Code Compliance Board Regular Meeting

Agenda

September 4, 2025 @ 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

welcome

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please note

Times are projected and subject to change.

1. **Call to Order**
2. **Swearing in of Witnesses**
3. **Approval of Minutes**
   a. Minutes of July 3, 2025 — 5 Minutes
4. **Public Comments (for items not on the agenda): Three minutes allowed for each speaker**
5. **Public Hearings (Public participation and comment on these matters must be in person.)**
   a. None — 1 Minute
6. **Non-Action Items**
7. **Staff Updates**
   a. OVR-25-0197 678 Depugh St., Winter Park, FL 32789 (Overgrowth) — 1 Minute
   b. LDC-25-0342 805 Symonds Ave., Winter Park FL 32789 (Disabled Vehicle) — 1 Minute
8. **City Attorney Reports**
9. **Board Comments**
10. **Upcoming Agenda Items**
    a. LDC-24-0341 1810 Barker Dr., Winter Park, FL 32789 (Short-Term Rental) — 1 minute
    b. LDC-24-0356 1645 N. Park Ave., Winter Park, FL 32789 (Short Term Rental) — 1 Minute
11. **Adjournment**

Code Compliance Board

agenda item 3.a

item type	**meeting date**
Approval of Minutes	September 4, 2025
prepared by	**approved by**
Susan Pruchnicki, Coordinator	Susanne Porras, Code Compliance Manager

subject
Minutes of July 3, 2025

motion | recommendation

background

alternatives | other considerations

fiscal impact

attachments
1. CCB070325 DRAFT MINUTES

Code Compliance Board Regular Meeting Minutes

July 3, 2025, at 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

This meeting was rescheduled on June 5, 2025, from July 10, 2025, to July 3, 2025.

Present
Wayne Johnson, Doug Bond, Paul Mandelkern, Kristen Matt, Carlos Diez-Arguelles

Absent:
Steve Heller (advised absence due to rescheduling at the June 5, 2025, meeting)
Melissa Blaney

Legal Representative for the City:
Assistant City Attorney Richard Geller

Staff Present
Building Official Gary Hiatt, Asst. Building Official Ashley Ong, Code Compliance Division Manager Susanne Porras, Parks Services Manager Josh Nye, Parks Superintendent Jorden Hinrichsen, Arborist Josejuan Rodriguez Torres, Code Compliance Officer Phillip Wade, Code Compliance Officer Christina Busch, Code Compliance Officer Cristopher Gomez, Board Secretary Susan Pruchnicki

1. Call to Order

The meeting was called to order at 3:00 PM.

a. Roll Call

b. Board President Wayne Johnson read the Statement of Purpose

2. Swearing in of Witnesses

Witnesses were sworn in by Board Secretary Susan Pruchnicki

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3. Consent Agenda

a. Approve the Regular Meeting minutes from June 5, 2025

Board Member Paul Mandelkern made a motion to approve the minutes; Board Member Kristen Matt seconded.

VOTE:

Steve Heller	Absent
Kristen Matt	Yes
Wayne Johnson	Yes
Paul Mandelkern	Yes
Carlos Diez-Arguelles	Yes
Melissa Blaney	Absent
Doug Bond	Yes

Motion Passed 5-0.

4. Public Comments (for items not on the agenda): Three minutes allowed for each speaker.

a. Mr. Charles Newton of 631 W Swoope Avenue, Winter Park, Florida 32789 spoke regarding the property at 630 W Swoope Avenue, Winter Park, FL 32789. He presented the Board with photographs taken on July 3, 2025, of the property showing alleged vagrants sleeping on the sidewalk, and a separate individual urinating on the property. Mr. Newton reminded the Board that hearings were previously held for the vacant property. He stated many problems have been reported to the Winter Park Police Department since then. He also stated that he was not seeking action by the Board, just bringing these incidents to their attention.

b. Ms. Kelly Price of 890 Georgia Ave., Winter Park, FL 32789 approached the podium and identified herself. Her appearance before the Board was also to address the condition of the property at 630 W. Swoope Ave., Winter Park, FL 32789. She stated violations have been reported to Code Compliance, and other incidents reported to the Winter Park Police Department. Ms. Price stated that she spoke about issues at the property during the June meeting, and that she wishes to keep the ongoing issues in front of the Board to take any action available to protect the residents.

Ms. Price then complained about the city planting cypress trees down one side of Swoope Ave. She stated the city is not known for cypress trees, that they are normally planted along shorelines. She stated she has asked Parks Superintendent Jorden Hinrichsen to remove these trees. She stated that she did not want half of the street covered in oak trees and half covered in cypress trees, noting that the cypress trees are "dead" four months out of the year and grow very little. She challenged the Board to drive down Swoope Avenue and see for themselves.

Board Chair

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6. Public Hearings (Public participation and comment on these matters must be in person.)

a. CCB#-LDC-25-0276 2012 Loch Berry Rd., Winter Park, FL 32792

Park Services Manager Josh Nye identified himself as a certified arborist and being tree risk assessment qualified, and that the Urban Forestry Division is under his purview. He presented the city's case regarding the removal of a protected Live Oak tree from 2012 Loch Berry Rd. without a permit. He stated during the initial inspection only the tree stump remained to rely on for a measurement, that the rest of the tree had been removed. The stump that remained measured 63" DBH (Diameter at Breast Height), the estimate for the diameter of the tree at breast height to be 4 ½ feet. The code provides leeway to make that judgement based on the available evidence. It is then up to the Appellant to prove otherwise if they believe the measurement is incorrect.

The initial assessment was that the tree was 55" DBH, which is what was provided in the agenda packet. Mr. Nye stated the city must provide the public and the Board with the materials for the hearing well in advance for review. He then stated that on June 24, 2025, the city received new photographic evidence which showed that the tree was not 55" DBH. Mr. Nye stated the city cannot be sure what the precise size of the tree was, and rather than try to debate that any further, it was decided to remove that issue from consideration. He stated the city has reverted to the appellant's measurement of the tree of 39" DBH. This clarification was provided so that going forward the board would not be confused about the information provided in the agenda packet. He also stated the size of the tree will reduce the recommended fine being levied against the appellant for the violation, and that this would be explained in detail later in the presentation.

Mr. Nye described the violation as a 39" DBH protected Landmark Live Oak being removed without a permit. He provided the definition of a Landmark Live Oak as being a class of tree created by the Winter Park City Commission in October 2024, when an extensive rewrite of the city's Tree Preservation Ordinance was voted in. This created a class of tree that received extra protection because of the value the trees hold for the community, and the environment. The species of Live Oak and Bald Cypress ranging in fair to excellent condition and measuring 30" DBH or greater qualify as Landmark trees. When Landmark trees are permitted for removal require three times the normal mitigation of any other protected tree. Mr. Nye noted that this would be explained in greater detail later in his presentation.

Mr. Nye displayed a photo of the tree in the backyard of 2012 Loch Berry Rd. He stated the compliance requirements for the violation are to obtain an after-the-fact tree removal permit and to pay $25,740.00 into the Tree Trust Fund created by the City Commission to set aside monies for planting and caring for trees in the City of Winter Park.

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Mr. Nye presented a screenshot of the property information from the Orange County Property Appraiser's website, displaying the open "Sale" tag. He noted the information highlighted in yellow: the sale date of May 1, 2025, and the buyer, Winter Park Luxury Home Builders, LLC, and the information highlighted in green: the name of the seller, Edith S. Walker. He next provided an overhead map from the County site displaying the location of the property between South Lakemont Avenue and the Cady Way Sports Complex. He then presented a survey of the property with the location of the unpermitted tree removal highlighted in green. The red dots indicated other trees still existing on the site and on the right-of-way that are a part of every survey the city arborist performs when they visit a site for a permit review. Mr. Nye noted this survey was for a demolition permit review. He then presented a screenshot of the permitting system, with May 9, 2025, the date the violation was observed highlighted. The violation was observed during the permit review. He next presented a photograph of the tree stump the arborist found upon assessment of the site. A photograph of the DBH tape, the special type of tape for measuring diameter. Mr. Nye pointed out the measurement is just shy of 62 ¾". He stated than any time a tree is measured if it is more than ½", the higher number is used, hence the 63" measurement of the stump.

Mr. Nye stated the violation was issued to three different entities. The first was Winter Park Luxury Home Builders LLC, issued on May 23, 2025; the USPS confirmation of receipt was presented. The same violation was issued to Arborist Action Professional Tree service, who removed the tree on May 23, 2025; the USPS confirmation of receipt was presented. Finally, the same violation was issued to Mark Hayes, the arborist, who wrote a letter attempting to activate a state statute which allows residents, under certain circumstances, to remove a tree on private residential property without a permit. The USPS confirmation of receipt was presented. Next, the posting of the violation and the metadata from the photograph was displayed; this was posted on June 10, 2025. The Affidavit of the Violation Posting and the Notice of Hearing Posting were both displayed. The USPS tracking receipt shows the Notice of Hearing was received on June 12, 2025.

Mr. Nye stated the codes cited:

Section 58-284, tree removal permits, which basically says that, unless preempted by Florida Statutes, it shall be unlawful to authorize or undertake the removal of any protected tree without issuance by the city of a tree removal permit.

Section 58-286, tree replacement and financial compensation requirements. The most germane to this discussion being that compensation shall equal the rate per DBH inch set by the City Commission in the Fee Schedule, and Landmark trees shall require triple the rate of compensation established by the City Commission in the Fee Schedule.

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Section 58-290, penalties for tree removal without required permit for tree damage. The most important part of this section is that penalties for tree removal without a permit would be compensated at the rate of twice the requirements of Section 58-286.

Mr. Nye then introduced Assistant City Attorney Richard Geller to speak on the Florida Statute being referenced.

Mr. Geller addressed the Board, stating that before he addressed the statute he wanted to inform them of how the Florida Supreme Court would require anyone to interpret a statute. The Florida Supreme Court has adopted a principal called textualism. Mr. Geller provided a quote from a Florida Supreme court case call Advisory Opinion to the Governor regarding implementation of Amendment 4: "*We adhere to the supremacy of text principle. The words of a governing text are of paramount concern, and what they convey in their context is what the text means*".

Another Supreme Court case, Levy vs. Levy: "*Consequently, we strive to determine the text objective meaning through the application of the text to given facts on the basis of how a reasonable reader, fully competent in the language, would have understood the text at the time it was issued. Our first and often only step is to ask what the Legislature actually said in the statute based upon the common meaning of the words used when the statute was enacted*".

Mr. Geller stated that with those principles in mind he was going to speak about Florida Statutes Section 163.045 which, as Mr. Nye mentioned allows for the removal of trees under certain circumstances without a permit.

Mr. Geller directed the Board to paragraph 2 in their packet, "*a local government may not require a permit for removal of a tree on a residential property if the property owner possesses documentation from an arborist certified by the ISA* (International Society of Arboriculture) *or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk to below moderate as determined by the ISA."* Mr. Geller continued, there are two elements you must have to not have the permit requirement apply to you. The first is that it must be a residential property and you must possess this documentation at the time of removal.

Mr. Geller directed the Board to paragraph B: *"residential property means a single-family detached building located on a lot that is actively used for single family residential purposes."* He then provided the city's interpretation to mean that you must actively be living in the residence for this to apply.

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Mr. Geller continued that the city code adopted this state statute into the local ordinance; it was restated as "*if a person or entity is removing a tree on an occupied residential property without a permit on the basis that such tree poses an unacceptable risk to persons or property. The property owner and a person or entity removing the tree must have in their respective possession at the time of removal supporting documentation from an arborist certified by the ISA or a Florida licensed landscape architect finding that such tree poses an unacceptable risk to persons or property.*"

Mr. Geller submitted to the Board that the city ordinance correctly applies the state statute. He stated that he did not know what the Appellant would present to the Board but did know what they have stated in writing to City Officials. The first was an e-mail from Robert Vasquez to Mayor DiCiccio dated June 6, 2025, titled "*Unjust Fines and Hostile Treatment by Urban Forestry Department*". Mr. Vasquez stated in the email "*As a condition of closing, the seller – who was still the legal owner at the time – removed a hazardous tree based on an evaluation from a licensed arborist*." In an e-mail sent to Park Services Manager Josh Nye dated June 9, 2025, an assistant of Mr. Vazquez, Heidi Tonkery, stating the same thing, that "*the removal was performed prior to our ownership, while the property was still owner-occupied.*" The city's interpretation of Florida Statute 163.045 is the same way that the appellant understood it, because they are claiming the property was owner-occupied at the time.

Mr. Geller presented that more than one month ago Jorden Hinrichsen, the City's Superintendent of Urban Forestry, wrote to Ms. Tonkery at Vazquez Family Builders. He shared with the Board the Arborist report was submitted under the condition of non-occupancy for the residence, which is not consistent with the terms of Florida Statute 163.045. Mr. Geller stated that two weeks later he answered correspondence that was directed to Mayor DiCiccio and to Park Services Manager Josh Nye. In his response, he informed the Appellant "Your email claims, "*The removal was performed prior to our ownership, while the property was still owner occupied*". The City, however, received credible information that the prior owner had vacated the property before the tree's removal. Vacant property is ineligible for tree removal without a permit under both the Florida Statutes and City Code."

Mr. Geller returned the presentation to Mr. Nye to present the evidence that Urban Forestry received.

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Mr. Nye stated that as Assistant City Attorney Richard Geller stated, the property at 2012 Loch Berry Rd. was vacant at the time the tree was removed. Therefore, Florida Statute 163.045 does not apply. He presented an email sent to the seller, Edith Walker, on June 24, 2025, requesting confirmation of the statements displayed:

1) The buyer informed you prior to purchasing the home that the live oak in question had to be removed, that you would have to pay for its removal for your share of the home sale proceeds, and that they would remove the tree shortly after the home sale closed.

2) You were living with your son on April 28 of this year and had vacated the home prior to utilities being cut off on April 28 (utility billing report and invoice attached). You were able to confirm your memory by checking a calendar where you made a note about living at your son's house on April 28. Mr. Nye displayed a Utility Billing Statement, stating that in both this and the report he redacted some personal information as it is not relevant to the case. He pointed out highlighted information showing the address, the date of the charge (4/28/25) and the application of the deposit also on 4/28/25 – the date the utilities were cut off. The next slide indicated that the property was vacant on 4/29/25.

3) The tree in question was removed after you moved out.

4) You did not hire Mark Hayes to provide a tree risk assessment report, nor did you have such a report in your possession at any time.

5) You did not hire Arborist Action Professional Tree Service to remove the tree.

6) A representative for the buyer asked that you confirm to the City of Winter Park that you lived at 2012 Loch Berry Rd. at the time the tree was removed, when in fact you did not.

7) You now reside in North Carolina.

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Mr. Nye then displayed Ms. Walker's reply email, dated 6/24/25, thanking Mr. Nye for the communication regarding the property on Loch Berry in Winter Park, and confirmed the information in his communication was accurate for all seven statements.

Mr. Nye stated that he also contacted the seller's agent, Al Sines, a resident of Winter Park. Mr. Sines provided the following information via email dated June 24, 2025, that Mr. Nye felt was relevant:

> At the time I listed the property, the Seller, Edith Walker, was living in the home with minimal furnishings. On April 25th the Seller was out of the home and asked for the power to be turned off. The Seller signed the closing documents on May 1st and had vacated the property for almost a week. The Buyer, Winter Park Luxury Homes, signed the closing documents on May 2nd. Transaction final.

Mr. Nye then displayed the photograph of the tree that was presented earlier. This was taken by the Realtor on April 30, 2025. Mr. Nye was able to obtain this information from the metadata in the photo, which was also displayed. From this information, the city knows that after the Seller, Edith Walker, moved out of the home the tree was still standing. Next, the Warranty Deed was displayed, certified as occurring on May 1, 2025.

Mr. Nye stated that in light of all the evidence, the city has demonstrated that the home was vacant, and Florida Statute 163.045 was not valid to be used to avoid permitting under the city ordinance.

The fine calculation was displayed as follows:

1) 39" DBH removed x $110/inch = $4,290.00 (compensation with a permit (§58-286). Mr. Nye stated that this calculation applies to any tree removal

2) $4,290.00 x 3 = $12,870.00 (Landmark Tree compensation) (§58-286) for a permitted removal

3) $12,870.00 x 2 = $25,740.00 (unpermitted removal fine) (§58-290)

Mr. Nye then presented the Staff Recommended Motion to the Board.

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Board Member Paul Mandelkern stated he had questions. He asked Mr. Nye to confirm that the Board has the correct dates, that the Deed transferring the property was dated May 1st, and that the Arborist Report completed by Mr. Mark Hayes stated that the inspection was conducted on May 4th. Mr. Nye confirmed that the dates were correct. Mr. Mandelkern assumed that the arborist had to have a live tree to conduct his inspection. Mr. Nye agreed it was an assumption, but he could not provide evidence otherwise. Mr. Mandelkern asked if the arborist could conduct his inspection just on the stump. Mr. Nye clarified the Deed is dated May 1, 2025. He stated the Arborists' letter is actually dated May 4, 2024, to which Mr. Nye gave the Arborist the benefit of doubt that it was a typographical error. The city found the stump on May 9, 2025, during their inspection. Mr. Nye stated that the city knew the tree was standing on April 30, 2025, but was not standing on May 9, 2025. He stated whether the tree was standing when he wrote the report on May 4th he cannot confirm because he did not receive the report or a chance to see the tree when it was being removed. Having the report is a requirement when the tree is being removed. Mr. Nye stated there is no requirement to tell the city that the tree is going to be removed, but if someone shows up while it is being removed the report must be in possession of the party doing so. The assumption would be that if the law was being followed that yes, the party would be on site with the letter on the day it is being removed.

Mr. Mandelkern then asked about applying for an after-the-fact tree removal permit, and how long it would take from the time it was applied for until it was issued in this case. Mr. Nye replied that it would be a rapid turnaround, that it is a formality that allows us to document that the tree was removed in the city's Tree Removal System. Mr. Nye noted that the process can be confusing because some think it implies that the tree was allowed to be removed, but it is not. The permit is double the fee, which is $70.00 instead of $35.00, and it is simply a codification or a recording of the fact that the tree was removed, not permission to remove it. Mr. Mandelkern stated he asked because in the proposed motion it asks the Board to put a deadline on when the permit should be obtained, so he wanted to confirm that an impossible deadline might be imposed. Mr. Nye stated that they see applications come in daily, and because of the familiarity of this case, it would be as simple as filling out a couple of fields on the online form and issuing it, so it would basically be an immediate turnaround. Mr. Mandelkern asked if it could be several business days. Mr. Nye said yes.

Board Member Carlos Diez-Arguelles asked Mr. Nye if the city knew for a fact that the seller was not living at the property when the tree was removed. Nr. Nye said yes, the realtor confirmed that with the city. Ms. Walker left on April 25th, and the Utility Reports clearly show that all utilities were cut off on April 28th, and the property was listed as vacant on April 29th. Mr. Geller interjected, asking Mr. Diez-Arguelles to use the microphone because it was hard to hear him. Mr. Diez Arguelles asked Mr. Nye when the tree was removed. Mr. Nye replied that he did not know, only that the tree was there on April 30th and gone on May 9th.

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Board Chair Wayne Johnson asked Mr. Nye if the home was occupied. Mr. Nye stated no. Mr. Johnson asked if the home was up for sale. Mr. Nye stated not to his knowledge, that it is up for permitting it to be demolished. Mr. Johnson asked Mr. Nye if the tree was ever inspected by the city. Mr. Nye said no, not to his knowledge. Mr. Johnson confirmed with Mr. Nye that he only had photographs to determine the health of the tree. Mr. Nye stated yes, but that he shies away from making detailed arboricultural judgements based on one photograph. He referred to the photo of the tree, stating that it indicated to him that the tree is in at least fair condition, and that falls under the definition of a Landmark tree, which is any condition from fair to excellent. Mr. Nye explained that you had to bear in mind that with live oaks, especially older ones, that oftentimes they will have issues here and there that are quite normal. Mr. Nye stated the trees can live for decades and keep contributing to/provide all kinds of benefits for years but not necessarily be a Champion tree (perfect). Live Oaks are very sturdy and resistant to wind throw and other forces that act on it. Mr. Nye stated there is nothing he could see from the photograph that would dissuade him from classifying it as a Landmark tree.

Mr. Johnson pointed out that Mr. Hayes' report did have his own photographs of the tree, asking Mr. Nye if there was any difference. Mr. Nye answered no, stating that Mr. Hayes' photographs did not tell him much. He stated that the photograph provided by the realtor told him far more than the ones in Mr. Hayes' report.

Mr. Mandelkern asked, based on Mr. Hayes' report, if the property owner had applied for a permit before the tree was removed, would the Urban Forestry Department have granted the permit. Mr. Nye responded that completely irrespective of that report that there is a good chance that the tree would have been permitted, and that is because if you look at the survey and see where the tree is located. It is towards the back of the lot, but the lot is small, and he pointed out what typically happens when an earlier era home demolished and rebuilt. In order for it to be financially viable and for the enjoyment of the property, just about any home to be built on the lot would most likely have been constructed with the tree in the footprint. Mr. Nye stated it is likely that it would not have been a reasonable ask to preserve the tree by making changes to the building footprint. The city has the right to do that, and the tree was in the area where a Lanai/pool would be, but it is far enough away from the back setback that it is also quite possible it would be in the living room. Mr. Nye stated that honestly, the arborists' report is pretty irrelevant when it comes to whether or not it would have been permitted, that it probably would have been permitted based on our allowances for building and proposed building footprints. Mr. Mandelkern confirmed that it would be based on its location rather than its status as a diseased tree. Mr. Nye stated that was correct.

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Board Member Kristen Matt wished to confirm what Mr. Nye just stated, that if the Appellant had applied for a permit prior to taking the tree down based upon information you see in the picture and from the Hayes' report that you would have granted the permit to remove the tree. However, in one of the previous emails from Parks Superintendent Jorden Hinrichsen she stated that the tree assessment report that the risk cannot be remediated by other than removal, so it does not substantiate that they cannot go about another way of fixing the problem. Mr. Nye replied sure. Ms. Matt stated she felt that the two statements were conflicting. Mr. Nye responded that it was a good point, and there is a reason for it. He explained that before the city had substantiated the fact that no one lived in the home, we were more focused on the letter. He stated the city definitely feels there are elements of the letter that don't meet the standard. However, once we had substantiated the occupancy status of the home, all of that became irrelevant, which is why none of it was included in his presentation.

Ms. Matt asked Mr. Nye to confirm what he was saying, in summary, was that the high moderate risk may not have been able to be remediated other than by removal, but because the lot was unoccupied at the time of the removal that trumps all the other considerations. Mr. Nye stated that was correct. He stated that getting into the "besides that" aspects of the letter that don't meet the standard could be a rabbit hole. There are other required elements of a report that are simply not present in that report, but again because of the occupancy status of the home this became irrelevant. He stated that early on yes, the city was focusing on some of that and then we dropped that once we realized that it was not a valid use of the statute. Ms. Matt thanked Mr. Nye.

Mr. Johnson asked if the permit was granted prior to the removal would money still need to be paid into the Tree Fund. Mr. Nye stated there are different ways that it can be done. When you have a permit, you have the option to pay, plant, or a combination thereof. Because this was a Landmark tree it would have been almost certainly too much to plant, and there are also landscape minimum requirements on the lot that would restrict the amount of mitigation that could be planted. All that being said, there would have been under a permitted situation, they would have had options of a payment, planting, or a combination thereof. Mr. Johnson asked Mr. Ny for an estimate of what payment would have been. Mr. Nye displayed the slide previously presented with the fine calculation, and referred to the second line, showing $12,870.00 would be the normal compensation for a Landmark tree of 39" DBH. Mr. Johnson confirmed this amount applied with a permit. Mr. Nye replied yes. Mr. Johnson then confirmed that the fine was doubled because it was unpermitted. Mr. Nye replied that this was correct.

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Mr. Robert Vasquez approached the podium and identified himself as the founder of Countrywide Capital Group, Winter Park Luxury Home Builders LLC, and several other companies. He stated that he was a state certified general contractor, a mortgage broker, a licensed title agent, a real estate broker, and a pilot. He stated that he held almost every license anyone could think of and that he follows the letter of the law precisely.

Mr. Vasquez stated that the document serves as a structured and comprehensive response to the City of Winter Park's enforcement action related to the tree removal of his residential property. He stated the enforcement represents not only a violation of Florida law, but a misallocation of public resources as an inconsistent application of Municipal standards, and punitive overreach targeting private property rights. He stated Florida Statutes 163.045 and the definition of residential property. It states "a local government may not require a notice, permit fee, or application for tree removal on residential property if the owner possesses documentation from a certified Arborist or other licensed Landscape Architect that the tree poses a danger.

Mr. Vasquez stated that he had the letter, and that the property is residential. The zoning of the property is R1-A, which is residential. He stated he could not put commercial property on the lot because of the zoning. He stated the statute does not require submission or approval of the documentation, only possession. He stated the city's enforcement hinges on the claim that the property was not owner-occupied, a standard that appears nowhere in the statute. The correct legal threshold is whether the property is residential, which it is. According to the Florida Department of Revenue and common municipal codes, since the city brought it up, the correct interpretation or the definition of residential property is defined as real property that is used or intended to be used for residential purposes, such as a single-family dwelling, and does not include commercial multi-family uses. The existence of a single-family home clearly qualifies the property as residential, regardless of the occupancy status. Mr. Vasquez stated that it is his understanding that if there is a vacant home, like members of the public in attendance just indicated, that there are homeless people going in there, whether or not there is power, whether they have a lease or not, it may be occupied but it is still residential, whether or not there is power at the residence.

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Mr. Vasquez stated responses to the City's press release, because he requested a Freedom of Information Act and received it on July 2, 2025. He believed the press release was in 2022 and stated that Statute 163.045 does not apply to property under development or is planned for development. The language is misrepresentation and appears nowhere in the statute. The law does not preempt properties with future development plans; it applies uniformly to residential properties as defined above. Mr. Vasquez said that he stated this because in our multiple communications with the county, the goal post has moved.

Mr. Vasquez stated that generally speaking when there is a violation, the violation is clear. First, the violation is that the property is not residential, then that it is not owner-occupied, then it is that the Arborist letter is inaccurate. He asked the Board which one applied.

Mr. Vasquez stated that the city's position conflicts with legislative intent of House Bill 1159, which was specifically designed to reduce burdensome municipal regulation and prevent cities from overriding the state protection afforded to property owners. With respect to the request for public records that he made, public records disclose the city reveals several key facts. First, the city relied on the listing agent of the seller as an informed support and allegation. Secondly, the Deed is irrelevant. Mr. Vasquez made a point of when the document was recorded, that the document was closed on May 1st, his company signed in on May 2nd, and it was recorded on May 5th. He stated this was not an argument because they met all the requirements by Florida statute. Two internal communications show shifting justifications from occupancy status to degrading the arborist's letter to claiming development of disqualified protection. The city made subjective evaluations about the arborists' documentation, despite having no statutory authority to do. To be clear, the city has no right or authority to judge an arborist letter. State law states that a letter must be present in the hand of the person in the event someone gets stopped and is asked for it. Nowhere in the statute is there a principal or a teacher that needs to grade the letter. That person is a licensed professional; they provided the report that indicated the tree was in danger to person or property. He stated that again, there was no evidence that was cited by a certified inspection or legal expert, just third-party communication or informal inquiry. These documents confirm the city went looking for a violation rather than applying the law in its neutrality. The enforcement process was reactive, speculative, and improperly motivated. This is legal overreach and due process violations. The city has no authority under Florida statute 163.045 to approve or deny an Arborist Report. The law requires possession, not submission. Attempts to invalidate the report on clerical or subjective grounds violate the State's preemption and ignore the purpose of the law. Municipal enforcement must align clearly with the established law, not internal preferences or political narratives. Mr. Vasquez respectfully requested the immediate dismissal of this code enforcement action. He stated again that the tree removal was lawful, supported by documentation and conducted on a qualifying residential property. All subsequent actions by the city represent administrative overreach and are inconsistent with Florida Statute 163.045. Continuing to pursue this matter is an improper use of public resources and contrary to Florida law.

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Mr. Vasquez pointed out it said in the document he was reading that a local government may not require, notice, application approval, permit fee, or mitigation for the pruning, trimming, or removal of a tree on residential property fir documentation was provided by a certified arborist or licensed landscape architect that the tree possesses or poses an unacceptable risk. He addressed the Board, pointed out that they had the report from the licensed arborist and that the tree posed an unacceptable risk. The city is stating that the tree removal was not allowed unless the home was actively occupied. The statute does not say that, that this language is not in the statute. It does say that local government may not require a property owner to replant a tree that was pruned, trimmed, or removed under the section, yet the city continues to mandate replacement of trees despite clear prohibition of subsection 2. State bill 518 clarifies the documentation must comply with ISA best practices and A300 standards. It does not change the residential application or add occupancy development exclusions. Mr. Vasquez stated that he has had to research all of this because as stated before, the goal post has moved. First the property was not occupied; his staff responded to the city stating technically speaking the property was occupied, and when was the deed transferred? Because the condition of closing on the property was that the tree should be removed because it was dangerous. The property was closed. Again, this is irrelevant because the Florida Statute is very clear. The city pulled it up and it was overridden with the city ordinance. The city ordinance does not apply here; the Florida Statute does. He stated that the tree was dangerous, they had an arborist letter confirming this, the property being occupied or not is irrelevant. The property is residential by zoning, asking if the city's code enforcement or zoning should be brought in to verify that. Occupancy is irrelevant to whether or not the property is residential, based on "you" bringing up definitions. He then stated that a lot of this stuff was going to be redundant, and he didn't want to waste anyone's time. He recognized it was a holiday weekend, and appreciated everyone's time, but the "gotcha" trap he was playing with the City of Winter Park is ridiculous. He stated he develops properties, building affordable and luxury housing, apartment complexes, and was the first builder in 40 years to build privately in the Parramore neighborhood. He stated he builds everywhere and follows the letter of the law. His company is now getting into Winter Park, as their first venture. The first three properties we closed on, this being the first, he has put $4.5 – $5 million dollars in the community. He stated the money is his, and he is working hard to make the communities beautiful, and again that he follows the letter of the law.

Mr. Vasquez then stated he is a combat veteran; he follows the law; however, when his back gets pushed against a wall he is a fighter. He stated that he would fight this to the highest level possible. He stated he has already written to Governor DeSantis, his Mayor, the Senator, the Congressman, and the Department of Agriculture because his question is if this is happening to him, and others don't have the resources that he does, how many fines does the City of Winter Park collect improperly or fraudulently by trying to impose these sanctions.

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Mr. Johnson asked Mr. Vasquez if he had concluded and was ready to take questions. Mr. Vasquez responded yes.

Mr. Johnson asked if Mr. Vasquez has requested a permit for demolition. Mr. Vasquez replied yes. Mr. Johnson asked what he planned to build on the property. Mr. Vasquez stated a two-story structure. Mr. Johnson asked if it would be a residential home. Mr. Vasquez stated yes, he can only build a residential home because of the property's zoning as defined by the law.

Mr. Mandelkern asked Mr. Vasquez what the date was when the tree was removed. Mr. Vasquez stated he believed it was May 4th or May 5th, then confirmed May 5th. The gentleman that cut the tree, who followed all the guidelines also went to the city on his own accord trying to resolve this multiple times, arguing with the city that he followed the letter of the law and did everything correctly. Mr. Vasquez stated that this person is a small business owner who is doing his job and is also receiving violations, and he must potentially pay $25-35,000.00. Also, he argued with the county about the DBH. Just to be clear, Mr. Vasquez stated that he didn't have to request an after-the-fact permit because he followed the law. They went out afterward, during my proper procedural process of applying for a demolition permit. The city went out and noticed a tree stump was there and measured it. He stated the gentleman then contacted the city on multiple occasions, including coming to the city offices, and argued with Mr. Nye, showing pictures that their calculation was wrong, and Mr. Nye refused to accept that. Mr. Nye waited to receive a photo based on metadata from the Realtor from a distance that maybe his calculation was wrong, but not the individual who did the work and took pictures on site that showed the proper size of the tree.

Mr. Mandelkern stated that putting aside the calculation of the tree, that Mr. Vasquez was taking the position under the state law that this was residential property on the date the tree was removed. Mr. Vasquez stated not only was he taking that position, but he was also arguing that the property was residential the day before, the day of, the day after, and now. Mr. Mandelkern stated he was looking at the definition of residential property in the statute and it said it means that the lot is actively used for single-family residents. He asked Mr. Vasquez to confirm he said that on the date we are focusing on, the date that the tree was removed because that is the issue in question, was actively being used for residential property – not that it was zoned, but it was actively used. Mr. Vasquez stated the property was actively used ad residential property because the zoning did not change. He stated the occupancy does not determine whether it was residential. He stated that he has many properties that are vacant and are listed as residential properties for sale, they don't say "commercial" or "industrial".

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Mr. Mandelkern stated he wanted to understand Mr. Vasquez' point of view, because the legislature enacting the law used the word "actively". If the Board were to rule in his favor, we are ruling that this property was actively used on the date the tree was removed, not that it was zoned. The law does not say "zoned", it says "actively used".

Mr. Johnson asked Mr. Vasquez if he had used an arborist report to remove a tree before. Mr. Vasquez said yes. Mr. Johnson asked what happened. Mr. Vasquez stated he has never had an issue because he follow the letter of the law.

Mr. Geller asked Mr. Johnson if the city could have rebuttal, Mr. Johnson approved. Mr. Geller returned to the slide of Florida Statute 163.045. He stated that the Board had heard an admission that the tree was removed on either May 4th or May 5th of 2025. You also have in the record the deed, which is what actually conveys the property. The date of the deed was May 1, 2025. Ms. Walker did not possess or own that property after May 1st. He stated that we also know she was not residing at the property at that time. Mr. Mandelkern looked at the language of how residential property is actually defined; we are supposed to look at the actual words of the statute. The Florida Legislature could have said "on a lot that is zoned for single-family residential purposes", but they did not. They said actively used" for single-family residential purposes". Mr. Geller stated he did not know how one could actively use a lot for residential purposes without residing in it, that he did not know what the other residential purposes were. He stated the very meaning of residential purposes is that someone is residing there. He stated he would submit that the city ordinance does apply, so long as it is consistent with §163.045.

Mr. Geller referred back to the deed. He recalled a statement that the deed was not recorded until sometime later in May, but stated the recording is not the actual conveyance. When the deed is signed and the seller gives the deed to the buyer that is the conveyance. When it is recorded, that establishes a lien; it establishes a priority and could establish the priority interest's vis-a-vis other liens. As such, the recording is an irrelevant date.

Mr. Geller addressed Mr. Vasquez' reference to a city press release. Mr. Geller asked Mr. Nye to return to the podium to explain the change in §163.045 as he is better able to address that. Mr. Geller noted that the press release was based on the prior version of the statute.

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Mr. Nye stated that the press release was actually after the statute was re-written, and the city was trying to inform interested parties, including builders, developer, tree contractors, and arborists that the revision of the language of the ordinance, which can happen, took effect in July of 2022 and meant that for all intents and purposes the City of Winter Park ordinance was in effect, barring these more stringent requirements, which were created by the amended language. He stated that the original language, which was created under H. B. 1159 as stated by Mr. Vasquez was very poorly written, very vague, and caused a lot of confusion for everyone. Mr. Nye stated it was re-written in 2022, and the city was trying to clarify what it meant. Mr. Nye noted that Mr. Vasquez spoke about the phrasing of lots under development or planned for development. The intent of that was to say if one is actively developing a lot or purchased a lot for development they cannot use the state law, that's not how the law is written under the amended language.

Mr. Johnson allowed Mr. Vasquez to return to the podium. Mr. Vasquez again stated that he feels the City of Winter Park is overreaching and manipulating definitions. Under Florida statute 125.01055 residential use means for permanent dwelling purposes including single-family, multi-family, and multi-manufactured homes, but not including hotels, motels, or transient lodging. Mr. Vasquez stated the definition is the definition; the property is residential. He posed a scenario to the Board that if one left their home for a week and are not residing in it, is it no longer residential? He stated the definition is clear. He read from the statute "residential property means a single-family detached, located in a single-family lot that is actively used for single-family residential purposes". He stated it did not say where it is occupied, and it must be read based on the letter of the law.

Mr. Johnson asked Mr. Vasquez about the press release he mentioned, and if Mr. Vasquez had a copy of it. Mr. Vasquez stated it was the city's press release and was sent to him yesterday in response to his Freedom of Information request. He believes that one was dated in 2022, but saw there were two releases, one in 2019 and one in 2022, which actually works in his favor in clearly stating that the city's ordinance will be invoked for non-Landmark trees. He gave the Board the example that if he cut down a tree that was not in danger the city could pursue that because it would be a violation. However, Florida Statute 163.045 supersedes that because the tree was not in good condition. He reiterated that he had the arborist letter and a third-party licensed individual state the tree was not healthy, and that he did not have to report to anyone and that no permit was required, whether pre- or after, the property is residential.

Mr. Juan Vasquez, also from Winter Park Luxury Homes, LLC approached the podium, stating that he works for Mr. Robert Vasquez, pointing out there was no relation. He wanted to bring to the Board's attention that while words in the statute were bold typed to better see them, there was a part that was not being brought to attention. He read "actively used for single-family residential purposes that is either conforming use or a legally recognized non-conforming use in accordance with the local jurisdiction's applicable land development regulations". Mr. Johnson thanked him.

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Mr. Andy Pine of Arborist Action Pro Tree Service, located at 3961 Langford Rd., New Smyrna Beach, Florida 32108 approached the podium. He stated that he came to the hearing to make sure that the correct DBH was used by the city, recognizing that it was prior to the start of the meeting. Mr. Pine stated that he noticed the description of a Landmark tree as being in fair to excellent condition, and that the city claims it was in excellent condition. He disagreed, stating that it was a false representation. He stated he removed the tree, inspected it along with two apprentices and an ISA licensed arborist. He stated he has pictures of a huge hole in a limb that was over the house and that the photo was attached to the arborist report. He stated the tree wasn't even in fair condition, and if the city says it was it is purely opinionated. He feels the city is coming after them, and they are present to fight that. Mr. Johnson thanked Mr. Pine for his time.

Board Discussion:

Board Member Doug Bond stated the whole purpose of this was to bypass a permit. He stated if there is a tree and an arborist says it's a danger, and if someone is living in the house, occupying it, they can cut it down without any other approval. He stated the argument is that was it occupied, and he understands Mr. Vasquez' arguments, but it is clear that it was not occupied at the time and whether it posed a danger or not it is no longer there.

Ms. Matt stated that it seemed to her that it comes down to whether or not, or the interpretation of the terms "actively used for single-family residential purposes". Some have stated that it must imply that it is occupied, but she did not believe that using a layman's interpretation of the common meaning of the words that is exclusively means it is occupied. Actively used, it could be for selling or all sorts of other interpretations, which she thought went beyond the scope of the Board. She stated she is not convinced that "actively used" meant it had to be occupied.

Mr. Mandelkern agreed that it all comes down to what "actively used" mean, and he thought the Legislature purposely put that language in for a reason. He stated Mr. Vasquez was quoting from a section in chapter 125 on what residential property is. The Legislature could have just used that simple residential property definition regarding zoning, but in their wisdom used the word "actively". Mr. Mandelkern recognized that as Mr. Bond previously pointed out, the intent was to protect the homeowner. If there is a homeowner living on the property and there is a dangerous tree as determined by a licensed or certified arborist, you can bypass the city's permitting requirement. However, in this case it seems that the sale took place, the buyer is not living in the house, they are demolishing it to build a new house on the property. Mr. Mandelkern stated in his view the buyer is not actively using the house for single-family residential purposes, but for developmental purposes as a builder. They are not living in the house.

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Mr. Johnson stated his interpretation is that he did not think the Legislature did a good job, they could have said "actively occupied". He stated he is leaning toward what Ms. Matt said, if the house is for sale is that actively used? Mr. Johnson thought so, in that it would still be sold as a single-family home. He had a slight concern that if it is purchased by a corporation, but it's being developed into a single-family home.

Mr. Mandelkern asked Mr. Johnson if he could ask Mr. Geller a question, which he granted. Mr. Mandelkern asked Mr. Geller if in his research he looked at the legislative history of the statute, and if there was any indication of what the legislative intent was in the language. Mr. Geller asked Mr. Nye if he could get the old version of the statute. Under the old version, a developer would have a good argument that the exemption from permitting could apply. He stated when the Legislature amended §163.045 it was to foreclose that possibility. The language that he pointed out says more than actively used, it talks about residential purposes.

Mr. Geller then read the 2019 version from Mr. Nye's phone: "A local government may not require a notice, application, approval permit fee or mitigation for the pruning, trimming, or removal of a tree on residential property. If the property owner obtains documentation from an arborist certified by the ISA or a Florida licensed Landscape Architect that the tree presents a danger to persons or property". He stated before it just talked about residential property, but now the Legislature went back because frankly, this statute was being abused, and the Legislature changed it from "residential Property" to "a lot that is actively used for single-family residential purposes". He stated the Board could debate what "residential purposes" means. Mr. Geller believed it means to reside on the property, and that is how the city interpreted it when the local ordinance was adopted. The Board is also supposed to enforce the local ordinances as well, and it was very clear under the local ordnance that he presented that it must be an occupied home. Mr. Mandelkern thanked Mr. Geller for confirming that there was a change made from the 2019 version to the 2022 version to clear up the status of the property, which was not artfully done as Mr. Johnson pointed out. Mr. Geller responded that he understood but that it was up to the Board.

Mr. Vasquez wished to interject. Mr. Johnson told him no that the case was closed for discussion.

Mr. Johnson stated he didn't need a response to what had changed, that it could be residential and multi-family, the stature is limited to actively used residential purposes and Mr. Vasquez said property use will not change from time of sale, before sale, or after sale. During development, they can take Mr. Vasquez' word that it will remain single-family.

Mr. Johnson called for a motion. Mr. Mandelkern interjected, pointing out that the proposed motion only had one respondent listed, Winter Park Luxury Home Builders, but the body of the motion says "respondents (plural) jointly and severally ordered to obtain an after-the-fact tree removal permit". Mr. Mandelkern wished to confirm there is only one respondent.

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Mr. Geller responded that the Notice of Violation went to the buyer of the property, and also to the tree removal company and to the arborist. He said when he looked at the Notice of Hearing it only listed one respondent, which was Winter Park Luxury Home Builders. Mr. Geller suggested that the Board limit their motion to the one respondent that was listed on the Notice of Hearing to avoid any due process issues as to partis who were not listed on the Notice of Hearing.

Mr. Mandelkern proposed the following motion:

> From the evidence presented today, I move to find the Respondent, Winter Park Luxury Home Builders, LLC, Compliance Board Case #LDC-25-0276, owners of 2012 Loch Berry Road, Winter Park, FL 32789 in violation of Chapter 58 (Land Development), Article V. (Environmental Protection Regulations), Division 6. (Tree Preservation and Protection), Section 58-284 (Tree Removal Permits), of the City of Winter Park Land Development Code.
>
> The Respondents have been properly notified per regular and certified mail and posting at the subject property and at City Hall to satisfy Florida Statutes chapter 162 and City Code section 2-109 due process requirements.
>
> The Code Compliance Board affirms the decision of the Urban Forestry Division as follows: The Respondent is ordered to obtain an after-the-fact tree removal permit and pay $25,740.00 into the Tree Trust Fund within 10 days of this hearing date. Failure to comply with this order will result in fines of up to $250.00 per day. The Respondent are further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken to comply with this Order within 10 days of the date of this hearing.
>
> No second or amendment was received, the motion failed.

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Mr. Johnson proposed the following motion:

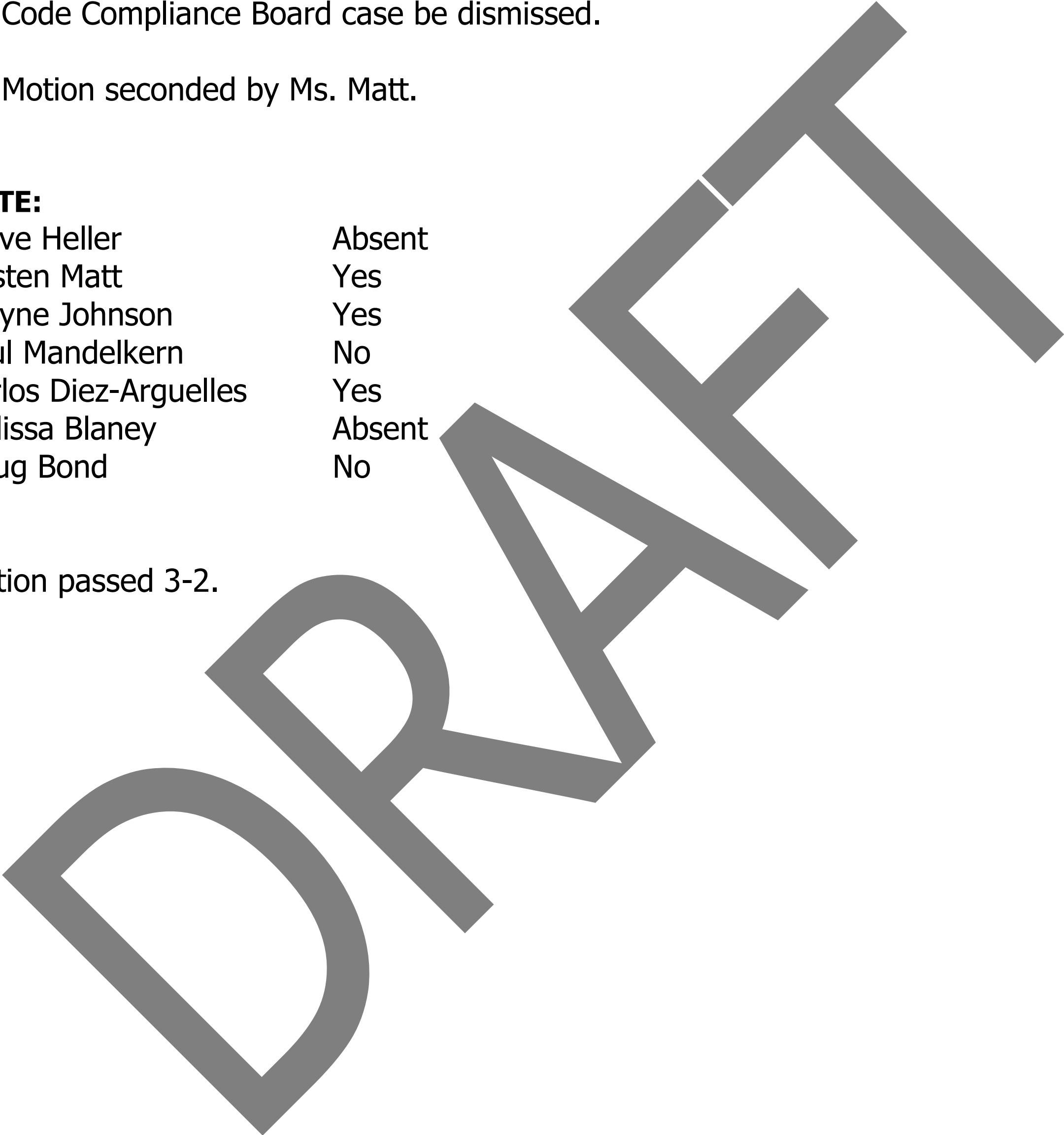
From the evidence presented today, I move to find the Respondent, Winter Park Luxury Home Builders, LLC, Compliance Board Case #LDC-25-0276, owners of 2012 Loch Berry Road, Winter Park, FL 32789 not to be in violation of Chapter 58 (Land Development), Article V. (Environmental Protection Regulations), Division 6. (Tree Preservation and Protection), Section 58-284 (Tree Removal Permits), of the City of Winter Park Land Development Code, and to be in compliance with Florida Statute 163.045, and that the Code Compliance Board case be dismissed.

Motion seconded by Ms. Matt.

VOTE:

Steve Heller	Absent
Kristen Matt	Yes
Wayne Johnson	Yes
Paul Mandelkern	No
Carlos Diez-Arguelles	Yes
Melissa Blaney	Absent
Doug Bond	No

Motion passed 3-2.



b. **Case LDC-25-0076 350 Carolina Ave., Winter Park, FL 32789**

Officer Christina Busch introduced herself and stated she would be providing information on the violation occurring at 210 N. Knowles Ave., 165 Lincoln Ave., and sidewalks adjacent to those locations.

Debbie Summers, who resides at 350 Carolina Ave., Unit 302, Winter Park, FL 32789 has been verified as the violator by government issued Driver's License. Officer Busch presented the property information for both the property on Knowles Ave. and Lincoln Ave. as per the Orange County Property Appraisers records. She stated that the property was brought to the code compliance office by a transfer from upper management from Winter Park Police Department to aid in the collection of evidence against the violator.

Officer Busch provided the codes cited as follows: Chapter 18 Animals. Article 1, Sec. 18-14 (a) Prohibited in Certain Parks, Playground Areas and Streets and Sidewalks of the City of Winter Park codes and ordinances. Chapter 22; Article V – Property and Building Maintenance; Sec. 22-177. Amendments: Sec. 202 Nuisance, (1), (14), b, c and d of the City of Winter Park Property and Building Maintenance Code as adopted and amended.

Officer Busch stated the Warning Citation and Notice of Hearing were issued regular and certified mail, hand delivery, and posted on the property and at City Hall to meet Florida statute 162 due process requirements.

Officer Busch offered the following description of the violations: Feeding feral cats which is a violation of the City of Winter Park code of ordinances and leaving food residue along the city's sidewalk areas. The corrective action required is to cease the feeding of feral cats, wildlife and any other animals on private and or city property. She displayed a numbered and highlighted map showing the areas where the violations have occurred, noting that 201 N. Knowles Ave. and 165 Lincoln were both private properties.

Officer Busch provided a photograph of her initial inspection on January 15, 2025, depicting Ms. Summers with a plastic plate of animal food which she placed on city property on the sidewalk area. Officer Busch self-observed the violation, approached Ms. Summers, and issued a warning citation by hand. The citation was issued in front of the property at 456 Carolina Ave., but the violation was occurring on the city sidewalk. Officer Busch then displayed the Warning Citation Notice and the Affidavit of Hand Delivery. Officer Busch stated she also provided Ms. Summers with information on the violation that was cited and a copy of the code.

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Follow-up inspections conducted on January 27 and January 28, January 29, February 3, February 4, and February 5, 2025, near area 1 from the map that is next to Lake Knowles. Found plastic plates with animal food residue on the electrical box and trash on the ground.

Follow-up inspections conducted on February 13, February 18, February 21, February 28, March 3, and March 12, 2025, found no food residue or trash on the box or the ground.

A follow-up inspection conducted March 13, 2025, at 7:00 AM found the location of the plastic plates and food being moved into the base of a tree on private property at 210 N. Knowles Ave. Officer Busch stated she came in before her shift to see if she could witness the action. A follow-up inspection conducted March 14, 2025, found animal food on the city sidewalk.

Follow-up inspections on March 17, March 18, and March 25, 2025, found nothing on the electrical box, but plastic plates with food residue was found at the base of the tree on private property at 210 N. Knowles Ave. The follow-up inspection conducted on March 27, 2025, captured video evidence of wildlife eating the animal food placed at the base of the tree.

A surveillance camera was installed with permission from the arborist to install it on a city tree to gather evidence and catch video evidence of the action. Footage from inspections conducted on March 28, March 29, and March 30, 2025, showed animal food being placed at the base of the tree. On March 31, 2025, an in-person follow-up inspection was conducted to take photos of the base of the tree to confirm the items being placed were the plastic plates with food that had been documented in the videos.

A follow-up inspection conducted on April 1, 2025, again recorded food being placed at the base of the tree in the morning and later in the day. Officer Busch then showed videos from April 2, 2025, and while it showed no action in the early recording, it was the video used to identify Ms. Summers as the violator placing the animal food. Officer Busch went to the property on April 2, 2025, and photographed the plastic plates and food residue left at the base of the tree.

The follow-up inspection conducted on April 3, 2025, the video surveillance camera caught an opossum be attracted to the food and moving towards it. Later the camera caught the feeding action again.

The follow-up inspection conducted April 4, 2025, again recorded the action. Officer Busch visited the property later that day and photographed the plates with animal food were there. A follow-up inspection on April 6, 2025, the video camera recorded the feeding again.

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On April 8, 2025, an in-person inspection was conducted documenting that the violation remains. On April 10, 2025, the camera recorded the action again. On April 14, 2025, April 17, 2025, and April 29, 2025, Officer Busch inspected the property and photographed plastic plates and food at the base of the tree.

The follow-up inspections conducted on April 30, 2025, and May 7, May 12, May 20, May 25, and May 27, 2025, found no evidence of plastic plates or animal food at the tree base.

The code office was receiving calls from a neighbor saying the feeding location had changed. This will be the third location where the violation is occurring. It was reported as happening in front of the location at 165 Lincoln Ave.

An amended Notice of Hearing was posted to the front door of the unit owned by Ms. Summers on June 13, 2025.

A follow-up inspection conducted on June 29, 2025, recorded video of plastic plates with food being placed at the 165 Lincoln Ave. property in both the morning and evening hours. Thid documents that the violator changes feeding locations often. Video recording documented action on June 30, 2025, at 5:58 AM. This video shows that Ms. Summers did pick up a plate but also shows her shaking the food residue off of it and onto the city sidewalk. The camera also recorded Ms. Summers picking up the plates later that same day.

A follow-up inspection conducted July 1, 2025, recorded more food being placed. Office Busch presented a zoomed-in photo to confirm the plates with food were there. A follow-up inspection on July 2, 2025, shows video of two cats eating from the food that was left. A follow-up inspection was conducted today, July 3, 2025, the camera recorded action early in the morning and later in the day. Officer Busch pointed out in the video that Ms. Summers dumped leftover food next to a cleanout located at the front of the property and provided a close-up photo of the cleanout with food around it. Photos of the other areas on July 3, 2025, were presented to show that no action is occurring in these areas at the moment. She also presented neighborhood Ring camera footage from a neighbor in the area along with his concern regarding Ms. Summers feeding the cats in front of his unit.

Officer Busch presented a letter received by Code Compliance from the neighbor who is affected by the actions. He wrote the letter because he was unable to attend the hearing. Officer Busch allowed the Board time to read the letter and displayed a photograph that was included with it.

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Officer Busch presented supplemental research conducted regarding the feeding of stray or feral animals, obtained via the internet:

a) from an article written by a Natural Resources Specialist at the West Point Military Academy describing parasites (ticks, fleas, worms, mites), feline leukemia, immunodeficiency, and distemper viruses, as well as toxoplasmosis and rabies which can be transmitted by a bite or scratch, and property damage (creating unsanitary conditions).

b) from the Florida Fish and Wildlife Conservation Commission on feeding, noting a single free-ranging cate may kill 100 or more birds and mammals per year, they compete with native wildlife and can spread disease, and can be a nuisance in garden when the defecate and cover their feces by digging.

Mr. Johnson confirmed with Officer Busch that she hand-delivered the warning and asked if she spoke to Ms. Summers. Officer Busch stated that she did speak with Ms. Summers to let her know exactly what the violation was and why she was receiving the warning citation. Mr. Johnson then asked Officer Busch if she personally witnessed Ms. Summers feeding the cats. Officer Busch stated that on January 15, 2025, she did witness Ms. Summers placing a plate of food down. Mr. Johnson asked about the last video presented from a neighbor's Ring camera, confirming if the footage was from someone's home as opposed to a condominium or apartment. Officer Busch stated the property is zoned office, and she wasn't sure how all of the units were utilized, but there were multiple units on the property. Mr. Johnson asked if it was someone's private property; Officer Busch stated yes.

Mr. Mandelkern confirmed with Officer Busch that from the presentation several different locations were being used to feed the cats, and if they were private property. Officer Busch stated the site where the electrical box was located is city property, the property with the white fence (210 N. Knowles Ave.) is private property, and the property at 165 Lincoln Ave., where she was placing food near the front door is also private property. Mr. Mandelkern asked about one of the codes being cited, City Code 18-14, and noted that the whole city code is not included in the board packet. He stated it looked like the heading read "is prohibited in certain parks, playground areas, and streets and sidewalks". He asked if this was an excerpt, reading "the feeding of feral cats is prohibited", and asked if feeding was prohibited in the entire City of Winter Park, no matter where the cat is. Officer Busch stated yes. Mr. Mandelkern asked if he fed a feral cat on his property if he would be in violation of the city code. Mr. Johnson interjected, asking if "feral cat" meant that it was not owned by anyone. Mr. Mandelkern stated he wanted clarification because it seemed like most of the feeding took place on private property, not on city streets and sidewalks, and reiterated that the Board did not have the whole code section in the motion. He read that what he did have said "further the feeding of feral cats is prohibited", then addresses a possible fine.

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Division Manager Susanne Porras responded to Mr. Mandelkern, stating the difference with the case was that Ms. Summers was placing food on private properties, and it ends up on the city sidewalks. Officer Porras state that the food is either placed there or spread out by animals that come after the residue left by cats, causing slippery conditions. She stated the city did not cite this, but the area is near a church and a school, so this created a safety issue for parents and students using the sidewalks. Mr. Mandelkern recognized that the feeding of the cats was not the only problem based on Officer Porras' statement.

Ms. Debbie Summers of 350 Carolina Ave., Unit 302, Winter Park, FL 32789 approached the podium and identified herself. Ms. Summers stated that she did not deny feeding the cats but came to argue the code violation Officer Busch used. Ms. Summers stated that the part of Section 18-14, "which is prohibited in certain parks, etc." is very specific. She read from the code "it is prohibited in certain parks, playground areas, and streets and sidewalks" and then stated the code goes into specific parks. Ms. Summers stated that Officer Busch took a portion of the code that applied specifically to Mead Botanical Gardens. Ms. Summers argued that in the video showing her shaking plates she was shaking off water and placing the plates in a bag. She stated she does not put food on the sidewalks.

Ms. Summers explained that in the summer of 2024, she came into the area with two cat trappers and that there were many cats on the 210 N. Knowles Ave. property. She stated that she had previously done this in her own neighborhood on Carolina Ave. and Virginia Ave. where the trappers helped capture and vaccinate 35 cats, and to date she has seen no new cats or kittens. She stated that when she heard about the cats on N. Knowles Ave. she called the trapper, and they trapped 29 cats and kittens ranging from four months to one year in age and some were pregnant. Over the next few weeks, a total of 53 cats were trapped. Ms. Summers stated the trapper works with Pet Alliance, Spay N Save, and Orange County Animal Control, and gets an allotment of appointments for vaccinations.

Ms. Summers stated that most of the cats were adopted, but three of the cats returned to the area. One of them was adopted by a neighbor in the area, and the others returned months later from the foster. They were all vaccinated. Ms. Summers stated that it has been proven that to trap animals you have to feed them. She worked to relocate them to the property at 210 N. Knowles Ave. because there is less foot traffic during the summer.

Mr. Johnson stopped Ms. Summers, noting she was straying from the subject, but did mention some things that are relevant. Mr. Johnson confirmed Ms. Summers' statement that the cats were vaccinated. Ms. Summers stated yes, they are vaccinated and spayed or neutered, and that it has taken her five months to get them to the N. Lake Knowles property. Mr. Johnson asked that by "vaccinated" if the diseases Officer Busch described were included. Ms. Summers stated yes. She also stated that when they are spayed or neutered the vet "tips" one ear so that animal control won't pick them up, and that the goal is to control the population.

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Ms. Summers then told the Board that she did not place any food on the city's electrical box. She also stated there was an elderly lady who lives on N. Knowles Ave. who does not like Ms. Summers feeding the cats despite being told that she was trying to relocate them to a less populated area with a goal to drop-trap and relocate them to a rescue in Tampa. Ms. Summers stated the elder woman kept interfering, and Ms. Summers accused this person of dumping the plates on the electrical box or throwing the plates on the street. Mr. Johnson stopped Ms. Summers again and asked if she had any further testimony in regard to what she was charged with. Ms. Summers stated no, but added her goal was to trap the cats, that this situation has caused her turmoil, that she is only trying to help the community, and that she has trapped hundreds of cats in several areas of Winter Park.

Mr. Johnson asked how many cats Ms. Summers has trapped since January 15, 2025. Ms. Summers was confused by the question, and Mr. Johnson stated that she had stated different numbers, so his interest was specifically about how many had been trapped since January 15, 2025. Ms. Summers repeated her statement about cat populations and Mr. Johnson stopped her again.

Mr. Bond stated he wasn't clear about the number of cats Ms. Summers was feeding. Ms. Summers stated two. Mr. Bond confirmed that these were the two cats she was trying to catch and get then vaccinated and spayed or neutered. Ms. Summers stated yes that she thought they were fostered and were going to be adopted, but the foster brought them back and did not inform her until months later.

Ms. Summers then addressed the nuisance charge, asking if that was because of the plates on city property. Mr. Johnson stated no, and read that it said, "a condition likely to harbor rats, vermin, and other similar creatures constituting a health hazard". He referred to the video Officer Busch provided of the opossum coming to the leftover food residue.

Ms. Summers went on about articles stating that the animals are healthier and are not spreading diseases. She stated the cats she is feeding are starting to warm up to her, and again that her objective is to clean up the city and the feral cat population. She asked the Board if she could continue to try to trap the two cats, who she is working to get approval from the rescue facility to take them. Mr. Johnson asked Ms. Summers how much longer she thought it was going to take to trap them. Ms. Summers said it shouldn't take much longer, that she has to get the trapper and the person who will transport them to the rescue in Tampa. Mr. Johnson asked if this would take two weeks, and Ms. Summers replied yes.

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Mr. Johnson asked if there was any response from the city. Assistant City Attorney Geller stated that he was talking earlier about textual interpretation, thought that Ms. Summers was correct on the first part of the code cited, that it specifically pertains to Mead Gardens. He stated that the section heading says "certain parks", and then the sub paragraph reads "Mead Botanical Gardens". He stated that the Chapter 18 Animals article and section 18-14, sub-paragraph a, he would strike that. The second part refers to the property maintenance code 22-177, sub-paragraph one, 14 b, c, and d. B is "the condition likely to harbor rats, vermin, or other similar creatures constituting a health hazard". C is "causes appreciable harm or material detriment to the aesthetic and/or property values of surrounding property, and D "creates a safety hazard due to slipping or tripping on sidewalks or similar surfaces". Staff would maintain this is still applicable.

Mr. Mandelkern asked Mr. Geller if there was a specific penalty for the section he read. Mr. Geller stated no but stated it was classified as a nuisance and would come under the Board's general powers under code enforcement Chapter 162 and the city code of fines. Mr. Geller stated that if eventually the Board finds Ms. Summers in violation it would be a fine of up to $250.00 per day.

Mr. Mandelkern asked Mr. Geller with the advantage of having the entire 18-14 code if he was saying that the code only applied to Mead Gardens. Mr. Geller stated yes and that 18-14 (a) states Mead Gardens. Mr. Mandelkern confirmed that it was not applicable for this hearing, and Mr. Geller stated it was his interpretation and his recommendation to the Board.

Ms. Summers asked to respond; Mr. Johnson allowed this. Ms. Summers stated that she interpreted the nuisance as if she owned and failed to upkeep the property, i.e. if the grass grew or she wasn't taking care of the property allowing wildlife to move into the area then she would understand being in violation, but that she does not own or lease the property that she is being charged with a nuisance.

Mr. Geller offered the exact wording. "Nuisance – the following shall be defined as nuisances. It is a public nuisance for any person owning, leasing, occupying or having charge of any premises of occupying any premises in this city to maintain or permit to exist such premises in such manner that any one or more of the following conditions are to exist thereon".

Mr. Johnson stated that No. 14 seemed to apply to vegetation. Mr. Mandelkern asked if it does not apply to someone who is trespassing. Mr. Geller stated it applies to any premises in the city that someone is occupying, and certainly standing on the premises is occupying the property.

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Ms. Summers stated that she was not standing on the premises. Mr. Mandelkern responded to Ms. Summers that she was trespassing, so she was occupying the premises and creating a public nuisance, and she fell under that prohibition.

Mr. Geller stated that he was not going as far as to say what is and what is not a trespass, that is not what the code requires, only that you are occupying the premises and engaged in any of these issues.

Mr. Bond asked for a definition of a feral cat, noting that people have cats outside all the time. Officer Porras responded that the city did not, but could look for one, and for this reason it was not included.

Mr. Johnson reminded the Board that they were no longer discussing Section 18-14 as it was withdrawn, and the Nuisance code did not specifically say feral cats. Mr. Geller confirmed, the code was only referring to the food left on the sidewalks and any conditions that could harbor vermin. Mr. Johnson stated that the opossum seen would be considered vermin, and Mr. Geller stated that it was up to the Board to determine. Mr. Johnson stated that he considered opossum as vermin.

Mr. Johnson called for anyone from the public to speak. Officer Porras stated that one of the neighbors was present. Ms. Summers objected, that the neighbor was the one who was complaining all the time.

Ms. Judith Meyers of 235 N. Knowles Ave. introduced herself. Ms. Meyers stated that last year the problem with feral cats became quite evident. She stated that she had bird feeders hanging under the eaves of her home, and that the cats would stay near the feeders and were attacking and killing the birds that ate on the ground. She then stated that she knew what has been referred to as the Bigelow House at 210 N. Knowles Ave. has a problem with the smell of cat urine from them spraying the furniture on the porch. She alerted the city that there was a problem with feral cats. Following that notice she received a call from a code enforcement officer and had since received additional notifications from them asking her to appear before the Board at this hearing. She stated that her neighbor who lived on Lincoln Ave. let her know that he would be out of town today and requested that she appear.

Ms. Meyers stated that the cats were defecating around her property and spraying on her cars, and the smell is quite strong at times. She stated that the problem with the cats is that they are being fed.

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Ms. Summers asked to respond to Ms. Meyers' claims, which Mr. Johnson allowed. Ms. Summers approached the podium and stated that once the cats are spayed or neutered they no longer spray. Ms. Summers stated that it could be raccoons or other animals on her property, and that Ms. Meyers has claimed this for many years. Ms. Summers stated that she has tried to talk to Ms. Meyers about what "our" purpose is and what "we" are doing to clean up, but she didn't care. Ms. Summers then stated that "we" took 16 cats, two males, one female, and their kittens from under Ms. Meyers' home, noting that Ms. Meyers had done nothing to help with the problem. Mr. Johnson interrupted Ms. Summers, explaining that her time to speak was limited and she previously explained that the cats that are spayed do no spray. Ms. Summers then stated that she and other neighbors had witnessed Ms. Meyers bringing out large containers of cayenne pepper putting it down the sidewalk on city property, around the trees and around the perimeter of that property and accused Ms. Meyers of being the most feral of them all. Mr. Johnson interrupted Ms. Summers, stating that the Board must limit the allegations Ms. Summers was making.

Ms. Meyers asked to respond to Ms. Summers', but Mr. Johnson explained that Ms. Summers had a right to respond, where Ms. Meyers did not. Ms. Meyers continued from her seat about neighbors seeing raccoons and opossums when they returned from work at night, and that she only put the cayenne pepper out once.

Board Discussion:

Mr. Johnson stated that code 18-14 was withdrawn, but the nuisance violation, under No.1 states, "any public nuisance had common law or equity" and thought perhaps that would apply to the cats. 14 seems to apply to vegetation in his opinion, if a person lets their lawn overgrow and because of that vermin or rats come into it.

Ms. Matt stated that going back to the earlier debate on textualism, the nuisance applies. "It is a public nuisance for any person owning, leasing, occupying, or having charge of any premises in this city to maintain or permit to exist". She stated that it was brought up that occupying could be implied to mean that a person who is physically on the property but not necessarily owning, leasing, or maintaining the property. Ms. Matt did not agree with that interpretation, stating it was too broad. She stated she did not think someone standing on public or private property would equate to them occupying legally the property in this context. She stated that she was not sure this section of Article 5 applies.

Mr. Mandelkern agreed with Ms. Matt, stating that because when she read that it said a person had to "maintain or permit to exist such premises in such manner" that someone who was just on the property would not be maintaining it or permitting it to exist.

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Ms. Matt made the following motion:
From the evidence presented today, I move to find the Respondent, Debbie G. Summers, Compliance Board Case #LDC-25-0076, owner of 350 Carolina Avenue Unit 302, Winter Park, FL 32789 not in violation of Chapter 18 (Animals), Article 1, Sec. 18-14(a) (Prohibited in Certain Parks, Playground Areas and Streets and Sidewalks); Chapter 22, Article V (Property and Building Maintenance), Sec. 22-177 (Amendments to International Property Maintenance Code), Sec. 202(1), (14)b., c. and d. (Nuisance) of the City of Winter Park Property and Building Maintenance Code as adopted and amended.

Motion second by Doug Bond.

Vote:

Steve Heller	Absent
Kristen Matt	Yes
Wayne Johnson	No
Paul Mandelkern	Yes
Carlos Diez-Arguelles	Yes
Melissa Blaney	Absent
Doug Bond	Yes

Motion carried 4-1.

Mr. Mandelkern stated that he voted in favor of the motion, but his own personal view is that there is a nuisance being created. However, he did not think the code section replied upon applies here. He suggested to Ms. Summers that she trap the remaining cats, then cease and desist. He also suggested to the city that perhaps there is a different city code section that applies and that if the problem continues they return with a case using a different code section. He reiterated that his vote was based solely on the fact that the codes used did not apply to this particular situation. Ms. Porras and Mr. Geller acknowledged Mr. Mandelkern' s suggestion.

7. Non-Action Items

None

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8. Staff Updates

Officer Porras advised the Board of three cases that came into compliance prior to the hearing date:

LDC-24-0065 – 1791 Goodrich Ave., Winter Park, FL 32789 – Short-Term Rental
LDC-25-0138 – 2218 Whitehall Dr., Winter Park, FL 32792 - Illegal Parking
LDC-25-0195 – 2149 Blossom Ln., Winter Park, FL 32789 – Illegal Parking

Mr. Mandelkern commented on the 2218 Whitehall Drive case as he had a personal interest in it. He confirmed with Officer Porras that the case was regarding a commercial vehicle parked on the property, noting that he walked by the property every morning and saw a work truck parked there.

Mr. Johnson quipped that he confused the 2218 Whitehall Dr. case with the 1260 Whitesell Dr. case.

9. City Attorney Reports

Mr. Geller provided an update on 1260 Whitesell Dr., Winter Park, FL 32789. He stated the report came from Mr. Jontz with Fishback-Dominick, who is prosecuting the foreclosure. The report states that Mr. Gary Moore has made some payments but has not compensated the city for its attorney fees or court costs, such as the filing fee. An Estoppel letter was sent to Mr. Moore on June 24, 2025, for all amounts due and owing including the attorney's fees and costs good through July 31, 2025. If Mr. Moore makes the required payment on or before July 31, 2025, he will have paid off the lien and the case would be dismissed. If he fails to do so the city will continue prosecuting and the motion for summary judgement of foreclosure is just awaiting some information as to whether certain checks have cleared. The city will proceed in due course.

10. Board Comments:

None

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11. Upcoming Agenda Items

Officer Porras informed the Board of one case on the schedule, one that has been brought before the Board before, being 820 W. Webster Ave., Winter Park, FL 32789. Officer Porras stated there was a Massey Hearing held, and at the time the property owner complied, and the city issued the Affidavit of Compliance. However, the property is starting to look bad again, so we will be bringing the case back to the Board.

Mr. Johnson asked Ms. Porras if this was the case with the fence and the relative that keeps moving articles onto the property. Ms. Porras confirmed it was.

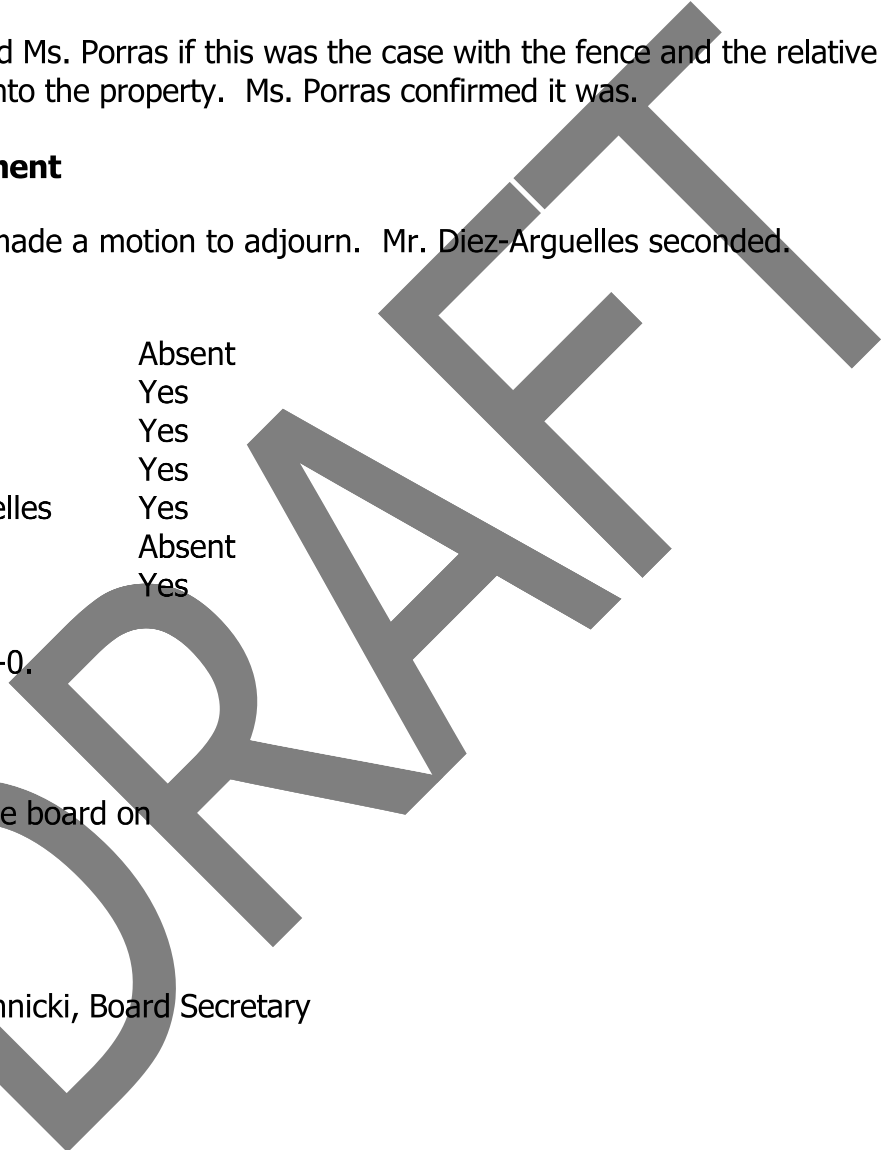
12. Adjournment

Mr. Mandelkern made a motion to adjourn. Mr. Diez-Arguelles seconded.

VOTE:

Steve Heller	Absent
Kristen Matt	Yes
Wayne Johnson	Yes
Paul Mandelkern	Yes
Carlos Diez-Arguelles	Yes
Melissa Blaney	Absent
Doug Bond	Yes

Motion passed 5 -0.



ATTEST:

Approved by the board on

/s/ Susan Pruchnicki, Board Secretary

Code Compliance Board

agenda item 5.a

item type
Public Hearings (Public participation and comment on these matters must be in person.)

meeting date
September 4, 2025

prepared by
Susan Pruchnicki, Coordinator

approved by

subject
None

motion | recommendation

background

alternatives | other considerations

fiscal impact

attachments
None

Code Compliance Board

agenda item 7.a

item type	meeting date
Staff Updates	September 4, 2025
prepared by	**approved by**
Susan Pruchnicki, Coordinator	Susanne Porras, Code Compliance Manager

subject

OVR-25-0197 678 Depugh St., Winter Park, FL 32789 (Overgrowth)

motion | recommendation

background

alternatives | other considerations

fiscal impact

attachments

None

Code Compliance Board

agenda item 7.b

item type
Staff Updates

meeting date
September 4, 2025

prepared by
Susan Pruchnicki, Coordinator

approved by
Susanne Porras, Code Compliance Manager

subject
LDC-25-0342 805 Symonds Ave., Winter Park FL 32789 (Disabled Vehicle)

motion | recommendation

background

alternatives | other considerations

fiscal impact

attachments
None