

After Recording Return To:
City of Winter Park, City Clerk's Office
401 Park Avenue South
Winter Park, Florida 32789

ORDINANCE 3271-23

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, APPROVING THE PARTIAL VACATION OF THE HAVILAH PARK PLAT (PLAT BOOK O, PAGE 144) WITHIN THE BOUNDARIES OF THE PROPERTY LOCATED AT 900 AND 950 N. ORLANDO AVENUE OWNED BY HILL/GRAY SEVEN, L.L.C. AND HAVING ORANGE COUNTY TAX PARCEL NUMBERS 01-22-29-3452-02-010 AND 01-22-29-3452-01-080; PROVIDING FOR THE VACATION AND ABANDONMENT OF THE UTILITY EASEMENT RESERVED BY ORDINANCE NO. 1399; APPROVING THE TERMINATION OF VARIOUS EASEMENTS IN FAVOR OF THE CITY OF WINTER PARK ENCUMBERING THE PROPERTY LOCATED AT 900 AND 950 N. ORLANDO AVENUE AND AUTHORIZING THE EXECUTION OF NECESSARY TERMINATION INSTRUMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, AN EFFECTIVE DATE AND RECORDING.

WHEREAS, Hill/Gray Seven, L.L.C. ("Applicant") is the fee simple owner of that certain property located at 900 and 950 N. Orlando Avenue, Winter Park, Florida, and legally described in **Exhibit "A"** attached hereto and incorporated herein ("Applicant's Property"); and

WHEREAS, Applicant has filed an application to partially vacate the plat of Havilah Park within the boundaries of the Applicant's Property and to vacate and terminate multiple easements held by the City of Winter Park and to cause a 15-foot-wide replacement utilities easement to be granted to the City of Winter Park; and

WHEREAS, it has been determined that Applicant has caused the publication of the required notice of intent to vacate pursuant to general law and have paid all outstanding ad valorem taxes for Applicant's Property; and

WHEREAS, the City of Winter Park has authority and jurisdiction for the review and approval of the platting of lands and vacation of plats within the corporate limits of the City; and

WHEREAS, the City of Winter Park has authority to adopt this Ordinance by virtue of its home rule powers and Charter, including with respect to abandoning and vacating plats, rights-of-way and easements no longer needed for municipal or public purposes; and

WHEREAS, the City has determined that the easements vacated and/or terminated herein are no longer needed by the City of Winter Park, provided that Applicant grants the Replacement Utilities Easement described herein; and

WHEREAS, the notice of intent requirements of Section 177.101, Florida Statutes in regards to vacating and abandoning portions of plats have been complied with; and

WHEREAS, the City Commission finds that this Ordinance is in the best interest of the public safety, health and welfare.

NOW, THEREFORE, BE IT ENACTED by the City of Winter Park, Florida as follows:

Section 1. Partial Plat Vacation. The City Commission hereby declares that the portion of the Havilah Park plat as recorded in Plat Book O, Page 144, Public Records of Orange County, Florida, within the legal description of Applicant's Property described in **Exhibit "A"** is hereby vacated and annulled and the same is hereby returned to non-platted acreage.

Section 2. Vacation and Abandonment of Utility Easement Reserved by Ordinance No. 1399. The City Commission hereby declares that the portion of the utility easement encumbering the Applicant's Property that was reserved by Ordinance No. 1399 (vacating the Quaker Avenue public right-of-way) recorded at Official Records Book 3286, Page 1868 (and OR BK 3466, PG 552; OR BK 3269, PG 1264) is hereby vacated and abandoned. Further, the City Commission authorizes the termination of Encroachment Agreement recorded at Official Records Book 8595, Page 435, Public Records of Orange County, Florida that relates to the utility easement being vacated and abandoned by this Section. The City Manager is authorized to execute and deliver for the City of Winter Park the necessary termination of said Encroachment Agreement.

Section 3. Vacation and Abandonment of Utility Easement evidenced by Special Warranty Deed. The City Commission hereby declares that the portion of the utility easement (dated July 20, 1971) in favor of the City of Winter Park encumbering the Applicant's Property as evidenced by Special Warranty Deed recorded in Official Records Book 3153, Page 1373, Public Records of Orange County, Florida, is hereby vacated, abandoned and terminated.

Section 4. Termination of Grant of Easement. The City Commission hereby approves the City of Winter Park's termination of the Grant of Easement in favor of the City of Winter Park recorded at Official Records Book 3831, Page 3266 and Bill of Sale recorded at Official Records Book 3981, Page 1337 to the full extent such encumbers the Applicant's Property. The City Manager is authorized to execute and deliver for the City of Winter Park the necessary termination of said Grant of Easement and Bill of Sale.

Section 5. Termination of Utility Easement. The City Commission hereby approves the City of Winter Park's termination of the Utility Easement in favor of the City of Winter

Park recorded at Official Records Book 3981, Page 1335, Public Records of Orange County, Florida. The City Manager is authorized to execute and deliver for the City of Winter Park the necessary termination of said Utility Easement.

Section 6. Termination of Florida Power Corporation Easement Assigned to the City. The City Commission hereby approves the City of Winter Park's termination of the Easement in favor of Florida Power Corporation (as assigned to the City of Winter Park) recorded at Official Records Book 570, Page 600, Public Records of Orange County, Florida. Further, the City Commission authorizes the termination of Encroachment Agreement recorded at Official Records Book 8595, Page 435, Public Records of Orange County, Florida that relates to the easement approved for termination by this Section. The City Manager is authorized to execute and deliver for the City of Winter Park the necessary termination of said Easement and Encroachment Agreement.

Section 7. Termination of Distribution Easement. The City Commission hereby approves the City of Winter Park's termination of the Distribution Easement in favor of Florida Power Corporation (as assigned to the City of Winter Park) recorded at Official Records Book 3707, Page 658, Public Records of Orange County, Florida. The City Manager is authorized to execute and deliver for the City of Winter Park the necessary termination of said Distribution Easement.

Section 8. Replacement Utilities Easement. As a condition to the vacation and termination of the easements set forth in this Ordinance, the Applicant must grant to the City of Winter Park, by executing and recording, a replacement 15 foot-wide utilities easement running east and west across the entire depth (260.00 feet) of the Applicant's Property, connecting Galloway Drive and N. Orlando Avenue, with such utilities easement being in a form and with terms acceptable to the City ("Replacement Utilities Easement"). Nothing in this Ordinance is intended to terminate or release the Replacement Utilities Easement.

Section 9. Conflicts. In the event of any conflict between this Ordinance and any other ordinance or portions of ordinances, this Ordinance controls to the extent of the conflict.

Section 10. 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 11. Effective. This Ordinance shall take effect immediately upon its passage and adoption.

Section 12. Recording. Provided that the Replacement Utilities Easement is executed and recorded, this Ordinance shall be recorded in the public records of Orange County, Florida.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the 10th day of May, 2023.

Phillip M. Anderson, Mayor

ATTEST:

Rene Cranis, City Clerk

EXHIBIT "A"
Applicant's Property

TAX PARCEL ID NUMBERS: 01-22-29-3452-02-010 and 01-22-29-3452-01-080

PARCEL 1:

BEGIN AT THE NORTHEAST CORNER OF LOT 13, BLOCK 1, HAVILAH PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; RUN THENCE ALONG THE WEST RIGHT-OF-WAY LINE OF GALLOWAY DRIVE THE FOLLOWING THREE COURSES AND DISTANCES; S 00 DEGREES 00'00" W A DISTANCE OF 301.94 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 21.95 FEET, A CHORD BEARING OF S 18 DEGREES 23'46" W A CHORD DISTANCE OF 9.62 FEET, RUN THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 25 DEGREES 18'13" A DISTANCE OF 9.69 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 296.50 FEET, A CHORD BEARING OF S 18 DEGREES 43'59" W, A CHORD DISTANCE OF 51.58 FEET, RUN THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 9 DEGREES 58'51", A DISTANCE OF 51.65 FEET TO THE SOUTHEAST CORNER OF LOT 18, BLOCK 2; THENCE S 89 DEGREES 48'30" W ALONG THE SOUTH LINE OF LOT 18 AND THE SOUTH LINE OF LOT 3, BLOCK 2, A DISTANCE OF 240.40 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF NORTH ORLANDO AVENUE, THENCE N 00 DEGREES 00'00" W ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 75.00 FEET; THENCE N 89 DEGREES 48'30" E A DISTANCE OF 125.00 FEET; THENCE N 00 DEGREES 00'00" E A DISTANCE OF 107.48 FEET; THENCE S 89 DEGREES 07'42" W A DISTANCE OF 125.00 FEET TO A POINT ON AFORESAID EAST RIGHT-OF-WAY LINE; THENCE N 00 DEGREES 00'00" W ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 178.00 FEET TO A POINT ON THE NORTH LINE OF LOT 8 BLOCK 1; THENCE N 89 DEGREES 37'16" E ALONG SAID NORTH LINE AND THE NORTH LINE OF AFORESAID LOT 13, A DISTANCE OF 260.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PORTION DESCRIBED IN SPECIAL WARRANTY DEED FROM UP FIELDGATE US INVESTMENTS-WINTER PARK, LLC, A FLORIDA LIMITED LIABILITY COMPANY AND THE CITY OF WINTER PARK, FLORIDA, RECORDED IN INSTRUMENT NUMBER 20210344029, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

PARCEL 2:

LOT 1 AND THE NORTH 25 FEET OF LOT 2, BLOCK 2, HAVILAH PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, TOGETHER WITH THE SOUTH ONE-HALF OF VACATED QUAKER AVENUE LYING NORTH AND ADJACENT TO SAID LOT 1, BLOCK 2, PURSUANT TO ORDINANCE NO. 1399 RECORDED IN O.R. BOOK 3269, PAGE 1263, O.R. BOOK 3286, PAGE 1868 AND O.R. BOOK 3466, PAGE 552, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAY ON WEST.

ALSO DESCRIBED AS:

ALL OF LOTS 11 AND 12 AND A PORTION OF LOTS 8, 9, 10 AND 13, BLOCK 1, AND ALL OF LOTS 18, 19 AND 20 AND A PORTION OF LOTS 1, 2, AND 3, BLOCK 2, HAVILAH PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND ALL OF VACATED QUAKER AVENUE LYING BETWEEN BLOCKS 1 AND 2, PURSUANT TO ORDINANCE NO. 1399 RECORDED IN OFFICIAL RECORDS BOOK 3269, PAGE 1263, OFFICIAL RECORDS BOOK 3286, PAGE 1868 AND OFFICIAL RECORDS BOOK 3466, PAGE 552, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAY ON WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 13, BLOCK 1, HAVILAH PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK O, PAGE 144, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 00 DEGREES 16'33" WEST ALONG THE EAST LINE OF SAID LOT 13, A DISTANCE OF 47.67 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF LEE ROAD AS RECORDED IN INSTRUMENT NUMBER 20210344029, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA FOR THE POINT OF BEGINNING; THENCE RUN ALONG THE WEST RIGHT OF WAY LINE OF GALLOWAY DRIVE THE FOLLOWING THREE (3) COURSES AND DISTANCE; (1) SOUTH 00 DEGREES 16'33" WEST, 254.27 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 21.95 FEET, A CHORD BEARING OF SOUTH 18 DEGREES 40'19" WEST, A CHORD LENGTH OF 9.62 FEET; (2) THENCE RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 25 DEGREES 18'59", AN ARC LENGTH OF 9.70 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 296.50 FEET, A CHORD BEARING OF SOUTH 19 DEGREES 00'32" WEST, A CHORD LENGTH OF 51.58 FEET; (3) THENCE RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 9 DEGREES 58'48", AN ARC LENGTH OF 51.65 FEET TO THE SOUTHEAST CORNER OF LOT 18, BLOCK 2 OF SAID HAVILAH PARK; THENCE NORTH 89 DEGREES 54'57" WEST ALONG THE SOUTH LINE OF LOTS 18 AND 3 OF SAID BLOCK 2, A DISTANCE OF 240.40 FEET

TO A POINT ON THE EAST RIGHT OF WAY LINE OF NORTH ORLANDO AVENUE, THENCE NORTH 00 DEGREES 16'33" EAST ALONG SAID EAST RIGHT OF WAY LINE, 270.66 FEET TO A POINT ON THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF LEE ROAD; THENCE RUN ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES; (1) NORTH 29 DEGREES 29'05" EAST, 21.73 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 36.00 FEET, A CHORD BEARING OF NORTH 46 DEGREES 49'11" EAST, A CHORD LENGTH OF 21.47 FEET; (2) THENCE RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34 DEGREES 41'32", AN ARC LENGTH OF 21.80 FEET; (3) THENCE NORTH 64 DEGREES 09'57" EAST, 17.44 FEET; (4) THENCE SOUTH 89 DEGREES 58'53" EAST, 218.16 FEET TO THE POINT OF BEGINNING.