread the allowable floor area ratio or house size (43% FAR) over the entire development. The applicant desires to have a minimum of 2,000 square feet of living area within each home plus the two car garage. This Agreement spreads some of the FAR to the four smallest lots and thereby reduces the FAR or house sizes on the other eight lots. The Agreement also specifies that while there is not architectural approval of the homes by the City, all of the homes will have open front porches, typical of the traditional neighborhood architecture and also all the homes will have rear loaded two car garages.
Comprehensive Plan Policy and Subdivision Code Guidance:

There are two Comprehensive Plan policies that apply to this request:

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

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

The Subdivision Code regulations that apply are outlined below:

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

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

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

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

(d) In order to implement the policies of the comprehensive plan, the city commission may also impose restrictions on the size, scale, and style of proposed building, structures, or other improvements. This provision shall enable the city commission to impose restrictions on the size, height, setback, lot coverage, impervious area or right-of-way access such that proposed building and other improvements match the dimension and character of the surrounding area or neighborhood.
Chairman James Johnston called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall. Present: James Johnston, Chairman, Shelia De Ciccio, Tom Sacha, Randall Slocum, Ross Johnston, Robert Hahn and Peter Weldon. Absent: Peter Gottfried. Staff: Planning Manager, Jeff Briggs and Recording Secretary Lisa Smith.

Approval of minutes – September 2, 2014

Motion made by Mr. Sacha, seconded by Mr. Gottfried to approve the 2014, meeting minutes. Motion carried unanimously with a 6-0 vote.

PUBLIC HEARINGS

REQUEST OF THE SYDGAN CORP. FOR: LOT CONSOLIDATION AND SUBDIVISION APPROVAL TO COMBINE AND THEN RESUBDIVIDE THE PROPERTIES AT 755/781/783/785/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE, ZONED R-1A, INTO TWELVE SINGLE FAMILY LOTS. VARIANCES ARE REQUESTED FOR THE SINGLE FAMILY LOT DIMENSIONS COMPRISED ON AVERAGE OF 62.15 FEET IN WIDTH AND 7,071 SQUARE FEET OF LOT AREA IN LIEU OF THE 75 FEET OF LOT WIDTH AND 8,500 SQUARE FEET OF LOT AREA STANDARD FOR R-1A.

Planning Manager Jeffrey Briggs presented the staff report and explained that this is a continuation of the requests made by the Sydgan Corp. that were on the April 8th P&Z agenda and tabled, then pursued via a re-application and recommended for Denial by P&Z on September 2nd and subsequently withdrawn. He said that the revised request does not seek to change the Comp. Plan FLU or Zoning designations for the properties. It does not seek any Conditional Use approval. The request is as follows:

1. Consolidate all of these ten (10) individual properties into one unified development site, and then
2. Subdivide the combined Property into twelve (12) single family lots. (The proposed site plan was provided to Board members prior to the meeting)

Mr. Briggs recapped the previous P&Z and community meetings, reviewed site and context. The site remains the same from last month’s meeting. There are ten properties involved in this request. They are all designated Single Family Residential in the Comprehensive Plan and all zoned R-1A. Altogether the ten properties encompass 77,045 square feet (11.77 acres). He explained that the subdivision proposal is for twelve (12) single family lots. Four of these lots at 437/439/441 North Capen Avenue and at 755 West Canton Avenue remain unchanged and are the same dimensions as currently exist. The balance of the six (6) other properties are to be re-subdivided into eight (8) lots. Four of those lots are 60.8 feet wide and have 7,442 square feet of lot area and the remaining four lots are 63.5 feet wide and average 6,702 square feet of lot area. Those eight lots average 62.15 feet wide and 7,071 square feet of lot area. Mr. Briggs noted that as with all Subdivision requests, the Code calls for the zoning and comprehensive plan comparison.

The zoning test is the comparison of the proposed lot sizes to the minimum standards for new R-1A lots. Those minimum dimensions are 75 feet of lot width and 8,500 square feet of lot area. In this case, variances
are requested for these eight lots to have an average frontage of 62.15 feet and 7,071 square feet of lot area. The Comprehensive Plan test per the policies of the Comprehensive Plan and text of the Subdivision Code, the decisions on subdivisions within existing neighborhoods is to be based on an analysis of the comparable lot sizes of properties in the same zoning district within a 500 foot radius. Excepting out the two Church properties, within the surrounding neighborhood radius of 500 feet there are 80 single-family residential properties that are zoned comparable R-1A. Of those 80 properties, there are 60 properties (75%) that are between 50-54.5 feet wide. There are 19 properties (23.75%) that are 60 feet wide and one which is 70 feet wide (1.25%). The average lot width is 54.5 feet and the average lot size is 5,975 square feet. Thus the proposed lots meet the Comprehensive Plan test by exceeding the neighborhood average and median lot sizes.

He said that this request is accompanied by a Development Agreement prepared by the applicant. This is done in order to provide certainty for the applicant, the City and the neighbors in order to provide for comparably sized homes within this development. It provides certainty that the final plat will conform to the dimensions and layout as presented. It provides for the City, assurances as to the maintenance and common usage of the alley easements/alley tracts. It also provides to the applicant the ability to spread the allowable floor area ratio or house size (43% FAR) over the entire development. The applicant desires to have a minimum of 2,000 square feet of living area within each home plus the two car garage. This Agreement spreads some of the FAR to the four smallest lots and thereby reduces the FAR on house sizes on the other eight lots. The Agreement also specifies that while there is not architectural approval of the homes by the City, all of the homes will have open front porches, typical of the traditional neighborhood architecture and also all the homes will have rear loaded two car garages.

He summarized by stating that the neighborhood position has been very clear that the zoning should remain R-1A and the redevelopment should be single family detached homes. That is what is proposed by the applicant. The neighbors would prefer homes that are smaller and more affordable than what the City's code allows but the City cannot control the marketplace or dictate prices. The planning staff believes that the Development Agreement provides certainty for everyone that only what is shown is what will be developed and that the design elements desired (open front porches and rear entry garages) will be utilized. Thus this property cannot be sold to others who later change their minds on what can be built. As a new replat, all of the restrictions can be placed on the plat, be contained in the covenants and restrictions that are recorded with the new replat and be carried forward as restrictions upon the deeds. Staff recommended approval of the lot consolidation and subdivision requests subject to the proposed plan and voluntary Development Agreement restrictions and provisions. Mr. Briggs responded to Board member questions and concerns.

Dan Balows, the applicant, 558 West New England Avenue, spoke concerning the request. He presented information received from Orange County and Winter Park Utilities confirming the number of units on the lots in the past. He explained that 10 parcels, at one period in time, 12 units, 11 structures on 10 lots.

Kevin Kramer, David Weekly Homes, addressed the concerns for the 45 foot lot width and noted that there are other properties in proximity that are 45 feet. He noted that two of the properties are a part of the subject request. He said that there is already a precedent of smaller lots in the area. He provided an overview of the homes proposed for the development to include FAR and square footage.

Bob Cambric, 1614 McKinley Street, Hollywood, Florida, he said that the residents met on 9/19 to go over the proposal and come back to the Board with feedback. The residents were appreciative that the Board listened to the concerns of the community. They are appreciative that the applicant changed the proposal in response to neighborhood concerns. They requested that the lots be restricted to 50 feet or greater. The community the subdivision process, the minimum width is 75 feet in width. He expressed concern that the easement has not been granted. He said that if the easement is not granted then there would be no access to the "D" lots. Take a look and see if lots can be reconfigured and in the newly built section, please no lots less than 50 feet.

Mary Daniels, thanked the Board members for listening to the concerns of the residents. She thanked the applicant for retaining the R-1A zoning. She expressed concern that the applicant does not own or have the deed to the alley tract and questioned what will happen if he is not able obtain the property. She also
expressed concern with ingress/egress for the "D" lots. Acknowledge that there are other 45 foot lots in close proximity. She expressed concern with some of the language in the Development Agreement. Changing the language will offer more protection to the City going forward. Please adhere to the Comprehensive Plan and Land Development Code.

John Schofield, 358 Vittoria Avenue, owns property in close proximity to the proposed project. 1,200 to 1,500 square foot houses in the west side. The system has worked exactly the way it is supposed to. Thank you for listening to the citizens. Thanked the applicant for listening to the citizens and supports the development of single-family houses.

Mary Randall, 1000 South Kentucky Avenue, thanked the Board members and applicants. She stated that she agrees with the comments made by Mr. Schofield. She said that 45 foot lot width is too small and too close and opens the door to more problems. Maintain the wider frontage.

Lurline Fletcher, 811 English Court, stated that she is concerned with noise and increased traffic.

Donna Colado, 327 Beloit Avenue, commended the compromises that have been made. She said that she is happy to see the proposed single-family development. She expressed concern with projects spreading the FAR.

The applicant restated that they are not creating 45-foot lots as they are already in existence. He said that there is an existing platted easement for ingress/egress that he owns fee simple as well as all the contiguous abutting properties.

No one else wished to address the Board. Public Hearing closed.

Mr. J. Johnston applauded the applicant and residents for reaching a compromise on this issue. He stated that he feels that the new proposal is a great compromise and meets current requirements, it meets the setbacks, and he is not requesting any setback variances. The other Board members also voiced their appreciation for the proposal under the existing R1A zoning.

**Motion made by Mr. Sacha, seconded by Mrs. De Ciccio recommending approval of the lot consolidation and subdivision requests subject to the proposed plan and voluntary development agreement restrictions and provisions. Motion carried unanimously with a 7-0 vote.**
No variances are requested from the R-1A zoning code.

<table>
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<th>R-1A zoning</th>
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<tr>
<td>Side - 2nd Floor</td>
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</tbody>
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Footnotes:
- All lots will have a rear garage with driveway from alley. Rear setback to garage/carport may be 10'.
- Rear setbacks for properties abutting R3/R4 or permanent stormwater retention area may be 10'.

FAR calculation:

- Property Size: 77,046 sq ft
- Max FAR = Property Size / 20,000
- (R-1A) = 2.6
- Max allowable FAR for entire property = 33,330 sq ft
- 1½ FAR = 1.5 x 33,330 = 50,000 sq ft

Subdivision Site Plan

9/6/14
SUBDIVISION REPLAT AGREEMENT
(WEST CANTON AVENUE AND CAPEN AVE.)

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

RECITALS

WHEREAS, the Owner desires to consolidate and then subdivide and replat properties into twelve (12) single family lots encompassing properties on West Canton and North Capen Avenues, referred to as the "Properties", more particularly described as:

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

and,

WHEREAS, the Owner has proposed a re-subdivision and replat of the above referenced Properties which has been approved by the City Commission on October 27, 2014 and both parties wish to put of record the commitments for future redevelopment to occur within this subdivision with respect to residential density, floor area ratio and the means of implementation and enforcement thereof for the Properties as are incorporated within this Agreement, and

WHEREAS, the Owner has further voluntarily agreed to and committed to these restrictions being recorded in the public records and running with title to the land, until such time as the formal plat, covenants and restrictions and homeowners association documents are recorded in the Public Records..

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

1. AGREEMENT AS TO PLATTING AND RECORDING OF RESTRICTIONS: The Owner agrees that the subdivision replat of the Properties shall be for Single Family Homes in conformance with Exhibit “A”, as approved by the City and such future construction of homes and other accessory structures shall conform the single family (R-1A) zoning regulations except for as provided for in this Agreement.

2. RESTRICTIONS AS TO DENSITY AND FLOOR AREA RATIO: The Owner agrees pursuant to the subdivision approval by the City that future development on the Property will be restricted to a maximum residential density of Twelve (12) single family homes and that the cumulative maximum home sizes or floor area density (floor area ratio) shall be no more than 43% which may be spread across the cumulative land area of the land area of the replat recorded in the Public Records. However Owner and City agree that for the smallest lots of 437, 439, 441 North Capen Avenue and 755 West Canton Avenue, the floor area or gross building size shall be limited to no more than 2,475 square feet, as defined by the definition of floor area ratio within the City Zoning Code.
3. **OWNER COMMITMENTS AS TO IMPLEMENTATION:** Owner agrees pursuant to the approvals granted by the City that the restrictions and permissions as to maximum floor area ratio shall be indicated as restrictions or permissions on the subdivision plat and also contained within the provisions of the restrictions and covenants recorded with the formal plat. Owner also agrees to reference such restriction or permission on the deeds conveyed from the replat with text such as “Subject to a maximum floor area ratio of ____________” as a reference for future buyers as to their abilities of improvements and additions to their homes.

4. **OWNER COMMITMENTS AS TO ARCHITECTURAL DESIGN:** Owner or Assigns agree to construct covered front porches on all homes fronting W. Canton Avenue and N. Capen Avenue. Single story open porches can extend up to 7 feet into the front building setback. Owner also agrees that all lots shall have rear entry garages with access from the alley easements or alley tract.

5. **CITY COMMITMENTS AS TO SETBACKS FROM PUBLIC ALLEY TRACT PARCEL** (Parcel ID 06-22-30-1168-03-115): The setbacks from the “alley tract” parcel as shown on Exhibit “A” may be a minimum of ten (10) feet.

6. **BINDING EFFECT:** This Agreement shall be binding upon City and the Owner and their successors and assigns in interest and all other parties acquiring any interest in the Properties, and shall inure to the benefit of the City, and shall be a covenant running with the land but shall be terminated at such time as the formal plat covenants and restrictions and homeowners association documents are recorded in the Public Records implementing these provisions.

7. **AUTHORITY:** Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this Agreement have been taken or followed, as the case may be, and that upon execution of this Agreement by both parties, this Agreement shall be valid and binding upon the parties hereto and their successors in interest.

8. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

9. **SEVERABILITY:** If any provisions of this Agreement are found to be illegal or invalid, the other provisions of this Agreement shall remain in full force and effect.
10. **RECITATIONS:** The Recitals are hereby incorporated as if fully set forth herein.

11. **THIRD PARTY BENEFICIARIES:** This Agreement gives no rights or benefits to anyone other than the City and Owner and has no third-party beneficiaries, except as otherwise provided herein.

12. **AMENDMENT.** This Agreement may be amended or terminated only by a written instrument executed by the parties hereto or by their respective successors in interest or assigns, and approved by the City Commission after public hearing.

13. **RECORDING.** This Agreement shall be recorded by the City, at Owner’s expense, among the Public Records of Orange County, Florida. The recordation of this Agreement shall not constitute or impose any lien or encumbrance upon the title in the Properties and shall instead only constitute record notice of governmental regulations which govern the development and use of the Property.

14. **SUBORDINATION/JOINDER.** Unless otherwise agreed to by the City, all liens, mortgages and other encumbrances not satisfied or released of record, must be subordinated to the terms of this Agreement or the lienholder must join in this Agreement. It shall be the responsibility of the Owner to promptly obtain the said subordination or joinder, in form and substance acceptable to the City Attorney, prior to the City’s execution of this Agreement.

15. **NOTICES:** Any notices required or permitted to be made or given to either party pursuant to this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written notification of receipt; or (iii) by email or facsimile transmission upon acknowledgment of receipt of electronic transmission. Notices shall be addressed to the parties identified below, unless otherwise changed by proper notice to the respective parties.

**OWNER:**

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

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

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

CITY:

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

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

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

Signed, sealed and delivered in the presence of:

Signature

Print Name

CITY OF WINTER PARK, FLORIDA
a municipal corporation

By: ___________________________
   Kenneth W. Bradley, Mayor

ATTEST:

By: ___________________________
   Cynthia S. Bonham, City Clerk

Date: ___________________________

STATE OF FLORIDA
COUNTY OF ORANGE

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

Notary Public, State of Florida

________________________________
Print, Type or Stamp Commissioned Name of
Denning Partnership, Ltd
a Florida limited partnership

By: ______________________
    Daniel B. Bellows, President

Date: ______________________

Signature

Print Name

Signature

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

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

Notary Public, State of Florida

______________________________
Print, Type or Stamp Commissioners Name of Notary Public

STATE OF FLORIDA
COUNTY OF ORANGE

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

Notary Public, State of Florida

______________________________
Print, Type or Stamp Commissioners Name of Notary Public
29 September 2014

City of Winter Park Planning & Zoning Board Members

c/o Lisa Clark, Senior Staff Assistant
401 South Park Avenue
Winter Park, Florida 32789

RE: (1) REQUEST FROM THE SYDGAN CORP. TO CONSOLIDATE THE PROPERTIES AT 755/761/781/783/785/831/835 WEST CANTON AVENUE AND AT 437/439/441 NORTH CAPEN AVENUE INTO A SINGLE PARCEL.
(2) REQUEST FROM THE SYDGAN CORP. TO SUBDIVIDE THE CONSOLIDATED PARCEL INTO 12 LOTS.
(3) REQUEST FROM THE SYDGAN CORP. FOR A VARIANCE FROM THE CITY'S MINIMUM LOT WIDTH REQUIREMENTS AND LOT SQUARE FOOTAGE REQUIREMENTS.

Dear Ms. Clark:

We are residents and property owners within the Hannibal Square Neighborhood and have been elected by residents as their spokespersons to convey their comments regarding the changes requested by the Sydgan Corp. that would affect the properties at 755/761/781/783/785/831/835 West Canton Avenue and 437/439/441 North Capen Avenue. We commend the Planning & Zoning Board for supporting the City’s Comprehensive Plan and residents’ desires by voting to deny the Sydgan Corp.’s requests its 02 September 2014.

We are encouraged that the current application would retain the Single-Family Residential Future Land Use designation and the R-1A zoning classification and do not oppose the request. However, we do have some concerns regarding including lots with a width of less than 50’. We do not seek to prescribe the subdivision layout, but offer the following as an alternative:
- Eliminate the alley and entrance segment on Canton Avenue, between Parcel B and the easternmost Parcel A.
- Increase Parcel B to 65’ width.
- Extend the east-west alley between Parcel B and the southernmost Parcel C.
• Subdivide the three Parcel C’s into two Parcel C’s.
• Include shared open space or park from land remaining after subdividing the Parcel C’s into two.
• Encourage the use of design pallets similar to those being used by the Hannibal Square Community Land Trust and Habitat for Humanity for Winter Park - Maitland, Florida instead of a Mediterranean design.

The use of land consolidation and subsequent subdivision could become a process that gains traction, and we strongly encourage the City to include an analysis of its implications as part of the upcoming visioning process. We also believe the City should evaluate its current minimum lot requirements to determine how it may affect future redevelopment and post-disaster building.

We request this letter be included in the official record for all actions related to the aforementioned properties, which the Planning & Zoning Board will consider at its 07 October 2014 meeting or, in the event any or all actions are rescheduled, the meeting at which they are collectively or individually heard. In addition, we request the letter’s inclusion in the record for any subsequent public meetings of the City Commission regarding the requested changes.
Once again, thank you for the opportunity to comment and participate. We look forward to continuing to work with the City Commission, Planning Department staff, and you.

Sincerely,

John Bolden, Property Owner
541 North Capen Avenue

Marketa D. Hollingsworth
Marketa Clark, Resident
646 West Comstock Avenue

Mary R. Darnell, Resident
650 West Canton Avenue

Tony B. Robinson
Tony B. Robinson, Property Owner
810 West Canton
Jeffrey Briggs

From: Kramer, Kevin <KKramer@dwhomes.com>
Sent: Monday, October 06, 2014 1:14 PM
To: Jeffrey Briggs
Cc: Dan Bellows
Subject: RE: Joint Residents Letter for Oct 7th Canton/Capen Sydgan’s Proposal

Jeff,
Thank you for forwarding the letter dated 9/29/14 from the Hannibal Square residents and property owners. We appreciate the feedback from neighbors and we are happy that the proposal is more in line with the desires of the community. The following is in response to the neighbor’s suggested alternative subdivision layout. Please forward this email to the Planning & Zoning Board, City Council and neighborhood spokespersons.

1. **Eliminate the alley and entrance segment on Canton Avenue, between Parcel B and the easternmost parcel A.**
   Unfortunately, we are not able to eliminate the Alley Tract and consolidate it into new lots. This tract has been in place for decades with an access easement over it in favor of the abutting properties. Because the tract has been the historic access to several previous homes set back off of Canton and Capen Avenues, and because it cannot be consolidated into new lots, it made sense to keep the access where it has been historically. We do intend to improve the Alley Tract (paving, drainage, utilities, etc.) as allowed by the access easement.

2. **Increase Parcel B to 65’ width.**
   Because we are not able to eliminate the Alley Tract or the lot on the east side of lot B we cannot increase the width of lot B from its current width of 45’. Please note that the Alley Tract, lot B and the three C lots currently exist and we have not proposed changes to the lot dimensions or locations.

3. **Extend the east-west alley between Parcel B and the southernmost Parcel C.**
   Only one access point is necessary. As explained in items 1 and 2 the Alley Tract provides the logical access.

4. **Subdivide the three Parcel C’s into two Parcel C’s.**
   Please see item 2 in regards to all three C lots currently existing.

5. **Include shared open space or park from land remaining after subdividing the Parcel C’s into two.**
   Please see item 2 in regards to all three C lots currently existing.

6. **Encourage the use of design pallets similar to those being used by the Hannibal Square Community Land Trust and Habitat for Humanity for Winter Park – Maitland, Florida instead of a Mediterranean design.**
   Our architecture commitments include open front porches on all of the homes to provide the traditional architectural element that is common to the neighborhood.

Kevin Kramer, P.E.
Land Acquisition Manager – Orlando
David Weekley Homes
225 S. Westmonte Drive, #3300
Altamonte Springs, Florida 32714
office: 407-865-8226
cell: 321-422-9294