



# City Commission Regular Meeting

## Agenda

**February 23, 2022 @ 3:30 pm**

City Hall - Commission Chambers  
401 S. Park Avenue

### welcome

Agendas and all backup material supporting each agenda item are accessible via the city's website at [cityofwinterpark.org/bpm](http://cityofwinterpark.org/bpm) and include virtual meeting instructions.

### assistance & appeals

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office ([407-599-3277](tel:407-599-3277)) at least 48 hours in advance of the meeting.

"If a person decides to appeal any decision made by the Board with respect to any matter considered at this hearing, a record of the proceedings is needed to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105).

### please note

Times are projected and subject to change.

**1. Meeting Called to Order****2. Invocation**

- a. Jocelyn Williamson, Central Florida Freethought Community 1 minute

**Pledge of Allegiance****3. Approval of Agenda****4. Mayor Report**

- a. Recognition of Don Palladeno for his service to the Police and Fire Departments. 5 minutes

**5. City Manager Report**

- a. Confirmation of Timothy R. Volkerson as Winter Park Police Chief 5 minutes

**6. City Attorney Report**

- a. Declaration of Restrictive Covenant - West Meadow 5 minutes

**7. Non-Action Items****8. Public Comments | 5 p.m. or soon thereafter**

(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting)

(Three minutes are allowed for each speaker)

**9. Consent Agenda**

- a. Approval of the minutes of the joint work session with EDAB, February 8, 2022 1 minute
- b. Approval of the minutes of the regular meeting, February 9, 2022 1 minute
- c. Approval of the minutes of the work session, February 10, 2022 1 minute
- d. Approve the following contract: 1 minute
1. Lewis Outdoor Solutions - IFB7-17 - Landscape Maintenance for City Facilities for continued services with the vendor beyond the term length of the initial contract; Amount \$450,000

**10. Action Items Requiring Discussion**

- a. Request of Utility Advisory Board (UAB) to hire a consultant to 30 minutes



address governance by the UAB

- b. Appeal of Tree Permit Denial - 1417 Border Dr. 5 minutes
- c. COVID-19 Testing and Meeting procedures 20 minutes
- d. Winter Park High School - Request for Use of City Hall and Farmers Market parking lots as a fund raiser during the Spring Art Festival 15 minutes

## 11. Public Hearings

- a. Requests of Winter Park Town Center Ltd. (Winter Park Village): 1 minute
  - Conditional Use approval to construct a central architectural tower at a height of 63 feet, which requires a variance of 8 feet above the 55 feet (Regal Cinemas at Winter Park Village).
  - Conditional Use approval for the installation of three electronic signs on the front façade of Regal Cinemas

**The applicant has requested a continuance to the March 23, 2022 City Commission Meeting to have sufficient time to address concerns raised by members of the Planning and Zoning Board during the February 1, 2022 Planning and Zoning Board Meeting.**
- b. Requests of Winter Park Christian Church and Creative Neighbors LLC. 20 minutes
  - Winter Park Christian Church: Conditional Use approval to build a new replacement church facility on the 1.25 acres of the Lakemont frontage at 740/760 N. Lakemont Avenue, zoned R-1A;
  - Creative Neighbors LLC:
    - Ordinance amending the Comprehensive Plan Future Land Use Map; from Institutional to Single Family Residential on the rear 5.25 acres. (1st Reading)
    - Ordinance amending the Zoning Map to change from Single-Family (R-1A) zoning to Planned Unit Residential District (PURD) zoning. (1st Reading)
    - Approval of Preliminary Concept Plan for the Planned Unit Residential District zoning and to provide subdivision plat approval to divide the east/rear 5.25 acres of 740/760 N. Lakemont Avenue to provide for 13 single-family home lots and 12 townhouses lots, common area park and retention tracts.
- c. Requests of RSRW Properties LLC: 5 minutes
  - Ordinance: Annexing the property at 1471 Harmon Avenue (2nd reading)

- Ordinance: Establishing Low Density Residential Future Land Use (2nd reading)
  - Ordinance: Establishing Low Density Residential (R-2) zoning in order to build up to a two-family dwelling. (2nd reading)
- d. [Ordinance: Authorizing conveyance of property at 654 Selkirk Drive \(2nd reading\)](#) 5 minutes
- e. [Request of Z Properties for:](#) 15 minutes
- Ordinance authorizing the conveyance of a stormwater pond drainage easement (1st reading); and
  - Approval to grant an easement to enlarge and maintain the city-owned retention pond located behind 341 N. Pennsylvania Avenue and to route stormwater retention from previously approved office building located at 301 N. Pennsylvania Avenue to the city-owned retention area. This item was continued from the February 9, 2022 meeting.

## **12. City Commission Reports**

## **13. Summary of Meeting Actions**

## **14. Adjournment**



# City Commission **agenda item**

|                         |                                |
|-------------------------|--------------------------------|
| item type Invocation    | meeting date February 23, 2022 |
| prepared by Rene Cranis | approved by                    |
| board approval          |                                |
| strategic objective     |                                |

## subject

Jocelyn Williamson, Central Florida Freethought Community

## motion / recommendation

## background

## alternatives / other considerations

## fiscal impact



# City Commission **agenda item**

|                         |                                |
|-------------------------|--------------------------------|
| item type Mayor Report  | meeting date February 23, 2022 |
| prepared by Rene Cranis | approved by                    |
| board approval          |                                |
| strategic objective     |                                |

## **subject**

Recognition of Don Palladeno for his service to the Police and Fire Departments.

## **motion / recommendation**

## **background**

Fire Chief Dan Hagedorn and Acting Police Chief Pam Marcus will present a plaque to Don Palladeno for his support of the Police and Fire Departments. Jim Huckeba as well as other board members of the Friends of Winter Park Police and Fire will be present to speak.

## **alternatives / other considerations**

## **fiscal impact**



# City Commission **agenda item**

|                                       |                                                     |
|---------------------------------------|-----------------------------------------------------|
| <b>item type</b> City Manager Report  | <b>meeting date</b> February 23, 2022               |
| <b>prepared by</b> Michelle del Valle | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed       |                                                     |
| <b>strategic objective</b>            |                                                     |

## **subject**

Confirmation of Timothy R. Volkerson as Winter Park Police Chief

## **motion / recommendation**

Confirm Timothy R. Volkerson as Police Chief effective February 28, 2022

## **background**

The City Charter calls for the City Manager to seek the confirmation of the City Commission to appoint department Heads.

4.05 Powers and duties.

The city manager shall:

(b) Appoint department heads and the city clerk subject to the confirmation by the city commission.

A conditional offer has been made to Timothy R. Volkerson for the position of Police Chief. Tim is currently a Division Chief and has served the City of Winter Park for 21 years. Chief Volkerson is a 2018 graduate of the Federal Bureau of Investigation National Academy (FBINA) Class 274 and holds a Bachelor of Science in Psychology from the College of Mount Saint Joseph. Chief Volkerson holds many police and leadership related certifications and is currently a member of Leadership Winter Park class 32. His resume is attached.

An extensive interview process was conducted to include a mock media interview, a mock commission presentation; written essay questions and a panel interview. The evaluation panel included the Mayor, Civil Service Board Chair, City Manager, Assistant City Manager and Human Resources Division Director.

If confirmed, Chief Volkerson's swearing in ceremony will be March 2, 2022 at 3:00p.m.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[Timothy Volkerson Resume For Chief of Police.doc](#)

# Timothy R. Volkerson

500 N Virginia Avenue, Winter Park FL 32707

## **Professional Summary:**

I have nearly twenty-one years of experience with the Winter Park Police Department. I have worked in every division of the department and have a good understanding of daily operations for each division, through fostering positive relationships with officers and supervisors. I have worked with personnel from every division within the police department, as well as members from other divisions within the city, to achieve positive outcomes for criminal cases, critical incidents, training and special events. I am a member of several police leadership organizations in order to establish and cultivate relationships which have a positive effect on the police department. I have attended available advanced police leadership schools in order to develop my ability to successfully lead and manage personnel. I am an extremely dedicated, hardworking member of the department and have great zeal for the success of officers, the department and the city.

## **Education:**

- |                 |                                |                               |
|-----------------|--------------------------------|-------------------------------|
| • December 2018 | Masters Programs (FBINA)       | University of Virginia        |
|                 | Quantico, Virginia             |                               |
| • December 2000 | Bachelor of Science Psychology | College of Mount Saint Joseph |
|                 | Cincinnati, Ohio               |                               |
| • May 2001      | Law Enforcement Academy        | Valencia Criminal Justice     |
|                 | Institute                      | Orlando, Florida              |
| • June 1997     | High School Diploma            | Bishop Moore High School      |
|                 | Orlando, Florida               |                               |

May 2001 – Present      Law Enforcement Training & Designations

- Leadership Winter Park Class 32 (currently attending)
- Graduated Federal Bureau of Investigation National Academy (FBINA Class 274)
- Graduated Florida Department of Law Enforcement Senior Leadership Program (Elected by peers as Class Speaker)
- Graduated Valencia College of Public Safety Leadership Development Certificate Program
- Completed Florida Police Chief's Association STARS Future Police Chief training seminar
- Attended Career Development Training on various topics to include: Florida Police Chief Association Training Conference, Instructor Techniques, Firearms Instructor, Field Training Officer, National Incident Management System, Introduction to Incident Command Systems, Basic SWAT School, Barricade Subject and Hostage Rescue, Sniper 2, Basic Police Canine Course, Basic Police Canine Explosives Detection Course, Mountain Bike Patrol Course, Breath Test Operator and Narcotics identification and investigation, S.A.V.E. Instructor

**Professional Experience:**      2001 – Present      Winter Park Police Department      Florida

- |                                   |                                                 |
|-----------------------------------|-------------------------------------------------|
| • October 2021 to Present         | Police Division Chief, Operations               |
| • May 2020 to October 2021        | Police Division Chief, Criminal Investigations  |
| • April 2017 to May 2020          | Police Lieutenant, Criminal Investigations      |
| • 2016 to Present                 | FPCA Professional Standards Committee           |
| • September 2014 to April 2017    | Police Lieutenant, Patrol Division              |
| • December 2012 to September 2014 | Police Sergeant, Street Crimes Unit             |
| • January 2006 to January 2014    | Fraternal Order of Police Board Member          |
| • February 2005 to 2012           | Police Canine Unit, Special Operations Division |
| • January 2006 to December 2008   | Elected Representative, Civil Service Board     |
| • August 2002 to Present          | SWAT Team Member                                |
| • October 2002 to February 2005   | Explorer Advisor, Community Services            |
| • October 2002 to February 2005   | Mountain Bike Unit, Community Services          |
| • May 2001 to October 2002        | Patrol Officer, Operations Division             |

**Division Chief**

- Serving as senior command staff of the agency.
- Act as Police Chief in the Chief's absence.
- Participate in the development of all necessary departmental policies and procedures.
- Participate in the development and institution of a strategic plan for the police department and the transition to annual strategic goals.
- Participate in the annual budget process, for the agency as a whole, ensuring that our annual strategic goals are met in a fiscally responsible manner.
- Prepare and oversee the application and institution of grant moneys for supplemental funding of programs within the department.
- Development and institution of programs within the department, to include: Fixed location LPRs (License Plate Readers), sUAS (small unmanned aircraft systems or drone), Real Time Crime Center within the Investigative Criminal Intelligence Unit.
- Managing civilian crime scene personnel, records personnel, and communications personnel by overseeing the coordination of schedules, response to critical incidents, and fiscally responsible acquisition of appropriate equipment necessary for successful achievement of assigned duties.
- Serving as Division Chief for Operations Division, ensuring proper response and oversight during critical incidents, managing personnel and staffing levels, preparing division budget and fiscally responsible acquisition of appropriate equipment.
- Served as Division Chief for Investigations Division, responding to major incidents, guiding detectives to successful resolution of cases, managing personnel and staffing levels, preparing division budget and fiscally responsible acquisition of appropriate equipment.
- Serve as the SWAT Commander, overseeing training, operations, budget and equipment, and preparing SWAT operators to move into supervisory SWAT rolls.



- Serve as the Competition Committee Chairman for SWAT Round-Up International, coordinating all events for the international competition as well as participate in the planning and hosting of the event.
- Evaluate subordinates and make recommendations on pay raises, promotions and other changes in status of employees; complete performance appraisals for subordinate supervisors; review subordinate supervisor appraisals of officers and staff personnel.
- Advise and make recommendations to the Chief and City officials on matters of employee discipline, including discharge of all persons in lower ranks.
- Managing overtime, leave and training requests; prepare work schedules within the division; establish and evaluate goals and objectives.
- Prepare written reports, forms, and other paperwork as required; review, analyze and interpret various other records and reports.

### **Lieutenant**

- Served as the midnights Watch Commander, guiding patrol shifts to successfully apprehend multiple criminal groups committing spree crimes during the overnight hours.
- Served as the Investigations Division Lieutenant, managing caseloads and response to investigative call-outs.
- Implemented a paperless case tracking and management system, significantly reducing the time and work flow of case assignment and clearance.
- Participate in the annual development of department goals and budget.
- Participate in the development of the departments Discipline and Wellness Policies.
- Implemented Active Shooter response kits for members of the department.
- Assisted facilitating the participation in a grant which provided Narcan for officers to use on overdose patients, to help combat the opioid epidemic.
- Assisted with the development of a replacement rifle plan, which will eliminate the multiple rifle platforms and clear the department inventory of older and unreliable weapons.
- Assisted with the trial and procurement of body cameras for the department.
- Serve as the SWAT Commander.
- Serve as the Competition Committee Chairman for SWAT Round-Up International.
- Serve as a member of the FPCA Professional Standards Committee, which establishes training classes and conference training each year.

### **Sergeant**

- Worked in the Investigations Division Street Crimes Unit and was tasked with rejuvenating a low producing unit. Successfully targeted trending crimes through covert surveillance. Developed multiple confidential informants that were utilized to conduct numerous illicit drug buys as well as targeting a local business that was dealing a large amount of stolen electronics. Revitalized the unit's equipment with up-to-date electronic surveillance items.
- Served as the SWAT Sergeant, scheduling and documenting training, creating operational plans and budgeting and purchasing equipment. Helped with the policy and planning to create the Central Florida Metro SWAT Team.

**Officer**

- Patrol the City of Winter Park and enforce city ordinances and state laws.
- Worked in the Community Services Division Bicycle Unit, which targeted trending crimes through proactive patrols. Participated in community events like bike rodeos at local schools, Business Watch program and Welcome to Winter Park program.
- Worked in the Operations Division Canine Unit, working a full patrol canine that specialized in explosives detection. I worked consistently with other Central Florida law enforcement agencies for criminal apprehensions and dignitary protection events.
- Worked as an Entry Operator, Sniper and Team Leader for the Special Weapons and Tactics Team
- Served as an Explorer Advisor which provided me the opportunity to teach youth Explorers basic functions of law enforcement, which included participation in state competition.
- Served as the elected Civil Service Representative for the police department which allowed me to participate in policy review and offer input into policy changes.
- Served on the Fraternal Order of Police board as the Secretary, President and Past President.

**Service Awards:**

- Officer of the Month: March 2006, May 2009, February 2012
- Employee of the Year: December 2003
- F.O.P. Officer of the Year: January 2004
- Chief's Award of Excellence: 2004
- Unit Citation, SWAT: 2004, 2005, 2012
- Duty Performance Commendations: November 2001, April 2002, February 2003, November/December 2005, March/June/July 2006, January/October 2007, February/May/ June/July 2008, February 2009, July/August/September 2010, April 2017, April 2020



# City Commission **agenda item**

|                                |                                |
|--------------------------------|--------------------------------|
| item type City Attorney Report | meeting date February 23, 2022 |
| prepared by Rene Cranis        | approved by                    |
| board approval                 |                                |
| strategic objective            |                                |

## subject

Declaration of Restrictive Covenant - West Meadow

## motion / recommendation

## background

The Declaration does not include language requested by the Commission requiring at least four votes for passage of any ordinance to terminate, rescind, amend, or release the park purposes restriction for two reasons. First, the City Charter as it exists today could be used to invalidate the restrictive covenant as the four vote requirement could be used to invalidate the ordinance and potentially the Declaration since any action outside what is authorized by three affirmative votes is of no force. Second, if Charter Amendment #2 passes, it provides that the affirmative vote of at least four members of the City Commission shall be required for.... a "change in use of park land to a use that is not a recreational or park use." So, if the voters approve Amendment #2, to change the park use restriction to allow a non-park or non-recreational use would require four affirmative votes of members of the City Commission.

## alternatives / other considerations

## fiscal impact

### ATTACHMENTS:

[Declaration of Restrictive Covenant AKA Revd 2-15-22.docx](#)

### ATTACHMENTS:

[WEST MEADOW SKETCH OF DESCRIPTION 2-16-22.pdf](#)

AFTER RECORDING  
RETURN TO:

A. KURT ARDAMAN, ESQUIRE  
FISHBACK DOMINICK  
1947 LEE ROAD  
WINTER PARK, FLORIDA 32789

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**DECLARATION OF RESTRICTIVE COVENANT**

**THIS DECLARATION OF RESTRICTIVE COVENANT** (“Covenant”) is made this \_\_\_\_ day of \_\_\_\_\_, 202\_\_ by **CITY OF WINTER PARK**, a Florida municipal corporation (“City”) whose address is 401 Park Avenue South, Winter Park, Florida 32789.

**WITNESSETH:**

**WHEREAS**, City is the owner of that certain real property in Orange County, Florida, more particularly and graphically described on the attached Exhibit “A” and known as West Meadow Central Park (“West Meadows”); and

**WHEREAS**, certain portions of West Meadows are restricted by recorded public records to be used for park purposes only; and

**WHEREAS**, the City desires to restrict all of West Meadows to use for park purposes only; and

**WHEREAS**, the City wishes to implement this Covenant by recording this Covenant in the public records of Orange County, Florida.

**NOW, THEREFORE**, for good and valuable consideration the sufficiency and receipt of which is hereby acknowledged, the Covenant set forth herein constitutes record notice of the following:

Section 1. Restrictive Covenant. The use of West Meadows is hereby limited and restricted to park purposes only. Parks purposes includes active and/or passive park and recreational purposes and public events. To support and accommodate such authorized purposes, but without limitation on such authorized purposes, the construction, maintenance, repair, replacement, and use of facilities, structures, and improvements such as pavilions and restroom facilities, and other improvements which support, accommodate, or facilitate parks purposes are authorized.

Section 2. City’s Right to Terminate, Rescind, Release. Notwithstanding anything in this Covenant to the contrary, the City has and retains the right to terminate, rescind, amend, and/or release this Covenant, in the City’s discretion; provided, however, such termination, rescission, amendment, and/or release must occur by adopting an ordinance after two (2) readings and public hearings.

Section 3.     Binding Effect

. This Covenant shall run with title to the property set forth on Exhibit “A” attached hereto, and is binding upon the City and its heirs, successors, and assigns.

Section 4.     Severability/Inaction

. The determination by any Court with competent jurisdiction that any portion or provision of this Covenant is unenforceable, invalid or void shall not affect the validity or enforceability of all other provisions and portions hereof. No action or failure to act by the City shall constitute a waiver of any right or duty of the City under this Covenant nor shall any action or failure to act constitute approval or acquiescence in any breach hereunder except if specifically agreed to in writing by the City.

Section 5.     Applicable Law/Venue/Proceedings

. This Covenant shall be interpreted according to the laws of the State of Florida, and the proper venue of any actions arising hereunder or related to this Covenant shall lie exclusively in Orange County, Florida. In the event legal proceedings ensue for breach of this Covenant, the party against whom judgement is entered shall pay all costs, fees, charges, and expenses relative thereto, including reasonable attorneys’ fees and paralegal fees both as to trial and appellate levels of the prevailing party.

Section 6.     Effectiveness and Recording. The effective date of this Covenant shall be the date upon City Commission approval, and thereafter shall be recorded in the Public Records of Orange County, Florida.

(Signature Page to Follow)

WITNESS the execution hereof as of the date first written above.

Signed, sealed and delivered  
in the presence of:

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_  
Phil Anderson, Mayor

**STATE OF FLORIDA  
COUNTY OF ORANGE**

The foregoing instrument was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by PHIL ANDERSON, as  
Mayor of the City of Winter Park, who is (\_\_\_\_) personally known to me or who (\_\_\_\_) has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## CENTRAL PARK "WEST MEADOW"

## LEGAL DESCRIPTION:

ALL OF ORANGE COUNTY TAX PARCELS 05-22-30-9400-30-001, 05-22-30-9400-31-560 AND 05-22-30-9400-31-300, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF BLOCK 30, REVISED MAP OF THE TOWN OF WINTER PARK, AS RECORDED IN PLAT BOOK "A", PAGE 67, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LYING WEST OF THE RAILROAD RIGHT OF WAY AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAPS OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT SEGMENT "G" BOUNDARY SURVEY.

TOGETHER WITH

LOTS 28 THROUGH 35, INCLUSIVE, BLOCK 31, REVISED MAP OF THE TOWN OF WINTER PARK, AS RECORDED IN PLAT BOOK "A", PAGE 67, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

TOGETHER WITH

THE LOT DENOTED AS "RICHMOND" IN BLOCK 31, REVISED MAP OF THE TOWN OF WINTER PARK, AS RECORDED IN PLAT BOOK "A", PAGE 67, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA (ALSO KNOWN AS LOT 56, PLAN OF TOWN OF WINTER PARK, AS RECORDED IN MISCELLANEOUS BOOK 3, PAGE 220 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND RE-RECORDED IN PLAT BOOK "E", PAGE 38, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA).

TOGETHER WITH

THE FOLLOWING PORTIONS OF VACATED RIGHT OF WAY:

THE SOUTH 1/2 OF GARFIELD AVENUE AS VACATED BY THE CITY OF WINTER PARK ORDINANCE NUMBER 229, LYING NORTH OF BLOCK 30, REVISED MAP OF THE TOWN OF WINTER PARK, AS RECORDED IN PLAT BOOK "A", PAGE 67, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND LYING WEST OF THE RAILROAD RIGHT OF WAY AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAPS OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT SEGMENT "G" BOUNDARY SURVEY.

AND

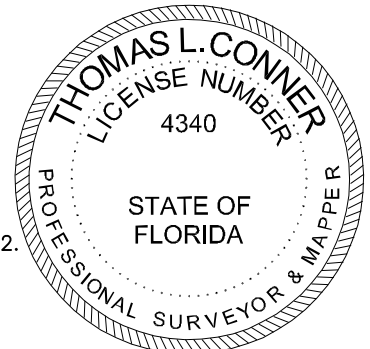
THE EAST 1/2 OF WEST PARK AVENUE, AS VACATED BY THE CITY OF WINTER PARK ORDINANCE NUMBER 301 LYING BETWEEN THE NORTH RIGHT OF WAY OF CAROLINA AVENUE AND THE CENTERLINE OF GARFIELD AVENUE; AND THE EAST 1/2 OF WEST PARK AVENUE, AS VACATED BY THE CITY OF WINTER PARK ORDINANCE NUMBER 2807-10, LYING BETWEEN THE NORTH RIGHT OF WAY OF CAROLINA AVENUE AND THE NORTH RIGHT OF WAY LINE OF MORSE BOULEVARD AND THE WEST 1/2 OF WEST PARK AVENUE AS VACATED BY SAID ORDINANCE 2807-10 LYING BETWEEN THE SOUTH RIGHT OF WAY LINE OF CAROLINA AVENUE AND SAID NORTH RIGHT OF WAY LINE OF MORSE BOULEVARD.

ALL OF THE ABOVE BEING THE AREA BOUNDED BY THE FOLLOWING DESCRIPTION:

BEGIN AT THE INTERSECTION OF THE NORTH RIGHT OF WAY OF WEST MORSE BOULEVARD WITH THE EAST RIGHT OF WAY OF NORTH NEW YORK AVENUE; THENCE RUN NORTHERLY ALONG SAID EAST RIGHT OF WAY OF NORTH NEW YORK AVENUE TO THE SOUTH RIGHT OF WAY OF CAROLINA AVENUE; THENCE EASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF CAROLINA AVENUE TO THE PROJECTED CENTERLINE OF WEST PARK AVENUE (NOW VACATED BY CITY OF WINTER PARK ORDINANCE NUMBER 2807-10 AND CITY OF WINTER PARK ORDINANCE NUMBER 301); THENCE RUN NORTHERLY ALONG SAID PROJECTED CENTERLINE AND THE CENTERLINE OF SAID WEST PARK AVENUE TO THE CENTERLINE OF GARFIELD AVENUE (NOW VACATED BY CITY OF WINTER PARK ORDINANCE NUMBER 229); THENCE RUN EASTERLY ALONG SAID CENTERLINE OF GARFIELD AVENUE TO THE WESTERLY RIGHT OF WAY LINE OF THE RAILROAD RIGHT OF WAY AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAPS OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT SEGMENT "G" BOUNDARY SURVEY; THENCE RUN SOUTHEASTERLY ALONG SAID WEST RIGHT OF WAY LINE OF SAID RAILROAD TO THE NORTH RIGHT OF WAY LINE OF AFOREMENTIONED WEST MORSE BOULEVARD; THENCE RUN WESTERLY ALONG SAID NORTH RIGHT OF WAY OF WEST MORSE BOULEVARD TO THE POINT OF BEGINNING.

## NOTES:

1. SKETCH AND DESCRIPTION ONLY, NOT A BOUNDARY SURVEY.
2. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. THIS SKETCH AND DESCRIPTION WAS PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE IN FLORIDA ADMINISTRATIVE CODE RULE 5J-17.05, PURSUANT TO FLORIDA STATUTE 472.



SEE SHEET 2 OF 2 FOR SKETCH OF DESCRIPTION. THIS LEGAL DESCRIPTION IS NOT VALID WITHOUT SHEET 2 OF 2 ATTACHED.



## CITY OF WINTER PARK

### PUBLIC WORKS DEPARTMENT

500 N. Virginia Avenue  
Winter Park, Florida 32789  
Phone: (407) 599-3233

PREPARED BY THOMAS L. CONNER, CITY SURVEYOR  
FLORIDA LICENSED SURVEYOR AND MAPPER LS4340

## SKETCH AND DESCRIPTION

### CENTRAL PARK

### WEST MEADOW

CITY OF WINTER PARK, ORANGE COUNTY, FL  
SCALE : 1" = 100' DATE : 02/16/22

WEST MEADOW SKETCH OF DESCRIPTION.DWG

This item has been electronically signed & sealed by Thomas L. Conner Florida Licensed Surveyor and Mapper on the date and time shown. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.







# City Commission **agenda item**

|                                 |                                                     |
|---------------------------------|-----------------------------------------------------|
| <b>item type</b> Consent Agenda | <b>meeting date</b> February 23, 2022               |
| <b>prepared by</b> Rene Cranis  | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed |                                                     |
| <b>strategic objective</b>      |                                                     |

## **subject**

Approval of the minutes of the joint work session with EDAB, February 8, 2022

## **motion / recommendation**

## **background**

## **alternatives / other considerations**

## **fiscal impact**

## **ATTACHMENTS:**

[CC-min-2022-02-08 ws EDAB.pdf](#)



# City Commission/EDAB Joint Work Session Minutes

February 8, 2022 at 8:15 a.m.

Virtual

## Present

Mayor Phil Anderson; Commissioners Marty Sullivan, Sheila DeCiccio and Todd Weaver; City Manager Randy Knight; Division Director of OMB Peter Moore; Assistant Division Director Economic Development/CRA Kyle Dudgeon; City Clerk Rene Cranis.

Economic Development Board Members: Bill Segal, Tracy Liffey, Michael Dick, Betsy Gardner-Eckbert, Drew Madsen, Sarah Grafton, and Ginny Enstad.

**Absent:** Commissioner Carolyn Cooper

## 1) Call to Order

Mayor Anderson called the meeting to order at 8:15 a.m.

## 2) Discussion Item(s)

### a. EDAB Priorities

Mayor Anderson outlined the agenda beginning with general comments and then discussion of the four focus areas provided by staff in the Plans/Goals/Strategies Action Sheet (attached). He read different definitions of economic development which show the common purpose to enhance the prosperity and quality of life for residents or for those living in the area.

Discussion followed on the definition and purpose of economic development including encouragement of private investment, focus on and support of existing local businesses, diversification of businesses/industry.

Commissioner DeCiccio stated that the board needs direction from the commission and would like to understand what the commission thinks the role of the board should be. Mr. Segal stated the board is ready to carry out the Commission's vision, but the Commission needs to define the board's vision and goals.

Mayor Anderson stated he feels this joint discussion is to determine the effort and vision of economic development in Winter Park. They discussed past recommendations made by the board. Commissioner DeCiccio noted that previous recommendations were the result of the pandemic.

Ms. Grafton said she feels the biggest role is marketing and attracting new businesses, retaining existing businesses and entrepreneur development. She stated that the city

was in a reactionary role during the pandemic, but she would like to see some of these efforts moved forward.

Commissioner Weaver agreed and spoke about the challenges for new businesses with high rent in the city and suggested the Old Library may be an opportunity for an incubator small business as well as Progress Point.

Commissioner Sullivan agreed with repurposing the Old Library for start-up businesses and that EDAB could provide input how the Old Library could be used to stimulate entrepreneurial efforts. Mayor Anderson feels commerce is more about what the people are doing and less about the building.

Ms. Liffey asked if a strategic plan has been developed for all the neighborhoods that make up Winter Park. She stated that the city has multiple areas that can be purposed for a variety of things and asked what the strategic plan is for downtown vs. Orange Avenue vs. 17-92 and the different neighborhoods that. Mayor Anderson stated that the purpose of this discussion is to begin to develop that strategic Plan.

Ms. Gardner Eckbert stated that the strategic plan starts with a vision and setting something that is specific and actionable and that timebound is critical. She gave examples of ways to craft a vision and spoke about how the pandemic exposed weaknesses and strengths of the economy and considerations for future economic development.

Mayor Anderson reviewed the Plans/Goals/Strategies action sheet provided by staff. He stated that Focus Area 1 is about collecting data, but is missing clarity on how the data would be collected and used. He stated that Focus Areas 2, 3, and 4 are well-done and clear but there are opportunities for marketing and branding and would like to discuss industry trends.

Commissioner DeCiccio stated researching industry trends is the responsibility of staff and the information they provide can help the board to move forward. She feels the board needs to move forward with Focus Areas 2, 3, and 4. Mayor Anderson agreed and stated he would like the setting of the vision to be a collaborative effort with the board.

Mr. Segal stated that the board needs to understand what the Commission is looking for and the role of the Board as opposed to staff's role.

Commissioner Sullivan reiterated that there is a variety of businesses throughout the city and economic trends will impact specific areas differently and feels impacts should be considered when aligning the vision for different economic areas.

Mr. Madsen stated that economic development is a means to an end and that there are projects the board could be working on for the future. Discussion followed on the steps to define a vision.

Commissioner Weaver noted that there is a need for lower-cost housing and transportation for lower-income workers. Ms. Gardener Eckbert said that economic development should include workforce and workforce housing.

Discussion followed on the Focus Areas in the Action Plan. Mr. Dudgeon stated that the marketing elements in Focus Area 2 carry over to Focus Area 3. He said the business welcome document is complete and he is looking forward to receiving feedback.

Mayor Anderson suggested adapting old branding exercises to new social media in Focus Area 2 and that in Focus Area 4, EDAB is the standing committee to respond in a crisis. Discussion followed on the parameters of Focus Area 4.

Mayor Anderson stated that he does not feel the city's brand needs to be changed but the message needs to be recrafted. Discussion followed on the city's brand. Mayor Anderson asked the board to re-read the 2011 study and provide feedback.

Commissioner Weaver left the meeting at 9:19 a.m.

Ms. Gardner Eckbert stressed the importance of creating resilience and capacity models for times of crisis and explained how the chamber adjusted its model to reach out to people and drive business during the pandemic. She stated that having a cohesive brand to present in the digital world as part of the strategic plan would help the city's restaurants and retailers.

Mayor Anderson asked the commission if they would like to reconsider a version of what was proposed by the board with clarity on the purpose. Commissioner DeCiccio agreed and stated she would like the board to bring the recommendation forward.

Ms. Gardner Eckbert explained how place-branding can benefit the city and Commissioner DeCiccio suggested EDAB give a presentation on place-branding to the commission. Discussion followed on the purpose and goal of place-branding followed by discussion of funding for the marketing effort, areas to be targeted for branding and the expectations and goal of the branding campaign.

After discussion, consensus was for the board to present a branding proposal to the commission. Commissioner Sullivan asked that the proposal include the target industries and cross industries that would benefit from the branding and its purpose. Mayor Anderson requested the board provide revision of organization brought forward and to look at the 2011 study to determine if the study is a good foundation to start with or if a new study is needed. He added that the board has consensus to consider this topic and make it a part of the resilience plan. Commissioner DeCiccio suggested the board provide a budget with its presentation so the item can be moved forward.

Mayor Anderson stated that he feels there is value to having some type of a framework, vision, and strategic plan and suggested having a high-level work session to discuss that

topic. In response to Mayor Anderson's request for a sub-group to participate in the work session, Drew Madsen, Betsy Gardner-Eckbert, Commissioner DeCiccio and Mayor Anderson agreed to comprise the sub-group. Staff will coordinate a time for the work session.

Commissioner Sullivan stated that he would like to learn more about the different programs before allocating funds. Discussion followed on funding.

Mayor Anderson addressed Focus Area1 and stated he would like to expand the data collection to collecting data for a defined purpose which includes segments to target, segments that are over-targeted, and defining where a difference can be made. Discussion followed on programs, budget, and data collection metrics.

### **3) Adjournment**

The meeting adjourned at 9:55 a.m.

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Mayor Phillip M. Anderson

ATTEST:

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City Clerk Rene Cranis



# City Commission **agenda item**

|                                 |                                                     |
|---------------------------------|-----------------------------------------------------|
| <b>item type</b> Consent Agenda | <b>meeting date</b> February 23, 2022               |
| <b>prepared by</b> Rene Cranis  | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed |                                                     |
| <b>strategic objective</b>      |                                                     |

## **subject**

Approval of the minutes of the regular meeting, February 9, 2022

## **motion / recommendation**

## **background**

## **alternatives / other considerations**

## **fiscal impact**

## **ATTACHMENTS:**

[CC-min-2022-02-09.pdf](#)



# City Commission Regular Meeting Minutes

February 9, 2022 at 3:30 p.m.

City Hall, Commission Chambers  
401 S. Park Avenue | Winter Park, Florida

## Present

Mayor Phillip Anderson; Commissioners Marty Sullivan, Sheila DeCiccio, Carolyn Cooper and Todd Weaver; City Manager Randy Knight, City Attorney Kurt Ardaman; City Clerk Rene Cranis.

### 1) Meeting Called to Order

Mayor Anderson called the meeting to order at 4:14 p.m. (delayed due to CRA meeting)

### 2) Invocation

Peter Moore, Division Director of Office of Management and Budget, provided the invocation followed by the Pledge of Allegiance.

### 3) Approval of Agenda

**Motion made by Commissioner Cooper to approve the agenda; seconded by Commissioner Weaver. Motion carried unanimously with a 5-0 vote.**

### 4) Mayor Report

Mayor Anderson thanked commission and staff for their work on matters coming before the commission. He spoke about considerations when making decisions.

### 5) City Manager Report

#### a. Meet Your Department: Administration

Peter Moore, Division Director of Office of Management and Budget, gave a presentation on the Administration Department's nine divisions using a game show format.

#### b. City Managers Report

Mr. Knight stated the Aloma/Brewer Curve traffic meeting is Thursday at 5:00 p.m. and the dedication of Killarney Estates Parklet is Friday. Commissioner Cooper suggested a wider notification of the Brewer Curve meeting because of the community impact.

Commissioner DeCiccio commended staff on the article on utility undergrounding. She spoke about a book released by the Federal government with information on how to obtain infrastructure funding. Mr. Knight said they are getting the book.

## 6) City Attorney Report

Mr. Ardaman gave an update on creating a deed restriction on the West Meadow. Because a bulk of property is not encumbered with a deed restriction, the surveyor has drafted a legal description and sketch for the entire West Meadow area to be used to create a Declaration of Restrictive Covenant. He recommended that a limitation on entire West Meadow that identifies what would be allowed such as restrooms. He noted that this could be reversed by future commission and said an ordinance could be considered that would require a supermajority vote to reverse the restriction.

Commissioner Cooper suggested including in an ordinance a supermajority requirement to change. Commissioner Weaver agreed.

## 7) Non-Action Items

- a. Fish Orlando Presentation - James Sweatman, Florida Fish and Wildlife Conservation Commission

Jason Seeley, Director of Parks and Recreation, spoke about city's long-term relationship with Florida Fish and Wildlife Conservation Commission. Jim Sweatman, FFWCC, showed a documentary video on their programs and thanked the city and its staff for its ongoing partnership. He reported on program's impact of water quality and habitat.

## 8) Public Comments | 5 p.m. or soon thereafter (Heard after Consent Agenda)

## 9) Consent Agenda

- a. Approve the minutes of the regular meeting, January 26, 2022.
- b. Approve the following contract:
  1. Ellis Mechanical Corp. - IFB24-19A - Plumbing Services for services on an as needed basis during the remainder of the current term of the Agreement; Amount: \$80,000

**Motion made by Commissioner Sullivan to approve the Consent Agenda; seconded by Commissioner DeCiccio. Motion carried unanimously with a 5-0 vote.**

A recess was taken from 4:54 p.m. to 5:02 p.m.

## 8) Public Comments | 5 p.m. or soon thereafter

Jim Fitch, 1820 Via Genoa, spoke about a recent water leak at his home and asked the city to consider an AI program to monitor abnormal water usage. He suggested the city consider an external audit of the city's protection from ransomware and asked the commissioner to appoint a financial advisory board to increase the awareness of the commission about the intricacies of the budget.

## 10) Action Items Requiring Discussion



a. Swoope Property Notice-to-Dispose (NOD)

Mr. Moore provided the background and basis for this NOD and advised of an increase in the appraised value of the city's parcel to \$2.4m. He summarized the Saltmarsh and Elevation Group proposals, both of which allow the city to build the warehouse on the triangular parcel at a slightly increased cost from the \$800k cost of 18 months ago. He showed an aerial image depicting ownership before and after the exchange. Staff is asking for direction to begin negotiations with either proposer that would be brought back for approval. He responded to questions and comments regarding proposals and plans. He clarified that the warehouse would allow centralization of parks maintenance equipment and allow the removal of the small storage shed in Central Park.

Discussion was held on the long-term use of the property, potential need for additional land to expand the facility, and use of the property for EV charging and vehicle storage.

Commissioner Cooper opposed industrial use of this property and is uncomfortable with approving a proposal and then negotiating a contract. Mr. Moore said the final contract would come back to the commission for approval.

**Motion made by Commissioner Cooper to approve with the condition that the value to the taxpayer represents the appraised value of the property; seconded by Mayor Anderson. (Withdrawn after discussion)**

Mayor Anderson spoke about the design of the Elevation building which he feels is an appropriate design for Winter Park but questioned whether it would make a difference if the third floor were stepped back. He suggested that some guidance on building design should be communicated if moving forward.

**Commissioner Cooper withdrew her motion.**

Commissioner Cooper said she would opt for land lease because of its location in the core of Winter Park. She said she likes the office use and restaurant use. She said she is opposed to selling property. Discussion followed on use and city need for the property.

Mr. Knight stated that staff is comfortable with the facility on this site and it provides extra greenspace, funding for construction of the building, and frees up the existing maintenance facility for conversion to a columbarium which will generate revenue.

Commissioner Weaver asked for a summary of value and net gain and loss to the city of both proposals. Mr. Moore advised that information is in the appraisal and provided details on the financial gain/loss to the city. He responded to questions stating the city would be looking for a proposal that meets the appraised value.

Mayor Anderson commented on the timing of this NOD due to charter amendments that, if passed, would require a supermajority to sell property. As a result, it is important to consider all elements of the proposals and the spirit of the charter amendment. He

avored the Elevation proposal with the change in valuation and because of the proposed higher square footage of the building, the tax base would be higher.

In response to Commissioner Weaver, Mr. Moore noted Mr. Saltmarsh amended his offer to match the appraisal for the property to be swapped.

Tom Saltmarsh, 920 Georgia Avenue, spoke about their proposal and valuation. He expressed a willingness to reduce the size of the property to be purchased if city needs more property. He stated he would consider a land lease and he would try to maximize the use and possibly build a three-story addition to the existing building.

Commissioner Weaver expressed his reluctance to sell city property and that a land lease should be pursued.

Chris King, Elevation Financial, suggested firm boundaries and guidelines. He spoke about the terms of NOD and staff's position on the swap. He noted that they are offering above appraised value and asking for less land (smaller footprint by about 20%). He said they are the only group that can provide circular, emergency vehicle access and bring jobs to the community with its relocation to the city. He added that he would not consider a land lease.

Mayor Anderson summarized the proposals, land value and finances.

Commissioner Weaver stated that the \$4m in projected revenue from the columbarium overshadows what he has heard so far.

Mayor Anderson spoke about the advantages and disadvantages of a land lease. He said he feels the city's use is the lowest intensity and should go on the triangular portion of the property. He outlined options to consider a land lease, to move forward on a vote (which may result in a 3-2 vote), or table until after the election (due to charter amendments that, if passed, would require supermajority vote on selling city property).

**Motion made by Mayor Anderson to table to March 9th; seconded by Commissioner Weaver.**

Ben Friedman, Elevation Financial, said that feels the process is not final so the commission could still direct staff to move forward with negotiations and bring this back to the commission after the election.

Mr. Moore said that the commission could direct staff to negotiate with one or both parties, which would take at least a month, and bring it back for approval.

Commissioner DeCiccio spoke in favor of moving forward.

Commissioner Sullivan supported moving forward with negotiations with either party since this is not the final decision of the commission.

**Upon a voice vote on the motion to table, Commissioner Weaver voted yes. Commissioners Sullivan and DeCiccio and Mayor Anderson no. Motion failed with a 1-3 vote. (Commissioner Cooper's vote was not audible.)**

Commissioner Weaver said he is comfortable moving forward with negotiations since this is not a final approval to sell the property.

Commissioner DeCiccio supported negotiating with Elevation but is comfortable directing staff to negotiate with both parties.

**Motion made by Mayor Anderson to move forward with negotiations with Elevation; seconded by Commissioner DeCiccio. (No vote was taken due to the passage of subsequent motion to move forward with negotiations with both parties.)**

Mr. King stated that if the city directs negotiations with both parties until after the election, they would withdraw from the process, as he feels they have met every legal requirement of the NOD.

**Motion made by Commissioner Cooper to move forward with negotiations with both property owners; seconded by Commissioner Weaver. Upon a roll call vote, Commissioners Cooper, Weaver and Mayor Anderson voted yes. Commissioners Sullivan and DeCiccio voted no. Motion carried with a 3-2 vote.**

A recess was taken from 6:28 to 6:38 p.m.

b. Non-Profit Fee Waivers and Discounts

Mr. Seeley reviewed the list of events approved in 2011 for automatic fee waivers and the policy and criteria for granting fee waivers including discounts, events and days and time limitation. He said hard costs at the Events Center averages approximately \$75/hour. He recommended a 30% discount for non-Winter Park non-profits and 50% hourly discount, or higher if the Commission approves, for Winter Park non-profits weekday events. He reviewed historic costs, rental fees and discounts for non-profits and discussion followed on scenarios for fee waivers.

Commissioner DeCiccio disclosed that she is a member of the Rotary, who receives a fee waiver.

Mr. Seeley noted that determination is also needed on whether these fee waivers should apply to Events Center or all facilities. He responded to questions and recommended looking at the policy for full fee waivers which has not been revised since 2009. Mr. Knight noted that, at the time, the Commission approved a full fee waiver list so it did not have to manage ongoing fee waiver requests. Mr. Seeley suggested requiring that non-profits reapply for standing fee waiver.

Discussion followed on the list of events with full fee waivers and subsidies and concerns were expressed about the financial impact. Mr. Seeley suggested that no fee waivers be granted for events on Friday or Saturday or times of peak use.

Mr. Seeley noted the informal agreement for weekday use by the Library and suggested codifying the Library's use of the Events Center although the Library and city have worked together to accommodate the Library's use.

Commissioner Cooper asked what costs the city has to cover due to fee waivers or reductions and said the city needs to determine what expense it is willing to cover.

Mr. Knight explained that a consultant showed a profit with assumptions on rentals; however, as fees are discounted, the profit is reduced. Mr. Seeley said the primary assumption was weekend use.

Mr. Knight said the policy should state that recurring non-paying rentals will be relocated to another facility to accommodate paid rentals.

Mayor Anderson suggested considering a discounted rate of \$175/hour for WP non-profits and or leaving discounted rate as is for the next year and then determine the financial impact of waivers. He feels this is more about Events Center rates than other facilities but would not want to discount the rates below Community Center rates.

Discussion followed on fee waiver amount, whether to apply discounts to other rental facilities, and criteria for granting fee waivers with general agreement that Events Center discounted rates should not be less than other facilities. Consensus was to change the discounted rate for fee waiver application from \$225 (50% discount) to \$190/hour.

## **11) Public Hearings**

### **a. Requests of 3217 Corrine LLC (2<sup>nd</sup> reading):**

- ORDINANCE 3219-21 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 0.41 ACRES OF REAL PROPERTY LOCATED AT 3303 AND 3313 CORRINE DRIVE AND THE ADJACENT NORTHWOOD TERRACE DRIVE STREET RIGHT-OF-WAY LYING WEST OF 3303 CORRINE DRIVE, AS MORE SPECIFICALLY DESCRIBED HEREIN, INTO THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY OF WINTER PARK JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.
- ORDINANCE 3233-22 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT IN THE FUTURE LAND USE ELEMENT, NEW COMPREHESIVE PLAN POLICY TEXT OUTLINING PERMITTED

FUTURE LAND USES APPLYING ONLY TO THE SOUTH 63 FEET OF 1813 NORTHWOOD TERRACE DRIVE AND TO AMEND THE FUTURE LAND USE MAP SO AS TO ESTABLISH OFFICE FUTURE LAND USE ON THE ANNEXED PROPERTIES AT 3303 AND 3313 CORRINE DRIVE AND TO CHANGE THE DESIGNATION OF SINGLE FAMILY TO PARKING LOT ON THE SOUTH 63 FEET OF 1813 NORTHWOOD TERRACE DRIVE AND TO INDICATE THE ANNEXATION ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN.

- ORDINANCE 3234-22 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, " LAND DEVELOPMENT CODE", ARTICLE III, " ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH OFFICE (O- 2) ZONING ON THE ANNEXED PROPERTIES AT 3303 AND 3313 CORRINE DRIVE AND TO CHANGE THE ZONING FROM SINGLE FAMILY (R-1A) TO PARKING LOT (PL) DISTRICT ZONING ON THE SOUTH 63 FEET OF 1813 NORTHWOOD TERRACE DRIVE, MORE PARTICULARLY DESCRIBED HEREIN.
- ORDINANCE 3235-22 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, TO VACATE AND ABANDON PORTIONS OF THE NORTHWOOD TERRACE DRIVE PUBLIC RIGHT- OF- WAY DEDICATED BY THE PLAT OF NORTHWOOD TERRACE AS RECORDED IN PLAT BOOKS, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; PROVIDING FOR THE RESERVATION BY THE CITY OF A UTILITY AND DRAINAGE EASEMENT OVER THE ENTIRE AREA BEING VACATED AND ABANDONED; PROVIDING FOR CONFLICTS, CORRECTION OF ERRORS, RECORDING AND AN EFFECTIVE DATE.

Attorney Ardaman read the ordinances by title.

Jeff Briggs, City Planner, stated that as a result of direction at first reading, the future land use and zoning has been changed to office from commercial and a parking lease with East End Market has been executed. The applicant's plans include the conditions of approval requiring a raised median to prevent right-turns into the neighborhood from the parking lot and a sidewalk connecting to East End Market. He briefly summarized the terms of the parking lease.

**Motion made by Commissioner Cooper to adopt the ordinances on second reading subject to three conditions; seconded by Commissioner Weaver.** There were no public comments. **Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cooper and Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

b. Requests of RSRW Properties LLC (1<sup>st</sup> reading):

- Ordinance: Annexing the property at 1471 Harmon Avenue
- Ordinance: Establishing Low Density Residential Future Land Use
- Ordinance: Establishing Low Density Residential (R-2) zoning in order to build up to a two-family dwelling.

Attorney Ardaman read the ordinances by title.

John Harbilas, Planner, reviewed the requests for annexation of 1471 Harmon Avenue, R-2 zoning and future land use which allows two residential units/duplex, but currently has a single-family residence. Staff and P&Z recommended approval. He responded to questions on lot size and feasibility of a duplex and reported on the existing zoning and uses of surrounding properties.

Commissioner Cooper asked for confirmation of single-family and duplexes in this area and whether they are homesteaded. Mr. Knight said this can be provided at second reading.

**Motion made by Commissioner Sullivan to approve the ordinances on first reading; seconded by Commissioner DeCiccio.** There were no public comments. **Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cooper and Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

c. Ordinance: Authorizing conveyance of property at 654 Selkirk Drive (1<sup>st</sup> Reading)

Attorney Ardaman read the ordinance by title. Mr. Knight said this ordinance authorizes the sale; the offers to purchase will be presented to the commission for approval. He responded to questions on marketing and said the minimum offer is \$385k.

**Motion made by Commissioner Weaver to approve the ordinance on first reading; seconded by Commissioner Cooper.** There were no public comments. **Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cooper and Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

d. Request of Z Properties for:

- Approval to grant an easement to enlarge and maintain the city-owned retention pond located behind 341 N. Pennsylvania Avenue and to route stormwater retention from previously approved office building located at 301 N. Pennsylvania Avenue to the city-owned retention area. This item was continued from the January 26, 2022 meeting. **(Continued to February 23, 2022 Meeting)**

## **12) City Commission Reports**

Commissioner Sullivan -

- Advised of a recent article regarding affordable or free internet service for low-income residents. He suggested that the city help these residents take advantage of this program to get internet at a reasonable cost. In response to comments, he noted that this includes a subsidy for equipment and suggested educating the library personnel about the program and encourage them to check into the program. Mr. Seeley said he would make the information available at the community center.

Commissioner Cooper -

- Asked staff to contact Seminole County about the cost of underpasses and potential grant opportunities. Approved by consensus.
- Asked for status of request to provide the layout for land use entitlement for inclusion in agenda packets. Mr. Knight stated this is in progress.
- Noted concerns about pedestrian safety and interest on the Aloma/Brewer curve matter.
- Thanked staff for working on the dedication of trees at Progress Point.
- Commented on speeding in the parking lot Ward Park. The Police is monitoring the situation and Park and Recreation Department is looking into lighting.
- Suggested that a meeting of the OAO Appearance Review Board be scheduled to discuss processes and look at codes.

Commissioner Weaver -

- Said he attended an event at the Events Center where disposal utensils were used and proposed talking to caterers to encourage use of reusable dishes and utensils.

## **13) Summary of Meeting Actions**

## **14) Adjournment**

The meeting was adjourned at 7:58 p.m.

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Mayor Phillip M. Anderson

ATTEST:

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City Clerk Rene Cranis



# City Commission **agenda item**

|                                 |                                                     |
|---------------------------------|-----------------------------------------------------|
| <b>item type</b> Consent Agenda | <b>meeting date</b> February 23, 2022               |
| <b>prepared by</b> Rene Cranis  | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed |                                                     |
| <b>strategic objective</b>      |                                                     |

## **subject**

Approval of the minutes of the work session, February 10, 2022

## **motion / recommendation**

## **background**

## **alternatives / other considerations**

## **fiscal impact**

## **ATTACHMENTS:**

[CC-min-2022-02-10 ws Old Library.pdf](#)





# City Commission Work Session Minutes

February 10, 2022 at 1:00 p.m.

Virtual

## Present

Mayor Phil Anderson; Commissioners Marty Sullivan, Sheila DeCiccio, Carolyn Cooper and Todd Weaver; City Manager Randy Knight; Division Director of OMB Peter Moore; City Clerk Rene Cranis.

### 1) Call to Order

Mayor Anderson called the meeting to order at 1:03 p.m.

### 2) Discussion Item(s)

- a. Request for guidance on drafting a Letter of Interest (LOI) for the City-owned property at the Old Library Site located at 460 E New England Avenue.

Mayor Anderson reviewed key decisions that need to be made.

#### 1. Selling the land.

It was reported that Rollins College is not interested in purchasing the building. General consensus is to not sell the property and pursue a lease option.

Commissioner Weaver noted that there is a discrepancy in the appraised value of the land with and without the building.

#### 2. Guideline – Parking Spaces.

He stated that parking is limited which will restrict the types of uses but he is opposed a parking garage because of aesthetics. It was clarified that there are 110 spaces available for the property. Discussion was held on parking capacity and layout. Commissioner DeCiccio reported that she's received comments from the public that a food court is not a desired use because of the limited parking.

#### 3. Potential uses.

Commissioner Weaver stated that if the number of micro-restaurants is limited, the use could conform to the parking restrictions. He suggested considering uses that are revenue neutral or profit generators such as short-term office space rental as an option on the 2nd or 3rd floor.

Commissioner Cooper spoke about the Oxford Exchange in Tampa that includes incubator-type coworker space, bookstore, and small retail. She read an email from John

Rivers regarding his thoughts on the mixed-use potential for the space. She stated that she is opposed to selling the property and the feedback she has received is to retain ownership. She recalled that the commission wanted to maintain ownership of the building, to create something that gives respect to arts and culture and ensure the use is revenue neutral and allows a monetary anchor that does not exceed the capacity for surface-level parking.

Commissioner Sullivan agreed with Commissioner Cooper. He stated that the city should be prepared for the expense to prepare the building to become revenue-generating. He added that the use should be a community-useful operation such as entrepreneurial start-ups and public use for art.

Mayor Anderson said he is not as willing to invest in making the building tenant-ready. He stated that if the city is providing the monetary anchor, the tenant(s) would provide the financing and the city's subsidy would be a low rent.

Commissioner Weaver noted that the city has allocated \$300k for new roof and air conditioners for the building.

Mayor Anderson stated that there is a general consensus on the uses for the building and agreement for ancillary uses to support the incubator or entrepreneurial space. Discussion was held on options for incubator, start-up facilities, and lease options for the space. Mr. Moore suggested entering into a ground lease with provided the uses comply with parking requirements.

Commissioner Cooper suggested the commission ask for a non-profit partner perhaps to be in charge of leasing and maintenance for the building but she is not opposed to the city providing that service. In-depth discussion followed regarding profit-generating/revenue-neutral uses, preferred uses, funding for building maintenance, and parameters for an RFP.

Mr. Knight asked if the commission would accept a ground lease proposal for professional office space for the entire building with the existing parking. Commissioner Weaver stated that it would be a waste to make the first-floor office. Mayor Anderson stated that he would be willing to listen to that proposal. Commissioner Cooper stated that the objective was to do something for the residents that speaks to arts and culture. She expressed concern that an opportunity to do something new, edgy, and relevant on the property might be missed. Mayor Anderson suggested offering one floor of the building for off-market or below-market community benefit as part of the RFP.

The Commission reviewed Commissioner Cooper's Old Library Use Summary (attached). The following items were discussed and agreed upon by consensus:

- Objective: Agreed to by consensus with the addition of the following verbiage, "that would also support the capital investment by the tenant. Preference will be given to proposals that reserve at least 1/3 of the space for these two uses."  
Addition of Ancillary Services. Agreed by consensus.  
Addition of Peak parking demand needs to be accommodated by 110 parking spaces.
- Items 4, 5.
- Item 6 (respondents will need to address the development of parking expectations in their proposal). Discussion followed on maintenance, funds allocated for roof and air conditioner replacement, parking, and whether to include the maintenance cost budgeted by the city in the RFP.
- Items 7-10
- Item 11 – Mayor Anderson suggested leaving it open-ended.
- Item 12
- Item 13 - Change to triple net lease (Existing building leased as is, renter covers maintenance for the duration of the lease).

Mayor Anderson asked the Commission if they would consider a proposal with a bulk tenant on two of the floors as an option for the space. Commission Cooper feels the space should have something new and different. Commissioners DeCiccio and Weaver agreed the space should be used for something special that doesn't exist in Winter Park yet.

Discussion followed on use and lease parameters for an RFP. Mr. Moore suggested the Commission consider an RFI outlining the preferred parameters for the property to allow for flexibility and a variety of proposals that would help the commission frame an RFP afterward.

Commissioner Weaver stated that he would like a tour of the building to understand its current condition. Mr. Knight will set up appointments for the commissioners to have individual tours and stated that as part of the RFP process, tours and inspections be set up for potential proposers.

Discussion continued parameters to include in the scope of work including financial contribution expectations, building improvement and maintenance needs, lease duration options, and the cost to have the building inspected and brought up to code. Mayor Anderson added that including the information in the scope will lead to better, qualified responses.

Commissioner Cooper said the recommendation from the Old Library Reuse Task Force was that the commission consider ways to build consensus to bring the public on board

to prevent backlash. She suggested sharing decisions made during this meeting would be beneficial. Mayor Anderson agreed and stated that consideration will need to be made on how to best provide information to the public.

Commissioner Sullivan suggested that the parameters agreed upon be shared to the public (through the LOI or RFI). Agreed by consensus.

### **3) Adjournment**

The meeting adjourned at 2:33 p.m.

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Mayor Phillip M. Anderson

ATTEST:

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City Clerk Rene Cranis, MMC

**OBJECTIVE:** Serve our residents by creating something new, exciting and something missing from current offerings in WP, that stays true to our vision:.

Allow a monetary anchor to attract our residents and guests and pay the bills.

Allow affordability to new businesses /idea incubators to create an organic means of staying fresh and relevant.

Provide a public immersive platform for the arts.

**CONSENSUS:**

1. Public input overwhelmingly supported maintaining City ownership of site. (Task Force Report 9/19)
2. Commission consensus to maintain ownership of site.
3. Staff advised that use of site as a swing space for City Hall not needed.
4. Commission consensus was that while it was not necessary this building maximize financial return if used for a meaningful community purpose; cost neutrality is necessary.
5. Commission consensus that preference is to use the facility for a community purpose supporting our brand as a center for arts and culture.
6. Any proposed use must be compatible with proximity to residential.
7. Any proposed use must meet parking requirements. This may be achieved by control of space usage if approved to avoid necessity for structured parking.
8. Use of portions of the building as monetary anchors acceptable assuming parking requirements are met.
9. City has budgeted to replace existing roof and air conditioner. Other improvements would be responsibility of applicant and must be within code for Office.
10. Capitalize on the building's greatest asset – it location. Proximity to Park Ave, Rollins and Alford provides built in support for carefully chosen uses.

11. City prefers a non profit partner who will manage facility and collect rents from small businesses and small nonprofit cultural participants and manage the facility.
12. Residential use not preferred.
13. Discussion of development standards required for any major renovation or rebuild.

**Task Force Report: (May-Sep 2019)**

1. Overwhelming, most public comment related to maintaining some sort of city control over the site. **Commission consensus.**
2. City needed to decide whether the purpose of the site is to maximize financial return or utilize the site for a community purpose, would greatly simplify any ultimate choice of use. **Commission consensus was that while it was not necessary this building be a revenue generator if it used for a meaningful community purpose. Cost neutrality was acceptable.**
3. While the primary recommendation is studied, continuing efforts to formulate consensus through public outreach, are encouraged. **To date, the city has not moved forward on this recommendation.**
4. The Task Force primarily recommends study of the feasibility and options of relocating a majority of City Hall to the old library site, either temporarily or permanently. **Staff advised that temporary use for City Hall was not needed.**

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5/24/21ws | After additional discussion, Mayor Anderson summarized consensus to retain property, use temporarily for city hall (not permanent), and explore the Exchange multi-use concept.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 8/12/21ws | Mayor Anderson summarized that using the building is still an option geared toward arts, there are budget constraints that may require a sponsor, there is consideration of using the property as part of a trade and consideration of using the property of a park. Discussion continued on possible uses for the property and reaching out to the 5-6 institutions in the city to see if there is any interest in using the shell. Mayor Anderson stated that a Winter Park Center for the Arts would be an interesting option with a collaborative rotation of all the museums in Winter Park. He suggested bringing the topic back at a Commission meeting for further discussion before giving staff direction. |
|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 9/8/21rs  | Motion made by Mayor Anderson to approve the Memorandum of Understanding with the conditions that the fees received are sufficient to keep the building well-ventilated and occupiable, the city has continued access, that a visual record of the premises is obtained beforehand and a commitment made to warrant and restore the premises to the existing condition as needed, and the 60-day termination clause is intact; seconded by Commissioner Sullivan.<br><br>\$4000 per month, city pays utilities inside and out                                                                                                                                                                                        |
|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 10/14/21  | Discussion returned to the parameters of the RFP, use and parking. Mayor Anderson suggested placing this on a future agenda to discuss how to gauge community acceptance and on how much money the city wants to invest in improvements before moving forward with an RFP. Approved by consensus.                                                                                                                                                                                                                                                                                                                                                                                                                    |





# City Commission **agenda item**

|                                               |                                                                     |
|-----------------------------------------------|---------------------------------------------------------------------|
| <b>item type</b> Consent Agenda               | <b>meeting date</b> February 23, 2022                               |
| <b>prepared by</b> Michael Hall               | <b>approved by</b> Jennifer Maier, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed               |                                                                     |
| <b>strategic objective</b> Fiscal Stewardship |                                                                     |

## **subject**

Approve the following contract:

## **item list**

1. Lewis Outdoor Solutions - IFB7-17 - Landscape Maintenance for City Facilities for continued services with the vendor beyond the term length of the initial contract; Amount \$450,000

## **motion / recommendation**

Commission approve item as presented and authorize the Mayor to execute the Agreement.

## **background**

A formal solicitation was issued to award the original contract. That contract has met it's 60 month term limit.

Lewis Outdoor Solutions has provided consistent and reliable service over the course of their contract. Due to the continued shortage and difficulties recruiting and hiring labor staff Parks and Recreation Department has serious concerns that a new contractor would not have the ability to seamlessly 'staff-up' in order to take on the City's contract which would result in a negative impact on our residents and park conditions.

## **alternatives / other considerations**

- Deny extension request and move forward with RFP process with understanding there could be the potential for a gap in service while City transitions between providers.
- Allow for a 6 month extension that would keep current contract on at least through Spring/Summer grow season and then put out for RFP in Fall 2022 so that any gaps in service take place during slower growing months

## fiscal impact

Total expenditures included in approved budget.



# City Commission **agenda item**

|                                                    |                                                                |
|----------------------------------------------------|----------------------------------------------------------------|
| <b>item type</b> Action Items Requiring Discussion | <b>meeting date</b> February 23, 2022                          |
| <b>prepared by</b> Wes Hamil                       | <b>approved by</b> Wes Hamil, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed                    |                                                                |
| <b>strategic objective</b>                         |                                                                |

## **subject**

Request of Utility Advisory Board (UAB) to hire a consultant to address governance by the UAB

## **motion / recommendation**

Consider the UAB's request to hire a consultant to address governance by the UAB

## **background**

On September 28, 2021, the UAB approved a recommendation presented by UAB Chairman Michael Poole to hire a consultant to address governance by the UAB. The consultant would conduct a governance review of the utilities' operation. The purpose is to establish the framework of rules, relationships, systems, and processes within and by which authority is exercised and controlled by the City Commission.

Attached are documents to help further the discussion on the recommendation:

- Draft scope of services prepared by Chairman Michael Poole
- Managing Public Utilities: Lessons from Florida - a University of Florida research paper on the three basic management models for Florida utilities
- Public Power Governance Survey 2021 - A survey conducted by the American Public Power Association (Winter Park is a member)

## **alternatives / other considerations**

The City Commission has scheduled a work session to discuss advisory boards directions and missions for Thursday, February 24. The schedule of Second Quarter FY 22 Commission Meetings and Work Sessions also includes a potential topic to have a joint meeting with the UAB to discuss governance however, no date has been determined for that discussion at this point. The Commission could choose to have these discussions first to address its wishes for the UAB prior to soliciting a consultant to review governance.

### **fiscal impact**

The cost of the consultant review has been estimated at \$75,000 - \$95,000. Funding for this effort is not included in the FY 2022 budget.

### **ATTACHMENTS:**

[UAB Governance Discussion Reference Materials.pdf](#)

### Purpose:

Consultant will perform a high-level study of the Winter Park Electric and Water Utility (“Winter Park”) Governance Structure and the various alternative governance structures available to perform these functions.

### Scope of Services:

The services performed by the Consultant will include the following:

- Review publicly available information regarding municipal utility governance and identify the various governance structures:
  - Those used for electric and water utility service
  - Those used by the most highly rated municipal utility entities
  - Those typically utilized for utilities with sizes and customer bases similar to Winter Park
- Summarize advantages and disadvantages of each governance structure identified
- Review management and governance information Winter Park chooses to provide for assistance with Consultant’s review
- Conduct personal interviews with individuals identified by Winter Park that are integral to the governance and decision-making processes and may include
  - Managers
  - Advisors
  - Stakeholders
- Consultant will perform up to 30 interviews
  - Consultant will provide sample questions/survey to the designated individuals for their preparation prior to the interview
  - Consultant will summarize the results of the interview process without identification of the origin of responses
- Recognizing Winter Park will fall into one of the primary governance structures, Consultant will:
  - Identify how Winter Park’s application of the structure functions (key practices and approaches) and how that application compares to other utilities using the same governance structure. Consultant will identify key aspects in which Winter Park is consistent or different in its practices from other utilities that govern utilities with a similar structure.
  - Identify key decision-making practices:
    - Who are the decision makers?
    - What is the chain of command in the decision making process?
    - Identification and role of utility advisory functions in this process
    - How these decision-making responsibilities are delineated:
      - Charter
      - By Laws
      - Organizational documentation

- Assess how effectively the Winter Park governance structure works in supporting the utilities' operational responsibilities
  - How are the operating departments organized?
    - Who develops and recommends Winter Park's strategic plan?
      - Infrastructure development
      - Operational performance
      - Rate design and implementation
    - Who manages the implementation of the plan?
    - Who is responsible for maintaining reliability of supply?
  - How are the support services functions organized?
    - How does reliance on support services affect utility functions?
  - What are the financial approval level thresholds in the decision making and approval process?

### **Deliverables:**

Consultant will include one meeting to make a verbal presentation to Client that provides:

- Summary of the scope of service results
- Summary of interview process observations
- Summary of findings and conclusions

Consultant will provide a power point summary of results and findings upon the request of Winter Park

Consultant will provide additional presentations as requested by Winter Park as "Additional Services" at agreed upon additional pricing at that time

### **Schedule:**

Consultant expects the Scope of Services discussed herein to require up to 4 months to complete, depending in part upon the actual number of interviews performed, the availability of interviewees, any Additional Services provided (as noted above). and any interaction between Consultant and Winter Park representatives as this project progresses.

### **Budget:**

Consultant expects the Scope of Services discussed herein to be completed within a range of budget of \$75,000 to \$95,000 (excluding any travel expenses and any Additional Services that Consultant may provide at Winter Park's request) depending in part upon the final agreed upon scope of work, actual number of interviews performed, in-person or virtual interviews, and any interaction between Consultant and Winter Park representatives as this project progresses.

## **Managing Public Utilities:**

### **Lessons from Florida**

**Forthcoming 2013, , *LEX Localis—Journal of Local Self Government*, Vol. 11, No. 2, pp. 101-118**

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## **Managing Public Utilities: Lessons from Florida**

### **Abstract:**

This paper considers the institutional and regulatory framework of local infrastructure services in Florida and examines how decision-makers perceive the governance structures of publicly-owned utilities in this state. It should be of interest to a broad audience, particularly to European practitioners that are unfamiliar with the rules and practices that frame municipal utilities in the U.S. Many countries pursued reforms that were mainly rooted in the New Public Management ideas where setting targets, measuring performance and applying rewards or sanctions are standard procedures. However, as our paper suggests, it seems that there are other ways of protecting the public interest and promoting efficiency and accountability. After reviewing the theory, the study describes the current system in terms of rate setting, investments, consumer protection and quality of service. A state-wide survey was developed to identify potential sources of tension between managers and politicians. The responses were supplemented by interviews with managers, enabling the authors to identify good practices of local governance, including the de-politicization of the decision-making and the managerial attention to sustainable approaches to funding infrastructure.

**Keywords:** Florida; local governance; public ownership; public utilities.



## 1. Introduction

The concept of ‘services of general interest’ [COM(2004)374], usually employed within the European Union to refer to essential services subject to specific public-service obligations, also finds its counterpart in the United States (Defeuilley, 1999). In particular, the availability of affordable utility services (services of general economic interest, such as electricity, drinking water, wastewater collection and treatment, urban waste collection and treatment and urban transport) with an acceptable quality is a legal requirement in both jurisdictions (Clifton et al., 2005).

In Europe, the transference of general-interest services to local governments, driven by the subsidiarity principle, has been broadly documented (Baker et al., 2011). In the U.S., in addition to providing drinking water, wastewater, urban transport and waste services, cities are also responsible for many other types of services. Even the smallest U.S. cities may provide services that are unfamiliar to most municipalities in other countries (e.g. electricity, communications and police services). The broad range of competencies required for delivering these services and the growing budget restrictions facing local governments pose an important challenge to local decision-makers everywhere: ‘how to curb costs while meeting public-service obligations?’ Utility services are particularly problematic since they involve large investment outlays in specialized infrastructure and, quite often, local governments struggle with the economic sustainability of the systems (Pendovska & Veljanovski, 2009). Furthermore, pressures towards resource conservation and environmental awareness represent new challenges to utility managers around the globe. We know that organizations matter (Menard, 1996) and that governance structures ‘must arise for some reason’ (Arrow, 1999: vii). Hence, to cope with these requirements it is important that local political leaders make thoughtful choices regarding the utilities’ governance models.

The aim of this paper is twofold. The first goal is to identify patterns and discuss the regulatory and institutional framework of utility governance in Florida. The second goal is to analyse how the utility managers see and respond to this framework (i.e. the performance incentives, oversight processes, funds transfers, and operations of the utilities). Using survey information, this paper sheds light on the sources of tension between utility managers and elected city officials and on the instruments/mechanisms (i.e. the rules) in place to separate managerial decision-making from political interference. We address these issues and study the approaches used in Florida to the provision of fair and efficient services. Being the fourth state both in terms of population

(18,830,632) and GDP (\$729,500,000,000 in 2009), Florida is important within the U.S. context and also capable of presenting relevant insights for practitioners, policy makers and academics of other international jurisdictions.

This study is organized as follows. Section two briefly reviews the theory on infrastructure services and governance models. Section three describes the framework of local administration in Florida, including the regulatory environment of municipal utilities. Afterwards, section four summarizes the analysis of the data gathered from 31 Florida municipal utilities. Finally, section five concludes the paper.

## **2. Delivering Utility Services**

According to the principles of EU legislation, utility services are regarded as essential (i.e. crucial for the socio-economic cohesion of the population) and should be subject to certain public service obligations. These services would not be produced (or would be produced under different conditions) if there was no intervention by the competent public authorities (even if it only takes the form of a written contract or it is achieved through dedicated legislation). In theory, there are eight main principles that these services should respect, namely (Marques, 2010): accessibility, adaptability, conflict resolution, continuity, equality, participation, transparency, and universality.

Utility services can be provided directly by the municipality (in-house production), or indirectly through delegation to other structures. If a municipality chooses to deliver the services itself, it can establish a municipal department or create a structure with some degree of financial and administrative autonomy. If, on the other hand, a municipality chooses to deliver the services through an autonomous entity, the array of options deepens. Figure 1 displays the various ‘ideal-typical’ alternatives of local governments. The two most common models of indirect provision of local infrastructure services are the public (municipal) company and the private (concessionary) company. In the former, the municipality is the owner of the company while the latter is an investor-owned enterprise. Recently, another ‘hybrid’ mode of provision arose in Europe (Cruz & Marques, 2012) and in several countries in South America (Marin, 2009): mixed (municipal) companies are institutionalized public-private partnerships (PPPs) where the public and private partners are equity owners. Table 1 summarizes the major features of each ideal-typical governance model.

[Figure 1]

[Table 1]

The process of moving from direct provision to public indirect provision is usually labelled as ‘corporatization’. Moving from public provision (direct or indirect) to indirect private provision is called privatization. While the benefits and drawbacks of privatization continue to be debated, the empirical evidence on the effects of corporatization is also mixed. Despite some reports stating that the corporatization of services might result in higher cost-efficiency and increase output, revenues, and employee productivity (Bilodeau et al., 2007), there is also evidence that moving from municipal services with autonomy to municipal companies may result in lower overall productivity (Cruz & Marques, 2011).

In theory, the higher the degree of corporatization (moving from left to right in figure 1), the lower the involvement of governments in the management of the utilities. The entrepreneurial approach towards utility management (higher efficiency, flexibility and accountability) requires a different relationship with elected officials (a notion of a freer market, with more rules). This process is frequently associated with several tools that emerged from the (now unfashionable) New Public Management ideas, including performance-based contracts, binding the utilities (and/or utility managers) and the municipalities (Osborne, 2006).

### **3. Local government in Florida**

To appreciate the reasoning of municipal authorities in aligning incentives and creating governance structures that fit their needs, one has to understand the rules of the game (i.e. the political economy of local government, Dollery & Wallis, 2001). The detailed description of the institutional and regulatory framework of public utilities in the U.S. may be relevant for policy-makers and scholars from other international jurisdictions. In this section we discuss the local administration framework and the features of utility governance.

#### **3.1 Administrative bodies and regulatory agencies**

Although there is no reference to local governments in the U.S. Constitution, in practice, there are three levels of government: national, state and local. At the local level, beyond counties and cities (here we use this term to refer to general-purpose municipal governments) one can also find special-purpose governments. These special-purpose governments are responsible for a variety of services (e.g. airport, education and also utility services—the

so-called Utility Authorities, see governance structure Type III in the following subsection). According to ICMA (2011), about 48.7% of municipalities in the U.S. are of the council-manager type while the mayor-council form of government accounts for around 43.8% (a residual amount of municipalities have other forms: the Commission–10.9%, Town Meeting–4.7% and representative Town Meeting–0.86%). In Florida (411 municipal governments) there are approximately 100 municipalities with the weak mayor-council form of government, 30 cities with the strong mayor-council form and 270 cities with the council-manager form.

City mayors, city or county commissioners or council members are selected via non-partisan elections. Candidates run for each position individually and in different time frames (usually elected local officials serve terms that range from two to four years with term limits). Hence, the elected team of officials responsible for regulating the activities of utilities might suffer considerable changes over time. Furthermore, since the Council-Manager form of government is widespread, elected officials make policy decisions while the city staff, led by the City Manager, is responsible for implementing those decisions.

States encompass a number of cities and counties. Each state has one regulatory agency for utilities (Littlechild, 2009). In Florida this entity is the Public Service Commission (PSC). These commissions have the mission to ensure that every customer has access to safe, reliable and affordable services while allowing the utilities to earn a fair return on investment, promoting the overall public interest. Commissions oversee regulated utilities through certification, regulation of rates and services, dispute resolution, and consumer protection services. They carry out quasi-legislative and quasi-judicial functions when performing the duties assigned to them by statute. However, the PSC's regulatory authority is limited: it only has fully rate base/economic regulation power over investor-owned utilities. Regarding publicly-owned utilities, the PSC's activity mainly encompasses the monitoring of safety and reliability issues. Municipal utilities are not fully regulated because they have a statutory right to be exempted.

### **3.2 Patterns in the utility industry**

In the U.S., the governance models of publicly-owned utilities (traditionally called municipal utilities) are not categorized as easily as in figure 1. The utilities observed in Florida often present variations of those 'pure models'. We identified three different types of utility governance (see figure 2). In Type I schemes, utility services are provided by a department under the City Manager (in a council-manager form of government) or a

division under a department head. The utility still has a designated top-manager (e.g. an Assistant City Manager or Director/Supervisor) and it retains some degree of autonomy (being similar to the pure model of ‘municipal services with autonomy’). Type II utilities are separate entities that answer directly to the city council or mayor. In this model, elected officials define policies and utility managers implement them. Typically there is no difference between utility employees and city employees. These utilities have a governance structure standing between the ‘municipal services with autonomy’ and the ‘municipal company’ pure models. Finally, Type III utilities are the ones that better resemble the ‘municipal company’ model. The utility top-manager (CEO or General Manager) does not interact directly with city officials but rather with an independent commission (Utility Authority) composed of specialists or citizens with broad public experience. Usually, the city mayor chairs this commission although he/she is not allowed to vote.

[Figure 2]

Vertical integration is widespread in Florida utilities. However, small municipalities may purchase electricity from investor-owned wholesale companies and some cities occasionally purchase water from other cities during periods of drought. The multi-utility strategy is also prevalent. Publicly-owned utilities in Florida often provide an impressive range of services. As the next section indicates, contrasting with electricity and natural gas, other services are not significantly subject to the monitoring of the PSC. Given the differences in the regulatory environment, it is interesting to observe how the utilities manage to jointly deliver the services.

### **3.3 The rules of the game**

#### *Rates*

If an investor-owned utility seeks to raise its prices, it must first obtain approval from the PSC. Upon an extensive investigation, rates are tested for fairness (enabling a reasonable return to equity investors while being affordable for customers). At the end of the process, the PSC approves the new rates. The Florida PSC does not have this kind of regulatory power over municipal utilities (Pfaffenberger & Sioshansi, 2009). Publicly-owned utilities have absolute discretion regarding rate levels. Thus, in Florida, two customers with similar consumption patterns can have quite different utility bills. However, PSC has authority over the territorial boundaries of gas and electric utilities and the rate structure of electricity services (avoiding rate discrimination over different territories served by the same utility) regardless of the governance model.

In governance structures Type II the utilities' top managers propose the rates of the services to the city council/mayor and present the technical justifications for the amounts and structures considered, seeking for their approval. In Type I utilities, the policies first need to be submitted to the City Administrative Officer who may have some requests and/or recommendations. He/she will then present the case to the city council or city mayor. In Type III utilities the approval body may not be elected by citizens/customers.

It is common to have city-owned utilities operating outside the cities' limits. Gas and electricity boundaries are defined by the PSC. Concerning water and wastewater services, the utilities operate in unincorporated areas upon negotiation with the counties. It is understandable that counties wish to hand over these services to cities. Network services are known for having substantial economies of scale. Those citizens in less dense parts of a county might seek cross-subsidization from citizens whose cost of service is lower. This jurisdictional arrangement often creates complex systems where the territorial boundaries of a utility depend on the service in question. Since the PSC has no control over the rates of these services, the utilities often charge higher rates outside city limits (FLC, 2011). These customers do not have the same rights of the ones living within city limits: they do not have the power of 'voice' (there are no political repercussions for differential pricing), nor can they choose another provider. Occasionally, the city may hold *referendums* in areas adjacent to the city limits to determine whether the citizens wish to be part of the city (annexations). Recent (1990-2005) municipal annexations included over one million people and about 4.6 million acres (Edwards, 2011).

Municipal utilities make payments *in lieu* of taxes to local governments (Beecher, 2009). This is beneficial for local elected officials because the funds are not dispersed throughout different levels of government (state, county, school board, etc.) as would happen with taxes paid by a private utility. Instead, publicly-owned utilities make transfers directly to the city general fund. In Florida, an investor-owned utility pays the city a franchise fee of 6% of the sales, while a municipal utility does not have a fixed threshold. Furthermore, a municipal utility may have other advantages for local governments, such as providing free or discounted service to the cities, leverage for annexation initiatives, and assistance in other city projects.

## *Investments*

The decisions on what and when specific investments on infrastructure should be undertaken go through a process similar to what was described for rate approvals. The major difference between publicly-owned U.S. utilities and the ones elsewhere resides in the financing method. In the U.S., utilities raise capital in a project-by-project basis using the bond market. Traditionally, European utilities use the same general-purpose bank loans of local governments (and, lately, the project finance schemes provided by PPPs). Hence, to be able to sell bonds with low interest rates, U.S. utilities need to be financially healthy and they are frequently scrutinized by credit rating agencies (Allen & Dudney, 2008). This source of finance requires operating cash flows that ensure the economic sustainability of the long-term investments. Budget deficits that affect many utilities worldwide are unacceptable for Florida municipal utilities. Financial covenants detail the obligations the utility has towards the buyers of the bonds. These requirements force the utilities to raise tariffs if they fall under the required debt-to-equity indicators or interest coverage ratios. For investor-owned utilities, raising tariffs is not so straightforward. They are required to justify all of their operating expenses; an expense that the PSC determines to be unnecessary is not allowed to be taken into account in the rate calculation.

Note that the framework gives a bias towards public ownership of utilities, as capital costs are lower for municipal utilities (whose interest payments to bond-owners are tax exempt for income tax purposes, Cebula, 2004). Unlike what happens with private investors, the federal government cannot tax cities' revenue. Thus, tax laws affect the mix of private and public activity in local infrastructure.

## *Quality of service and consumer protection*

As was pointed out, the PSC regulates the quality of service of utility services. However, municipal utilities are not required to inform the PSC regarding consumer complaints. During the 1970s and 1980s in the U.S., consumer advocates were appointed on behalf of utility consumers (Holburn & Bergh, 2006). In Florida, the Office of Public Counsel (OPC) was established in 1974. Among other activities, the main purpose of this entity is to represent the consumers' interests in rate cases. Hence, the scope of action of the OPC coincides with the PSC jurisdiction, which obviously exempts municipal utilities. On the bright side, Florida's 'Sunshine Law' promotes transparency and access to all documents and meetings, protecting the public interest.

Municipal utilities' customers may bear the negative risks of price fluctuations of raw materials; however, monthly fuel adjustment surcharges are also allowed for private utilities (Littlechild, 2009). On the other hand, the customers of municipal utilities are more exposed to other sources of risk, e.g. bad managerial decisions regarding strategies to overcome drought or low availability of particular capacity investments. Investor-owned utilities are unlikely to obtain approval of a rate increase request to be compensated for 'poor' decisions. So prices would not go up. The comparable residual (equity) owners of a municipal utility are the customers themselves, so the consequence of a poor decision would be higher prices if otherwise interest payments could not be met.

#### **4. Sources of Tension: Survey Results**

Given the context described above, we sought information from municipal utility decision-makers regarding their perceptions on institutions, processes, and monitoring instruments. To gather data we developed a survey that was distributed to a sample of utility top-managers in Florida.<sup>1</sup> Managers were asked to strongly 'disagree', 'disagree', 'agree' and 'strongly agree' with the statements. We received input from 31 utilities: 18 of these entities provide electricity services, 21 water, 20 wastewater, five gas and three telecommunications services; occasionally, the utilities provided other services (such as chilled water or outdoor lightning). These data were complemented with face-to-face structured interviews with utility managers from Gainesville (GRU), Ocala (OUS) and Orlando (OUC), where their assessment of the framework and follow-up questions were sought. Each of these utilities corresponded to one of the basic schemes identified in figure 2 (type II, I and III, respectively).

In the following subsections we analyse the results. Our narrative is based on the relative frequencies of each question and on the several comments written by the respondents on the open-ended section of the questionnaire (quoted in the paper). The analysis of the survey was complemented with several Mann–Whitney U tests on the following groups of respondents: corporatized (Type II or Type III) and non-corporatized utilities (Type I), and bigger (serving more than 60,000 inhabitants, corresponding to 16 utilities in our sample) and smaller utilities. We organized the results of this analysis in the Appendix for all statistically significant differences (at the 5% level) between the medians of the groups.



## 4.1 Organizational features

In the beginning of the survey, utility managers were asked to rank the priorities of the utilities and they replied as follows:

1. Improve quality standards;
2. Reduce operations and maintenance costs;
3. Reduce the rates for final users;
4. Exceed legal environmental standards.

This prioritization was not surprising. The regulatory framework for municipal utilities in Florida emphasizes quality issues (reliability, safety and public health) and this is categorically the main objective of utility management. For the remaining objectives, there is no unanimity. It is interesting to note that public ownership is not necessarily a synonym of lower prices for customers.

Utility managers tend to agree that they should have effective power over policy objectives (61% of respondents) and the ability to carry out investments to meet them (68% of respondents). However, this is not a strong statement (less than 30% strongly agree with this) and, in fact, one manager stated: ‘Long-term objectives are the prerogative of the community through elected officials’; another manager wrote that ‘as a department of the city, the utility should recommend policy objectives and the governing body should set long-term policy objectives and investments’. As shown in Appendix, we were able to determine some statistically significant differences between the answers of corporatized (Type II and Type III) and non-corporatized utilities (Type I). Apparently the most autonomous structures seek even more independence. Moreover, while bigger utilities (more than 60,000 customers) do believe that autonomy to decide is important, smaller utilities disagree.

Most managers (90%) agree that the multi-utility strategy is beneficial for the community. However, as it was possible to discern in the follow-up interviews, they recognize that the current mix of services is due to historical or political decisions. There is no technical evidence that any economies of scope are being achieved.

Another interesting finding is that most managers (55%) strongly agree that, irrespective of the governance model (no statistical differences were found), utilities have freedom regarding the selection of their workforce. One respondent states that ‘most of our personnel are contractor employees that are dismissed as appropriate’. Nevertheless, the evidence on whether or not utility employees should have the same status of city employees is

mixed (38% disagree or strongly disagree). According to the results in Appendix, respondents from corporatized structures feel that utility employees should not have the same status as city employees whereas managers from Type I structures think the opposite. In practice, there is no distinction between employees, but some managers have the opinion that ‘general fund tight budgets and salary reductions/layoffs should not apply to enterprise fund personnel’ and that ‘compensation should reflect failures and successes’ although this usually does not happen in practice. However, respondents clearly disagree (79%) that managers and directors should be financially responsible for bad management decisions. Despite the fact that this is a current practice (the wholesale firms in the electricity sector) managers are cautious about whether or not they should be able to participate in the share capital of other firms for strategic reasons (39% of the respondents disagree).

## 4.2 Governance features

Respondents disagree that the head of the utility should be appointed by elected city officials (75%): ‘The hiring process for the top manager should be by a selection committee with approval by elected officials’. This could mean that they fear political patronage could become a driver of service provision and employee hiring and retention. However, managers take a strong stand against the idea that political affiliation has been playing a role in the tensions between the city and the utility (no respondent agrees and 77% strongly disagree). They also disagree (77%) that the city exercises excessive monitoring power. As the Mann-Whitney test shows (Appendix), the need for approval by the City is more evident for Type I utilities (this was expected due to the lack of autonomy of these models). When specifically asked whether political interference harms utility overall performance, the managers might have responded that (hypothetically) it would harm performance, but in their specific cases, it did not. Political patronage is a common concern of utility managers (Cruz & Marques, 2011); however, this does not seem to be a major problem of utility governance in Florida.

Concerning corporatization (moving to Type II or even Type III structures), respondents tend to agree that it is beneficial (60% of the managers agree and 33% do it ‘strongly’). The results presented in the Appendix prove that corporatized utilities strongly agree with this while non-corporatized utilities simply agree. The majority think that ‘public utilities should be separate authorities from the cities and counties reporting to an elected board or a board appointed by their enacting city or county government’ and that ‘a utilities oversight committee with members sitting a minimum of four years would be preferable to the current oversight by the City Manager’ mainly because ‘being a city department results in a one-size-fits-all policy from city government irrespective of

the fact that the electric service is not a governmental function and must compete with other utilities for personnel, customers, etc.’ On the other hand, some managers have the opinion that ‘a municipally-owned utility does not have to be governed by a board *but* (emphasis in original) should not be held to the same restrictions, requirements and/or policies of general fund departments.’ All things considered, the following statement illustrates a reasonable stance towards governance:

*This writer has worked under both governance organizations and both have the same potential for success and failure. The key is the level of understanding and trust. Generally, I have found Authority Boards more knowledgeable, if appointed for their expertise, but that can also lead to more ‘tinkering’. Mutual trust, a shared vision, and shared long-term objectives can be achieved via either governance structure.*

We know that organizations matter and, as the respondent pointed out, each structure has its strengths and weaknesses. Decisions on investments, rates, etc. should largely be decided based on technical and economic reasoning (while social concerns should be clearly defined either by law or by long-term policies). In relation to Type I utilities, the Type II governance structure acknowledges that managing utilities is different from managing other kinds of public services (for instance, concerning human resource management). For the four Type III utilities analysed in our study commissioners or board members serve without compensation. Thus, the incentives to perpetuate their jobs should be different from other political positions. The view of the respondent quoted above along with the theory of good practices of local decision-making regarding infrastructure projects puts ‘mutual trust’ at the core of good governance.

Despite the fact that the majority of the utilities do not make transfers corresponding to more than 10% of gross revenues and that amount usually does not exceed 30% of the total city budget, a significant number of utilities (one third of them) agreed that these figures apply to their organizations. Furthermore, in some utilities where these transfers are not made explicitly, they do occur: for instance utilities buy land for the city, waive utility services or provide other ‘lateral’ services. While some managers indicated that the city has a formula to stipulate the amounts, others expressed concerns regarding the variability of these transfers: ‘payment *in lieu* of taxes or other revenue sharing back to the enacting city or county should be capped as a specific percentage of the net operating revenue’.

All surveyed utility managers agree that having a publicly-owned utility has clear advantages over the investor-owned model. However, investor-owned electric utilities present lower rates for final users than municipal utilities (on average and in \$/1,000kWh), and this includes the 6% franchise fee that electric utilities have to pay to the cities (FMEA 2010). Utilities have to present their 'rate case' to the city commission or utility authority. Generally they try to 'recommend tariffs that meet the balanced long-term objectives of the utility and the governing body without undue risk placed on either the utility or the customer'. Elected or appointed city officials have the ultimate power to approve the rates. The bottom line, however, is that rates must be 'steered' according to the commitments made when issuing bonds.

Finally, utility top-managers tend to strongly disagree (45%) that economic regulation enforced by the PSC or any similar entity would not have any positive impact over the utilities (only 17% agree or strongly agree). This figure is in line with our predictions. Decision-makers do not want to get caught between bond resolutions and an external regulator.

### **4.3 Financial features**

The surveyed managers confirmed that bond rating agencies influence the overall behaviour of the utilities (81% agreed). More important than the rating agencies are the bond resolutions which guide the financial management of the utilities. These documents work as strict regulatory contracts that define the allowed debt-to-equity ratios for the utilities. To keep the cost of capital low, the utilities must maintain a high level of financial health. Hence, there is no need for additional legal or regulatory limits to debt levels, as 'rating agencies and bond resolutions effectively already set limits'. However, this conclusion is not the same if we consider the size of the utilities (see the Appendix). Unlike other respondents, managers from smaller utilities (serving a population of less than 60,000) believe that a debt ceiling should exist. Perhaps the discipline imposed by the capital markets is not so felt in smaller municipalities.

### **4.4 Operational features**

It is noteworthy that utility managers agree (79%), but not strongly, that setting performance-based management contracts binding the utility and the city can be useful to improve performance. Nevertheless, according to the results shown in the Appendix, bigger utilities seem to perceive to a greater extent the usefulness of contractual

instruments. Contracting the services is usually seen as a crucial tool for the management of publicly-owned entities in other jurisdictions (Vincent-Jones, 2006). Having a document stipulating the rights and duties of the parties, the compensation for specific public service obligations as well as the objectives of the utility could help to prevent political patronage and provide the utility with the proper incentives for efficiency. In the last two decades this practice has been increasingly adopted in Europe much due to the New Public Management paradigm (although some voices have been contesting the effectiveness of these practices, Osborne, 2006). The municipal bond system in Florida has been refuting the usefulness of devising these complex mechanisms.

Utilities in Florida do not outsource a large amount of services (according to 67% of the respondents and the follow up interviews), especially those that relate more to their core business. Although it is important to assess subjective performance through citizen surveys (Van de Walle, 2006), one third of the managers stated that decisions are not founded on substantial input from customers. In this regard, corporatized entities seem to conduct customer surveys more regularly than Type I utilities (see the Appendix). One manager commented as follows: ‘we currently rely on the level of complaints and thank you communications, but we will conduct surveys at some point in the future’. Respondents plainly agree that the utilities impose minimum quality standards more demanding than they are legally required (only 9% disagree).

Practitioners do not have strong feelings on whether or not utility managers should have long-term contracts (39% of the respondents agree whereas the same percentage disagrees). They seem comfortable with being accountable for their performance at all times and prone to be out of job on a weekly basis (whenever the oversight commission holds a meeting). This practice also lessens the need of having specific performance thresholds in their contracts (decreasing the relevance of the ‘new public contracting’ ideas in this context), even though most of the respondents (77%) agree that this is a good practice.

## **5. Concluding Remarks**

The business of utilities goes far beyond the ‘ideal transaction in law and economics’ (Williamson, 2002: 183). This complex setting includes customer and voters’ concerns, the environment, public treasury, universality, affordability and sustainability. The range of stakeholders and their conflicting objectives raises governance difficulties. Incentives to promote stability and safeguards to specific investments are not easy to devise in infrastructure services. Policy analysts could devote more attention to the strengths and limitations of different

governance mechanisms put in place by decision-makers around the world. Currently, the framework in Florida seems to push cities towards public production of many utility services; given the rules of the game (related to taxes, local politics, jurisdictional rivalries, and legal constraints), it seems very reasonable to adopt municipal ownership as a dominant model for water and other infrastructure services. In the authors' opinion, what truly make utility governance in Florida different from other international patterns are both the financing mechanisms (which have implications for other dimensions such as incentives for efficiency, accountable management, etc.) and the macro institutional framework that somehow insulates utility management from politics.

## **5.1 Lessons learned from Florida utilities**

Capital markets can be powerful 'regulators' in their own right. The economic 'private' regulation exerted by bond stipulations and rating agencies' reports impose demanding debt-to-equity ratios and force utilities to maintain good levels of financial health. In this regard, private utilities are different in two ways: first, they cannot issue tax-exempt bonds; second, what prevents municipal utilities from raising prices are the elected officials while private utilities have to prove to the PSC that the cost increase had an 'external origin' or was due to unpredictable events.

In Florida, local infrastructure investments generally adopt a whole life-cycle approach. The investment outlays (and the associated debt) are handled with a project-by-project focus, always safeguarding their economic sustainability (with the bond market being a very transparent form of financing). In Europe, the municipal bond market has not been consistently considered for funding local infrastructure. Even though Europe should not be seen as a homogenized whole, the EU legislation has been emphasizing liberalisation, the single market and the removal of barriers to entry (e.g. see Repas, 2010) to the detriment of the definition of instruments for good governance irrespectively of the actual ownership structure. This fact, coupled with the harsh debt limits imposed on all levels of government, diverted the attention to the crafting of new complex PPP arrangements more than to the improvement of existing public entities.

The Florida institutional framework promotes the separation of day-to-day management from politics. Regardless of the actual governance structure in charge of delivery, the current framework succeeds in shielding utility management from political patronage and the professional non-partisan nature of the employment/retention process prevents there being a bias towards people of the same political affiliation.

Decision-makers did not need to undertake corporatization processes or performance-based contracting to prevent political patronage and promote accountable management. Local politicians in Florida have disincentives to interfere with management because the services are providing net benefits to the city. Utility top-managers do not have their positions firmly secured with long-term contracts and they can be replaced if the majority of the city commissioners (or the utility authority, or the mayor) is unhappy with the outcomes. Typically there is only one top manager responsible for performance rather than a board with fuzzy lines of authority. Unlike in other countries, retaining profitable public infrastructure (essential) services is conceivable. Publicly-owned enterprises are allowed (and even encouraged) to create a surplus and not just break-even. The transfers to the city general fund allow the subsidization of other socially relevant activities and ratepayers have a better notion than taxpayers of where their money is going.

The great flexibility that municipal utilities in Florida offer local decision-makers is overwhelming when compared with some European models. For instance, in continental Europe publicly-owned utilities are not allowed to operate outside the municipal limits (Cruz and Marques, 2011). In addition, in most EU countries, municipal services have strong restrictions regarding human resource management (all employees are civil servants). Finally, the exceptional framework provided by Florida laws facilitates public awareness, scrutiny, and participation both by having public hearings and allowing unlimited access to virtually every document. These are indispensable tools for achieving a better governance of public services.

## **5.2 Recommendations to Florida utilities**

The regulatory structures devised to oversee investor-owned utilities could also serve as platforms for the continuous improvement of municipal utilities and correction of asymmetries. These regulators could have effective power over the rate structure of all the services and not just electricity. This may prevent potential abuses of monopoly power such as higher prices for residents of unincorporated areas served by the same utility of city residents. If there is no technical justification for charging higher prices, then the rates should be the same—naturally, this is valid only if one accepts that utility services should be subjected to certain public service obligations (where, in this case, accessibility, equality and universality are paramount). Monitoring rate design could help municipal utilities develop pro-conservation rate structures (e.g. inclining blocks and seasonal rates). In addition, the commissions could use sunshine regulation and name-and-shame techniques (benchmarking all

utilities in every sector, regardless of their governance model) with practically no added cost, providing another instrument for enhancing performance (and therefore protecting the public interest).

Practitioners should review the historical/political assumptions made in the past. Issues such as vertical integration and the multi-utility approach should be reassessed as well as all aspects in current utility management (such as the willingness of the customers to subsidize other social investments) that find their justification in 'tradition' rather than current conditions. Critical research on the relevance of these assumptions for today's situation would be very useful for regulators, operators, and ultimately, ratepayers.



## Appendix

| Hypothesis/Survey questions                                                                                                     | Exact Sig.<br>(1-tailed) |
|---------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| <i>Organizational features</i>                                                                                                  |                          |
| <b>H<sub>1</sub>: <math>\mu_{\text{corporatized}} &gt; \mu_{\text{non-corporatized}}</math></b>                                 |                          |
| The utility should have complete autonomy in setting long-term policy objectives.                                               | 0.003                    |
| The utility managers should have full power to decide about proper investments to meet the strategic objectives.                | 0.034                    |
| <b>H<sub>1</sub>: <math>\mu_{\text{corporatized}} &lt; \mu_{\text{non-corporatized}}</math></b>                                 |                          |
| Utility employees should have the same status as City employees in terms of compensation, treatment and performance evaluation. | 0.006                    |
| <b>H<sub>1</sub>: <math>\mu_{\text{bigger cities}} &gt; \mu_{\text{smaller cities}}</math></b>                                  |                          |
| The utility should have complete autonomy in setting long-term policy objectives.                                               | 0.007                    |
| The utility managers should have full power to decide about proper investments to meet the strategic objectives.                | 0.030                    |
| <i>Governance features</i>                                                                                                      |                          |
| <b>H<sub>1</sub>: <math>\mu_{\text{corporatized}} &lt; \mu_{\text{non-corporatized}}</math></b>                                 |                          |
| The financial reports of the utility are closely reviewed and need to be approved by the City.                                  | 0.043                    |
| <b>H<sub>1</sub>: <math>\mu_{\text{corporatized}} &gt; \mu_{\text{non-corporatized}}</math></b>                                 |                          |
| It is good to have the utilities separate from a City department; such separation could involve a utility authority.            | 0.015                    |
| <i>Financial features</i>                                                                                                       |                          |
| <b>H<sub>1</sub>: <math>\mu_{\text{bigger cities}} &lt; \mu_{\text{smaller cities}}</math></b>                                  |                          |
| There should be a debt ceiling for the utility.                                                                                 | 0.015                    |
| <i>Operational features</i>                                                                                                     |                          |
| <b>H<sub>1</sub>: <math>\mu_{\text{corporatized}} &gt; \mu_{\text{non-corporatized}}</math></b>                                 |                          |
| The utility regularly conducts customer surveys.                                                                                | 0.022                    |
| <b>H<sub>1</sub>: <math>\mu_{\text{bigger cities}} &gt; \mu_{\text{smaller cities}}</math></b>                                  |                          |
| Settling (performance-based) management contracts binding the utility and the City can promote improved utility performance.    | 0.035                    |
| The utility regularly conducts customer surveys.                                                                                | 0.008                    |

## Notes

<sup>1</sup> The full survey is available upon request to the corresponding author.

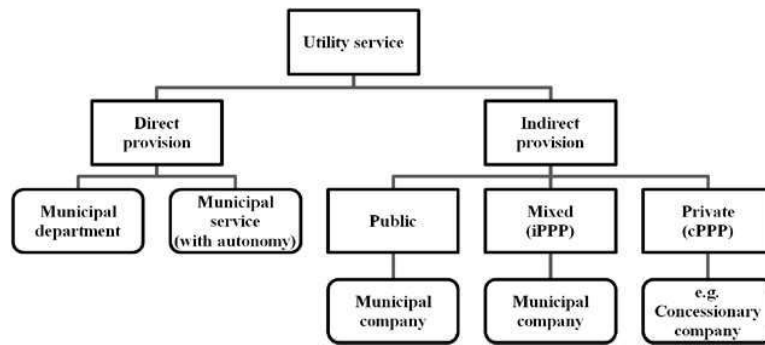
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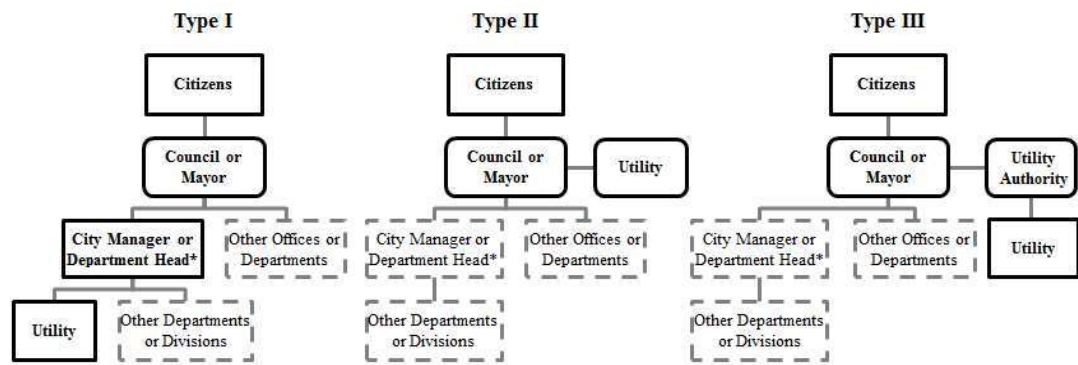
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**Table 1.** Main theoretical features of the ideal-typical governance models

|                                         | <b>Municipal<br/>department</b> | <b>Municipal<br/>service<br/>(with autonomy)</b> | <b>Public<br/>company</b>     | <b>Mixed<br/>company</b> | <b>Private<br/>concessionary</b> |
|-----------------------------------------|---------------------------------|--------------------------------------------------|-------------------------------|--------------------------|----------------------------------|
| Corporate entity                        | No                              | No                                               | Yes                           | Yes                      | Yes                              |
| Administrative and financial autonomy   | No                              | Yes                                              | Yes                           | Yes                      | Yes                              |
| Rule of law                             | Public                          | Public                                           | Public or private             | Private                  | Private                          |
| Power to define roles and tasks         | Elected officials               | Elected officials                                | Municipal parliament/statutes | Shareholders' agreements | Contract                         |
| Monitoring of the quality of service    | Elected officials               | Elected officials                                | Municipal parliament          | Shareholders' agreements | Contract or regulator            |
| Investments and balance sheet treatment | Public sector                   | Public sector                                    | Public sector                 | Shared                   | Private sector                   |
| Assumption of risks                     | Public sector                   | Public sector                                    | Public sector                 | Shared                   | Shared                           |



**Figure 1.** Ideal-typical menu of governance models



\*Some large cities with the strong mayor-council form have established the position of chief administrative officer under the mayor to handle the day-to-day operations; occasionally, in municipalities with a weak mayor-council form, the municipal clerk functions as a de facto chief administrator.

**Figure 2.** Governance structures of publicly-owned utilities in Florida

[illegible]

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## Introduction

In March 2021, the American Public Power Association conducted its 10th Governance Survey. This report summarizes the survey data, presenting information on the type of governing bodies that oversee public power systems, term limits and compensation of governing body members, and the authorities granted to utility governing bodies.

Almost 1,900 publicly owned electric systems in the United States received the survey, and 295 completed survey forms were returned to APPA. Public power systems that sell power primarily at wholesale, such as joint action agencies, were excluded from the survey. Although 295 utilities completed the survey, respondents did not necessarily answer every question.

## Profile of Respondents

As shown in Table 1, 82% of respondents serve less than 20,000 customers. Since the composition of survey respondents is heavily weighted toward utilities with a relatively small number of customers, most survey results are presented by customer count.

**Table 1. Number of Respondents by Customer Count**

| Customer Count             | Number of Responses | Percent of Respondents |
|----------------------------|---------------------|------------------------|
| Less than 5,000 customers  | 145                 | 49%                    |
| 5,000 to 20,000 customers  | 98                  | 33%                    |
| 20,000 to 50,000 customers | 34                  | 12%                    |
| More than 50,000 customers | 18                  | 6%                     |
| <b>TOTAL</b>               | <b>295</b>          | <b>100%</b>            |

Ninety-four percent of respondents are municipally owned utilities. The other 6% are state-owned utilities or political subdivisions, such as county-wide utilities, public power districts, or public utility districts in Washington, Oregon and Nebraska, and irrigation or utility districts in Arizona and California.

## Type of Governing Bodies

The majority of respondents (53%) are governed by a city council, while the remaining 47% are governed by an independent utility board. (The term “city council” includes similar entities such as a county council, town council, borough council or board of selectmen.) Results vary significantly when summarized by customer size class as the smallest customer size class is the only one in which the majority of utilities are governed by a city council. Sixty-seven percent of the respondents with less than 5,000 customers are governed by city councils compared to only 29% of respondents with greater than 50,000 customers.

Independent utility boards that are appointed are more than twice as common as utility boards that are elected. However, almost all public utility districts and public power districts are governed by elected utility boards. Virtually all city councils are elected. Table 2 summarizes survey respondents by customer size class and the by type of governing body which exercises primary control over the utility.

**Table 2. Type of Primary Governing Body**

| Customer Count             | Number of Responses | Independent Utility Board |            | City Council |
|----------------------------|---------------------|---------------------------|------------|--------------|
|                            |                     | Elected                   | Appointed  |              |
| Less than 5,000 customers  | 144                 | 7%                        | 26%        | 67%          |
| 5,000 to 20,000 customers  | 94                  | 20%                       | 41%        | 38%          |
| 20,000 to 50,000 customers | 34                  | 9%                        | 41%        | 50%          |
| More than 50,000 customers | 17                  | 18%                       | 53%        | 29%          |
| <b>TOTAL</b>               | <b>289</b>          | <b>12%</b>                | <b>34%</b> | <b>54%</b>   |

City councils play a large part in determining the makeup of appointed utility boards, as in most cases they either appoint or approve the board. Sixty-one percent of the boards are appointed by the mayor, but the mayor’s choices must be approved by the city council for 80% of utilities. The city council appoints the board jointly with the mayor for 4% of the utilities and on its own for 24% of the utilities.

Eighty-nine percent of utilities with independent utility boards have either residency or service territory requirements, which obligate board members be a resident of the city or a customer of the utility.

Appointed independent utility boards name their own chair in 86% of the utilities, and elected boards name their own chair in 94% of utilities. In regard to city councils, 73% name the mayor as chair, 16% allow the city council to name its own chair, and 6% elect the chair in the general election. Table 3 summarizes this information.

**Table 3. How Governing Body Chair is Named**

| Type of Governing Body  | Mayor is the Chair | Chair Named in General Election | Governing Body Names Chair | Chair is Appointed |
|-------------------------|--------------------|---------------------------------|----------------------------|--------------------|
| Elected Utility Board   | 0%                 | 6%                              | 94%                        | 0%                 |
| Appointed Utility Board | 3%                 | 7%                              | 86%                        | 4%                 |
| City Council            | 73%                | 6%                              | 16%                        | 5%                 |

## Term Length and Limits

The average term length for governing bodies is 3.9 years. Term lengths range from one to seven years, and nearly 49% of respondents report term lengths of four years. Approximately 88% of the utilities reporting governing body term lengths of more than four years are governed by independent utility boards. Table 4 shows, for each type of governing body, the percent of respondents by length of governing body term.

**Table 4. Term Length**

| Type of Governing Body    | Number of Responses | 1-3 Years | 4 Years | 5+ Years |
|---------------------------|---------------------|-----------|---------|----------|
| Independent Utility Board | 135                 | 32%       | 26%     | 42%      |
| City Council              | 152                 | 28%       | 68%     | 3%       |

Only 12% of electric utilities' governing bodies are subject to term limits. The overwhelming majority of reported term limits were either two or three terms. As shown in Table 5, responses varied significantly by customer count, with utilities with the most customers more likely to have term limits applied to the governing body.

**Table 5. Term Limits**

| Customer Count             | Number of Responses | Percent with Term Limits on Governing Body |
|----------------------------|---------------------|--------------------------------------------|
| Less than 5,000 customers  | 145                 | 5%                                         |
| 5,000 to 20,000 customers  | 95                  | 14%                                        |
| 20,000 to 50,000 customers | 34                  | 21%                                        |
| More than 50,000 customers | 17                  | 41%                                        |
| <b>TOTAL</b>               | <b>292</b>          | <b>12%</b>                                 |

## Citizens Advisory Committee

Twelve percent of respondents also have a separate citizens advisory committee or board that serves in an advisory capacity to the governing body. Utilities governed by city councils are more likely than those governed by independent utility boards to have a citizens advisory board: 22% of utilities governed by a city council reported having a citizens advisory board, compared to 3% of utilities governed by an independent utility board.

The incidence of electric utilities with a citizens advisory board increases by customer count, ranging from 8% of respondents with less than 5,000 customers to 28% of respondents with more than 50,000 customers.

**Table 6. Citizens Advisory Board**

| Customer Count             | Number of Responses | Percent with Citizens Advisory Board |
|----------------------------|---------------------|--------------------------------------|
| Less than 5,000 customers  | 144                 | 8%                                   |
| 5,000 to 20,000 customers  | 97                  | 12%                                  |
| 20,000 to 50,000 customers | 34                  | 18%                                  |
| More than 50,000 customers | 28                  | 28%                                  |

## Compensation of Governing Body Members

Overall, 81% of utility governing bodies are paid, and this percentage is roughly the same for both city councils and independent utility boards. The percentage of paid city councils is approximately the same for all utility sizes. For appointed independent utility boards, 92% of smaller utility boards are paid, as compared to 44% for boards of the largest utilities. There is almost no variation by customer count for elected boards, where 86% of members are paid.

Survey respondents reported compensation data on either an annual, monthly or per meeting basis, and all responses were converted to an annual average. Table 7 shows the median compensation for each type of governing body and customer size class.<sup>1</sup> Median compensation generally increases as customer count increases.

Survey respondents were asked whether governing board members were eligible for either the city's or utility's medical benefit plans. Governing bodies are eligible for employee benefit plans in 22% of utilities with independent utility boards and 23% of utilities with primary oversight from the city council. The results differ significantly by customer count, with 10% of respondents with less than 5,000 customers offering medical benefits, rising to 50% of respondents with more than 50,000 customers.

Survey respondents were also asked whether governing board members were eligible for retirement benefit plans. Fourteen percent of utilities with independent utility boards and 24% of utilities governed by a city council have governing bodies that are eligible for retirement benefit plans. Governing bodies are eligible for retirement benefits at 17% of utilities with less than 20,000 customers and at 29% of utilities with 20,000 or more customers.

Note that the survey asked only about eligibility for either medical or retirement benefits. It did not ask who was responsible for paying for the benefit plans: the city/utility or the governing board member.

The survey also asked if respondents had reduced compensation for board members due to the coronavirus pandemic. Only five respondents, less than 2%, indicated that compensation had been reduced, and most of those who did reduce compensation didn't specify the amount.

**Table 7. Median Annual Compensation of Governing Body Members**

(Number of responses in parentheses)

| Customer Count             | Independent Utility Board |                     | City Council         |
|----------------------------|---------------------------|---------------------|----------------------|
|                            | Elected                   | Appointed           |                      |
| Less than 5,000 customers  | \$1,650 (8)               | \$720 (31)          | \$2,400 (70)         |
| 5,000 to 20,000 customers  | 5,600 (14)                | 2,400 (28)          | 4,800 (22)           |
| 20,000 to 50,000 customers | N/A (1)*                  | 3,600 (10)          | 8,000 (11)           |
| More than 50,000 customers | N/A (3)*                  | 2,400 (5)           | N/A (3)*             |
| <b>TOTAL</b>               | <b>\$3,750 (26)</b>       | <b>\$1,200 (73)</b> | <b>\$1,800 (109)</b> |

\*Note: Medians are not calculated for fewer than five responses.

<sup>1</sup> The median amount represents the middle observation: half of the respondents reported a higher amount, and half reported a lower amount than the median.

## Authority of Governing Body

The survey asked respondents to indicate which governing body or individual has final approval for eight specific actions:

1. Setting retail electric rates;
2. Approving the utility budget;
3. Setting salaries of key utility officials;
4. Issuing long-term bonds;
5. Making financial investments for the electric utility;
6. Approving power purchase agreements;
7. Exercising the right of eminent domain; and
8. Hiring and firing utility personnel.

Except for the last function – hiring and firing – the authority for these functions overwhelmingly resides with the city council for utilities under city council control. For utilities under the control of an independent utility board, the results are more mixed. While the independent utility board has authority for five out of the eight functions at a majority of utilities, the city council – either on its own or jointly with the utility board – retains authority for these functions at a significant number of utilities.

The following descriptions and tables summarize the distribution of authority under independent utility boards as the primary governing body and under city councils as the primary governing body.

## Independent Utility Board as Primary Governing Body

Approximately 135 utilities reported that an independent utility board is the primary governing body. A majority of these utilities list the independent utility board as retaining final authority for all functions except for issuing long-term bonds (50%), exercising right of eminent domain (47%) and hiring and firing personnel (50%). Utility boards are most likely to have final approval over setting salaries of key utility officials, approving utility budgets, approving power purchase agreements, and making financial investments.

Table 8 summarizes the results by customer count. For each of the eight functions, the table shows the percent of responses indicating power of final approval for: (1) the independent utility board; (2) the city council; and (3) other entities.

Most of the “other” responses shown in Table 8 indicate joint authority between the utility board and the city council. Exceptions include the authority to make financial investments for the utility, which often resides with the financial director, city or town treasurer, or general manager of the utility, and authority to hire and fire, which typically resides with the general manager or the city manager. In addition, authority to set retail rates can reside with the state public utility commission, or with the Tennessee Valley Authority, in the case of TVA distribution systems. For some small systems (mainly in Massachusetts), a town meeting provides the final authority to issue long-term debt and to exercise eminent domain.

Across utilities of all sizes, larger percentages of utilities report that the independent utility board has final approval over salaries, budgets, financial investments and purchased power contracts, and smaller percentages report that the board has approval over issuing long-term bonds, exercising the right of eminent domain, and hiring and firing personnel.

**Table 8. Exercise of Specific Authorities for Utilities with Independent Utility Boards as the Primary Governing Body**

| <b>Authorities</b>                     | <b>Independent<br/>Utility Board</b> | <b>City<br/>Council</b> | <b>Other</b> |
|----------------------------------------|--------------------------------------|-------------------------|--------------|
| <b>Less than 5,000 customers</b>       |                                      |                         |              |
| Set retail electric rates              | 85%                                  | 4%                      | 11%          |
| Approve utility budget                 | 85%                                  | 11%                     | 4%           |
| Set salaries of key utility officials  | 80%                                  | 13%                     | 7%           |
| Issue long-term bonds                  | 61%                                  | 28%                     | 11%          |
| Make financial investments for utility | 87%                                  | 7%                      | 6%           |
| Approve purchased power contracts      | 74%                                  | 20%                     | 6%           |
| Exercise right of eminent domain       | 44%                                  | 40%                     | 16%          |
| Hire and fire utility personnel        | 64%                                  | 4%                      | 31%          |
| <b>5,000 to 20,000 customers</b>       |                                      |                         |              |
| Set retail electric rates              | 69%                                  | 14%                     | 17%          |
| Approve utility budget                 | 78%                                  | 11%                     | 11%          |
| Set salaries of key utility officials  | 86%                                  | 10%                     | 4%           |
| Issue long-term bonds                  | 46%                                  | 46%                     | 8 %          |
| Make financial investments for utility | 74%                                  | 9%                      | 17%          |
| Approve purchased power contracts      | 80%                                  | 5%                      | 15%          |
| Exercise right of eminent domain       | 44%                                  | 44%                     | 12%          |
| Hire and fire utility personnel        | 41%                                  | 2%                      | 57%          |
| <b>20,000 to 50,000 customers</b>      |                                      |                         |              |
| Set retail electric rates              | 69%                                  | 25%                     | 6%           |
| Approve utility budget                 | 87%                                  | 13%                     | 0%           |
| Set salaries of key utility officials  | 88%                                  | 0%                      | 12%          |
| Issue long-term bonds                  | 44%                                  | 38%                     | 18%          |
| Make financial investments for utility | 100%                                 | 0%                      | 0%           |
| Approve purchased power contracts      | 94%                                  | 6%                      | 0%           |
| Exercise right of eminent domain       | 56%                                  | 44%                     | 0%           |
| Hire and fire utility personnel        | 47%                                  | 0%                      | 53%          |
| <b>More than 50,000 customers</b>      |                                      |                         |              |
| Set retail electric rates              | 62%                                  | 38%                     | 0%           |
| Approve utility budget                 | 69%                                  | 31%                     | 0%           |
| Set salaries of key utility officials  | 85%                                  | 8%                      | 8%           |
| Issue long-term bonds                  | 38%                                  | 38%                     | 24%          |
| Make financial investments for utility | 69%                                  | 8%                      | 23%          |
| Approve purchased power contracts      | 77%                                  | 8%                      | 15%          |
| Exercise right of eminent domain       | 54%                                  | 31%                     | 15%          |
| Hire and fire utility personnel        | 46%                                  | 0%                      | 54%          |

### City Council as Primary Governing Body

For the 157 utilities reporting that the city council is the primary governing body, 80% or more indicate that the city council has final approval for seven of the eight functions surveyed. The lone exception is hiring and firing utility personnel (47%). For this function, when a city council does not have final approval, in most cases an individual controls these decisions. The utility general manager or the city manager most often have final hiring and firing authority.

As shown in Table 9, there are differences in the city council's authority based on utility size. For example, the proportion of utilities where the city council that maintains authority for hiring and firing decreases as utility size increases. For each of the eight functions, the table shows the percent of responses indicating power of final approval for the city council and other entities.

**Table 9. Exercise of Specific Authorities for Utilities with City Councils as the Primary Governing Body**

| Authorities                            | City Council | Other |
|----------------------------------------|--------------|-------|
| <b>Less than 5,000 customers</b>       |              |       |
| Set retail electric rates              | 89%          | 11%   |
| Approve utility budget                 | 95%          | 5%    |
| Set salaries of key utility officials  | 88%          | 12%   |
| Issue long-term bonds                  | 95%          | 5%    |
| Make financial investments for utility | 84%          | 16%   |
| Approve purchased power contracts      | 92%          | 8%    |
| Exercise right of eminent domain       | 97%          | 3%    |
| Hire and fire utility personnel        | 63%          | 37%   |
| <b>5,000 to 20,000 customers</b>       |              |       |
| Set retail electric rates              | 78%          | 22%   |
| Approve utility budget                 | 84%          | 16%   |
| Set salaries of key utility officials  | 68%          | 13%   |
| Issue long-term bonds                  | 86%          | 14%   |
| Make financial investments for utility | 68%          | 32%   |
| Approve purchased power contracts      | 92%          | 8%    |
| Exercise right of eminent domain       | 94%          | 6%    |
| Hire and fire utility personnel        | 27%          | 73%   |
| <b>20,000 to 50,000 customers</b>      |              |       |
| Set retail electric rates              | 83%          | 17%   |
| Approve utility budget                 | 94%          | 6%    |
| Set salaries of key utility officials  | 71%          | 29%   |
| Issue long-term bonds                  | 94%          | 6%    |
| Make financial investments for utility | 82%          | 18%   |
| Approve purchased power contracts      | 94%          | 6%    |
| Exercise right of eminent domain       | 88%          | 12%   |
| Hire and fire utility personnel        | 12%          | 88%   |
| <b>More than 50,000 customers*</b>     |              |       |
| Set retail electric rates              | NA           | NA    |
| Approve utility budget                 | NA           | NA    |
| Set salaries of key utility officials  | NA           | NA    |
| Issue long-term bonds                  | NA           | NA    |
| Make financial investments for utility | NA           | NA    |
| Approve purchased power contracts      | NA           | NA    |
| Exercise right of eminent domain       | NA           | NA    |
| Hire and fire utility personnel        | NA           | NA    |

*\*Note: Percentages are not calculated for fewer than five responses.*

## Issuing Bonds and Selling the Utility

Tables 10 and 11 present information on actions required to issue bonds and to sell the utility system. Nineteen percent of responding utilities require a voter referendum to issue bonds, and smaller systems are more likely than large utilities to require a referendum.

**Table 10. Referendum Required to Issue Revenue Bonds**

| Customer Count             | Number of Responses | Voter Referendum |
|----------------------------|---------------------|------------------|
| Less than 5,000 customers  | 126                 | 24%              |
| 5,000 to 20,000 customers  | 92                  | 14%              |
| 20,000 to 50,000 customers | 33                  | 18%              |
| More than 50,000 customers | 16                  | 6%               |
| <b>TOTAL</b>               | <b>267</b>          | <b>19%</b>       |

Sixty-nine percent of utilities require a voter referendum to sell the utility system. Of those requiring a referendum, 75% require the approval of a simple majority to sell the utility, and 25% require a supermajority.

Eighty percent of utilities require a vote of the governing body to sell the utility. Of those requiring a vote by the governing body, 82% require a simple majority and 18% require a supermajority. A few entities either did not indicate the action needed to sell the utility or said that state action would be required to sell. Many utilities require both a vote of the governing body and a voter referendum to sell the utility.

**Table 11. Action Required to Sell the Utility**

| Customer Count             | Number of Responses | Voter Referendum | Vote of the Governing Body | Both |
|----------------------------|---------------------|------------------|----------------------------|------|
| Less than 5,000 customers  | 94                  | 67%              | 80%                        | 30%  |
| 5,000 to 20,000 customers  | 77                  | 71%              | 80%                        | 34%  |
| 20,000 to 50,000 customers | 25                  | 68%              | 81%                        | 36%  |
| More than 50,000 customers | 13                  | 77%              | 92%                        | 38%  |
| <b>TOTAL</b>               | <b>209</b>          | <b>69%</b>       | <b>80%</b>                 |      |

## Aggregation of Demand Response

Utilities were asked if their regulatory body had passed an ordinance concerning the aggregation of distributed energy resources, including demand response, for sale into the wholesale power market. Fifteen percent of utilities have passed such an ordinance. Most of these utilities have less than 20,000 customers.

## Payments in Lieu of Taxes

Seventy-eight percent of survey respondents make payments in lieu of taxes to their state or local governments. Payments in lieu of taxes may be called by a different name, such as tax equivalents or transfers to the general fund. Only 69% of utilities with less than 5,000 customers make payments in lieu of taxes, compared to over 83% of utilities with 5,000 customers or more. Eighty-one percent of utilities with independent boards make payments compared to 74% of utilities governed by city councils. Table 12 shows the percent of respondents, by customer count, that make payments in lieu of taxes.

**Table 12. Utilities that Make Payments in Lieu of Taxes**

| Customer Count             | Number of Responses | Percent that Make Payments |
|----------------------------|---------------------|----------------------------|
| Less than 5,000 customers  | 137                 | 69%                        |
| 5,000 to 20,000 customers  | 96                  | 83%                        |
| 20,000 to 50,000 customers | 33                  | 91%                        |
| More than 50,000 customers | 17                  | 88%                        |
| <b>TOTAL</b>               | <b>283</b>          | <b>78%</b>                 |

Table 13 shows, by size and governing body type, the percent of utilities that use a formula to determine the amount of payments in lieu of taxes. Of the utilities that make payments in lieu of taxes, 73% use a formula to determine the amount. Eighty-three percent of utilities governed by a utility board use a formula to determine the amount of payments in lieu of taxes, compared to 62% of utilities governed by a city council.

**Table 13. Utilities Using a Formula to Determine Payments in Lieu of Taxes**

(Number of Responses in Parentheses)

| Customer Count             | Primary Governing Body |                  | Total            |
|----------------------------|------------------------|------------------|------------------|
|                            | Utility Board          | City Council     |                  |
| Less than 5,000 customers  | 71% (35)               | 47% (57)         | 57% (92)         |
| 5,000 to 20,000 customers  | 86% (49)               | 71% (28)         | 81% (77)         |
| 20,000 to 50,000 customers | 92% (13)               | 88% (17)         | 90% (30)         |
| More than 50,000 customers | 100% (10)              | NA (4)*          | 100% (14)        |
| <b>TOTAL</b>               | <b>83% (107)</b>       | <b>62% (106)</b> | <b>73% (213)</b> |

*\*Note: Percentages are not calculated for fewer than five responses*

More detailed information on payments in lieu of taxes and other payments and contributions is available in Public Power Pays Back. The report includes data on the amount and type of payments and contributions, summaries by customer count and region, and comparisons with investor-owned utilities. The most recent report is available on APPA's website at [www.PublicPower.org/Resource/Public-Power-Pays-Back](http://www.PublicPower.org/Resource/Public-Power-Pays-Back).



## Utility Service Outside of Municipal Boundaries

The public power systems that completed APPA's survey include both municipally owned utilities and other political subdivisions – such as state-owned utilities, public power districts, public utility districts, and municipal utility districts – that provide electric service. Of the 295 respondents, 277 (94%) are municipally owned utilities. These utilities are the basis for information provided in Tables 14 and 15 about service to customers outside of the municipality's boundaries. Respondents from 184 municipally owned utilities (69%) serve at least some customers located outside the municipality's boundaries.

The survey asked utilities that serve customers outside of the municipality's boundaries for an estimate of the percent of total customers residing outside of the boundaries. Table 14 shows that half of utilities that do serve customers outside municipal boundaries only do so for a relatively small number of customers – 5% or less of their total customers. Approximately a quarter of utilities responding to this question reported that more than 20% of customers are outside of the municipal boundaries. Note that 184 utilities replied that they served utilities outside municipal boundaries, but only 152 provided an estimated percent of customers served outside of those boundaries.

**Table 14. Customers Outside Municipal Boundaries**

| Share of Customers Outside Municipal Boundary | Number of Utilities Reporting | Percent of Total Responses |
|-----------------------------------------------|-------------------------------|----------------------------|
| 1% or less                                    | 38                            | 25.0%                      |
| More than 1% and up to 5%                     | 38                            | 25.0%                      |
| More than 5% and up to 10%                    | 17                            | 11.2%                      |
| More than 10% and up to 20%                   | 21                            | 13.8%                      |
| More than 20%                                 | 38                            | 25.0%                      |
| TOTAL                                         | 152                           |                            |

The survey asked the utilities that have customers outside of the municipality about the relationship between the utility and the customers located outside of the municipality. As shown in Table 15, 6% of these utilities include a representative for customers outside the municipality on the governing body, and 13% make payments in lieu of taxes to jurisdictions outside the municipal boundaries. The pattern is the same for both actions: larger utilities are the most likely to have a governing body representative for customers outside the municipality and are most likely to make payments to jurisdictions outside municipal boundaries.

**Table 15. Utilities that Serve Customers Outside Municipal Boundaries**

| Customer Count             | Number that Serve Outside Boundaries | Governing Body Includes a Representative from Outside Municipality | Utility Makes Payments in Lieu of Taxes to Outside Jurisdictions |
|----------------------------|--------------------------------------|--------------------------------------------------------------------|------------------------------------------------------------------|
| Less than 5,000 customers  | 90                                   | 0%                                                                 | 6%                                                               |
| 5,000 to 20,000 customers  | 61                                   | 7%                                                                 | 17%                                                              |
| 20,000 to 50,000 customers | 24                                   | 13%                                                                | 38%                                                              |
| More than 50,000 customers | 9                                    | 33%                                                                | 22%                                                              |
| <b>TOTAL</b>               | <b>184</b>                           | <b>6%</b>                                                          | <b>13%</b>                                                       |

Finally, the survey asked the 277 municipal electric utilities which other utility services the municipal government provides. As shown in Table 16, water and sewer are the most common utility services provided by the municipal government.

**Table 16. Other Utility Services Provided by the Municipal Government**

| Utility Service | Number that Provide Service | Percent of Municipal Electric Utility Respondents |
|-----------------|-----------------------------|---------------------------------------------------|
| Water           | 249                         | 90%                                               |
| Sewer           | 228                         | 82%                                               |
| Wastewater      | 177                         | 64%                                               |
| Gas             | 56                          | 20%                                               |
| Cable TV        | 21                          | 8%                                                |
| Other           | 59                          | 21%                                               |

Respondents included services such as garbage, broadband, telecommunications, internet, sanitation, and storm water in the “other” category.



Powering Strong Communities

2451 Crystal Drive  
Suite 1000  
Arlington, Virginia  
22202-4803



# City Commission agenda item

|                                             |                                        |
|---------------------------------------------|----------------------------------------|
| item type Action Items Requiring Discussion | meeting date February 23, 2022         |
| prepared by Kesha Thompson                  | approved by Jason Seeley, Randy Knight |
| board approval Completed                    |                                        |
| strategic objective                         |                                        |

## subject

Appeal of Tree Permit Denial - 1417 Border Dr.

## motion / recommendation

Staff recommends denial of the appeal

## background

On January 4, 2022 David Montalto of M. Lahr Homes applied for a tree removal permit for a residential lot under development at 1417 Border Dr.

- On January 7, 2022 the Urban Forestry Division denied the permit for 1417 Border.
  - Highlighted on the site plan
    - Live Oak 38" DBH in good condition, and is outside the proposed building footprint
- On February 8, 2022 the Tree Preservation Board upheld the denial unanimously

## **Applicable code/ordinance - Sec. 58-285. - Criteria for issuance of tree removal permits.**

### **Removal does not meet any of the criteria for permitted removal .**

(a) Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of the following criteria:

- (1) The health of the tree, i.e. whether the tree is deemed dead or beyond recovery, deteriorated or hazardous.
- (2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.
- (3) The number, species, size, location and canopy of existing trees in the area and the effect the removal would have upon shade, sunlight, privacy, scenic beauty, wildlife, noise, air quality, wind, health, safety, prosperity, historic values and general welfare of the area and the as a whole.
- (4) Whether structural improvements have been designed and located to minimize the

removal of protected trees.

(5) The denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties. A minor reduction of the potential number of residential units or building size due to the tree location does not represent a severe limit of the economic enjoyment of the property.

(6) The applicant has demonstrated to the satisfaction of the city that there are no reasonable alternatives to preserve the tree(s).

(7) Such other criteria or factors as the city deems to be reasonable under the circumstances.

(b) No tree removal permit or other removal authorization as provided in this division may be issued for an historic tree without a written determination by the city that said tree is dead or beyond recovery, hazardous, or deteriorated. However, denial of a tree removal permit or removal authorization for a historic tree may still be appealed by the property owner(s) as provided in this division in subsection 58-286(d).

#### **alternatives / other considerations**

Requested removal does not meet any of the criteria for a permitted removal. Developer has not provided any detailed explanation for why removal is being requested as it does not impact construction footprint, pose harm, or suffer from any health issues.

#### **fiscal impact**

ATTACHMENTS:

[TRP appeal ppt - 1417 Border Dr.pdf](#)

# Tree Removal Permit Appeal: Case #22-0001

- ▶ 1417 Border Dr, Winter Park, FL 32789
- ▶ Parcel ID #32-21-30-9428-02-130
- ▶ Zone: R-1A
- ▶ Tree Removal Permit Appealed: TRP-2022-0001



*Julie Perce*  
Orange County  
Property Appraiser

OCPA Lobby Open by Appointment Only

Click Here To  
Book Appointment



QUICK SEARCHES



TPP/ADVANCED SEARCHES



RESULTS



PROPERTY CARDS



TPP CARDS

Parcel 32-21-30-9428-02-130 X

Print Date: 01/21/2022 System Refresh Date: 01/20/2022



Previous



Next



Print



Map



Street



Birdseye



Trim



Port



Estimate



Taxes



FEMA



Plat



Sketch

## 1417 Border Dr 32-21-30-9428-02-130

### Name(s):

Brill Adam  
Brill Hope

### Mailing Address On File:

2200 Thunderbird Trl  
Maitland, FL 32751-3745  
Incorrect Mailing Address?

### Physical Street Address:

1417 Border Dr

### Property Use:

0001 - Vacant Residential

### Municipality:

Winter Park

[View 2021 Property Record Card](#)



1417 BORDER DR, WINTER PARK, FL 32789

[Upload Photo](#)



# TRP-2022-0001

- ▶ Denied: Live oak 38"
- ▶ No other trees requested on this permit.





City of Winter Park  
401 S Park Ave, Winter Park, FL 32789

Permit NO.: TRP-2022-0001 Permit IVR Number:  
Permit Type: Tree R  
Work Classification: Tree R  
Permit Status:

# Permit

Issue Date:

Expiration:

## Location Address

## Parcel Number

1417 BORDER DR, WINTER PARK, FL 32789-3781

302132942802130

## Contacts

Adam Brill

Property Owner

David Montalto

App

(407)702-4315

PO BOX 547103, ORLANDO, FL 32854

(321)315-1901

david@mlahrhome

Description: Denied: Live oak 38"  
Permit denied.

Valuation:

\$0.00

Total Sq Feet:

0.00

Inspection Requests:

407-599-3350

## Fees

|                                                | Amount   |
|------------------------------------------------|----------|
| Residential Tree Removal                       | \$35.00  |
| Tree Removal Code Enforcement Board Appeal Fee | \$100.00 |
| Total:                                         | \$135.00 |

## Payments

|             | Amt Paid |
|-------------|----------|
| Total Fees  | \$135.00 |
| Credit Card | \$100.00 |
| Credit Card | \$35.00  |
| Amount Due: | \$0.00   |

## Inspections:

Inspection Type

Arborist inspection

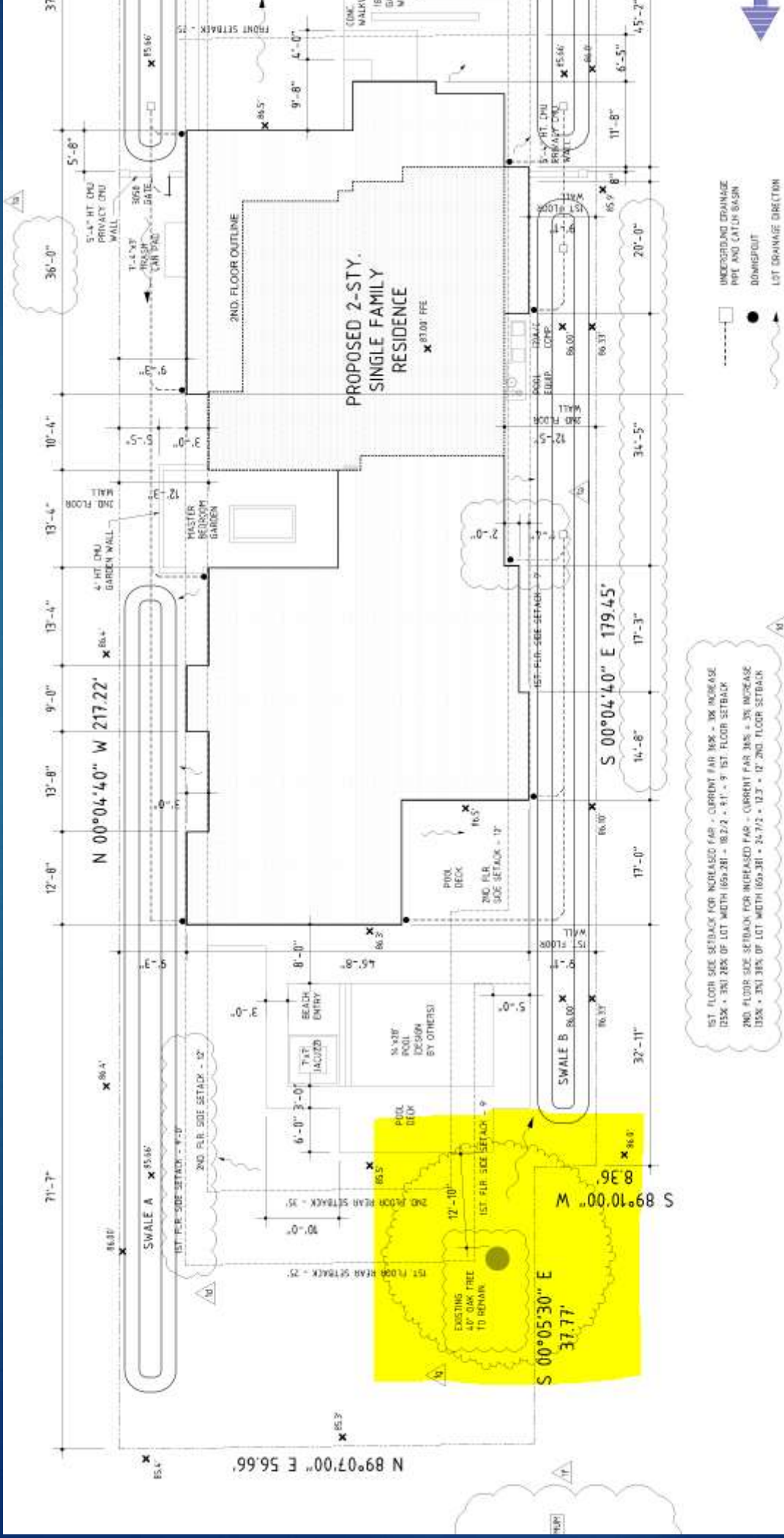
Power Line? No

Zone Clearance Needed? No

Please Specify Property Use: Single Family D...

Tree(s) Information

|                    |                |
|--------------------|----------------|
| Tree Species       | <div>Oak</div> |
| Estimated DBH      | <div>40</div>  |
| Health             | <div></div>    |
| Reason for removal | <div></div>    |



1ST FLOOR SIDE SETBACK FOR INCREASED FAR - CURRENT FAR 38% - 38% INCREASE  
125X + 3% INCREASE OF LOT WIDTH 1659.281 + 18.272 + 411' = 9' 1ST FLOOR SETBACK

2ND FLOOR SIDE SETBACK FOR INCREASED FAR - CURRENT FAR 38% - 38% INCREASE  
125X + 3% INCREASE OF LOT WIDTH 1659.281 + 24.712 + 12.3' = 12' 2ND FLOOR SETBACK



Species: Live oak

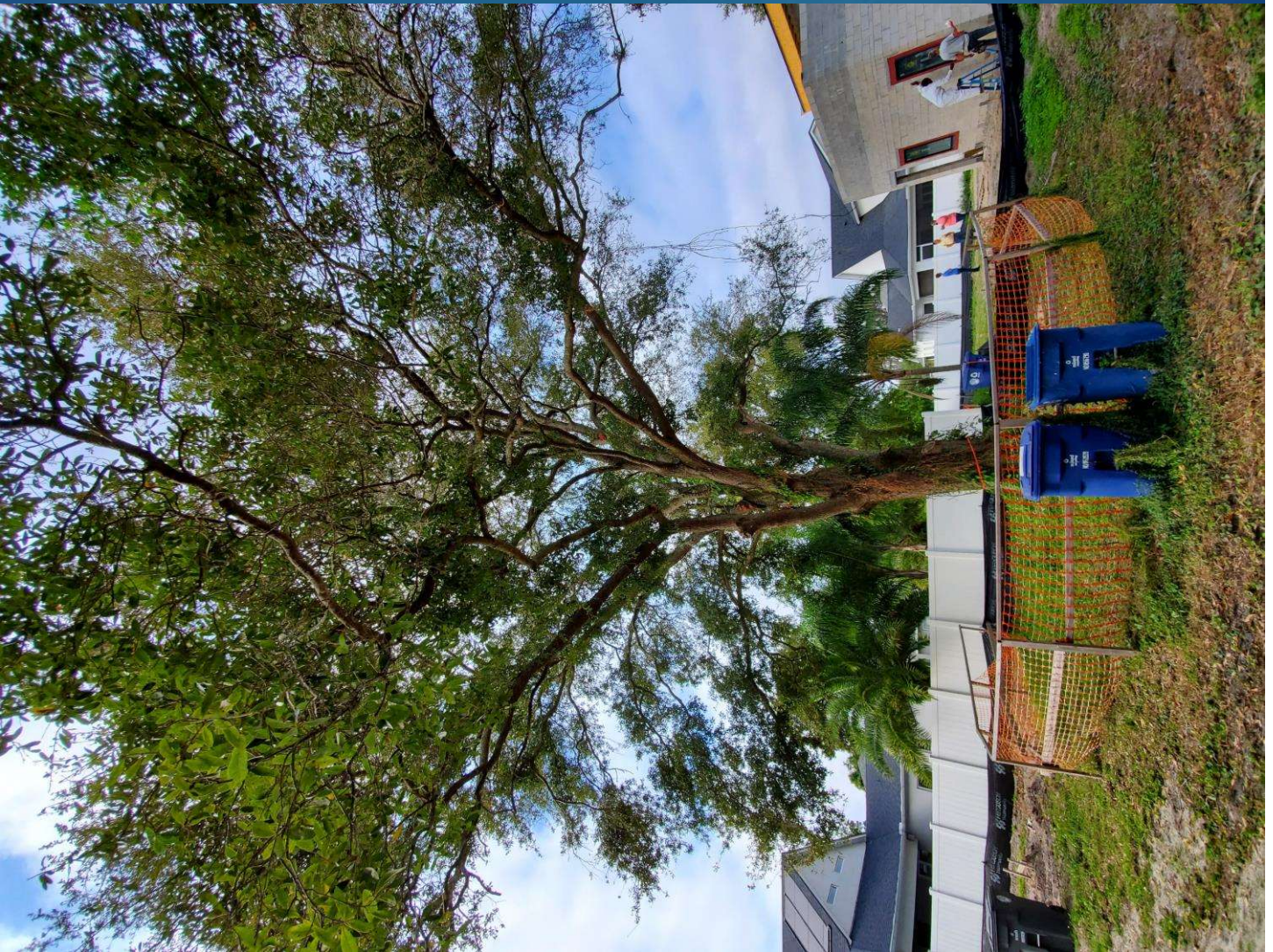
DBH: 38"















# City Commission **agenda item**

|                                                    |                                                     |
|----------------------------------------------------|-----------------------------------------------------|
| <b>item type</b> Action Items Requiring Discussion | <b>meeting date</b> February 23, 2022               |
| <b>prepared by</b> Michelle del Valle              | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed                    |                                                     |
| <b>strategic objective</b>                         |                                                     |

## **subject**

COVID-19 Testing and Meeting procedures

## **motion / recommendation**

1. Eliminate weekly COVID testing of employees
2. Restart live meetings for all Advisory Boards beginning April 1, 2022

## **background**

The City has worked hard over the last two years to mitigate the impacts of COVID on our employees, residents, businesses, and community members. With each iteration we have considered both the CDC guidelines as well as the local infection rate and direction provided from Orange County Health Department. At this time, both the State of Florida and Orange County have no emergency orders in place pertaining to COVID. The Orange County infection rate has dropped to 17% from 19.8% in the last 14 day rolling period. It should be noted that testing is down by 37.7% in the same period. Employee testing in the last 14 days has yielded one positive test out of 276 employees tested.

Since the City began employee testing, much has changed. Testing is readily available at nearly all supermarkets, pharmacies and walk-in clinics. At home test kits are available and free through COVIDtests.gov. Orange County maintains free testing at three locations. The City of Orlando will close its one testing site at Camping World Stadium on February 28. The CDC has eliminated the need for retesting and significantly reduced the required quarantine protocol.

Further, many non-quasi judicial advisory boards have requested multiple times to reinstitute live meetings. Many board members have expressed frustration with their ability to collaborate over virtual platforms when hearing from members of the public or viewing visual aids could improve their deliberations.

Staff intends to closely monitor the ongoing status of COVID-19 and make further

recommendations to manage safety as dictated by emerging trends or positivity rates, should that become necessary.

#### **alternatives / other considerations**

- Employee testing may continue.
- Non-quasi judicial meetings may continue in virtual or hybrid mode. If live meetings are not reinstituted, staff prefers fully virtual meetings to avoid meeting room conflicts and additional IT staff set up time (not all meeting rooms are equipped to handle hybrid meetings).

#### **fiscal impact**

To date, the City has spent \$61,156 on employee testing or approximately \$2900/per week. This is being funded from ARPA money provided by the Federal Government.

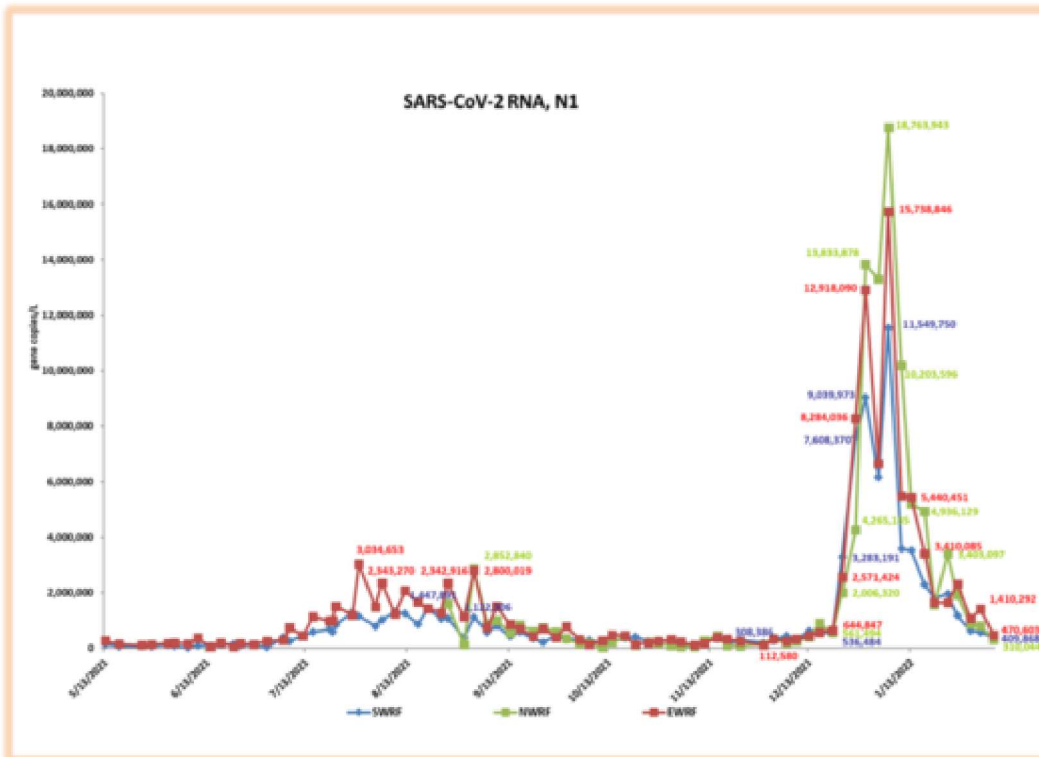
The IT Department estimated spending approximately 24 hours per month fully involved with virtual and hybrid advisory board meetings and a minimum of another 13 hours setting up and preparing for the meetings. These hours are taking staff away from other needed IT services and technology projects.

ATTACHMENTS:

[COVID\\_OCWastewater.PNG](#)



- Results for this past Monday, February 7<sup>th</sup>, 2022
  - The SARS-CoV-2 RNA concentrations in the wastewater surveillance program decreased in all three (3) of our service areas.
  - The RNA concentration results for Monday, February 7<sup>th</sup>, show the following results:
    - Eastern Water Reclamation Facility (EWRF) at 470,603 gc/L
    - South Water Reclamation Facility (SWRF) at 409,868 gc/L
    - Northwest Water Reclamation Facility (NWRF) at 310,044 gc/L
  - With regards to the variants, the Delta-associated signatures were NOT detected in any of the service areas. The Omicron variant has been detected at 100% for EWRF, 100% for SWRF, and 100% for NWRF





# City Commission agenda item

|                                             |                                              |
|---------------------------------------------|----------------------------------------------|
| item type Action Items Requiring Discussion | meeting date February 23, 2022               |
| prepared by Jason Seeley                    | approved by Michelle del Valle, Randy Knight |
| board approval Completed                    |                                              |
| strategic objective                         |                                              |

## subject

Winter Park High School - Request for Use of City Hall and Farmers Market parking lots as a fund raiser during the Spring Art Festival

## motion / recommendation

Allow the following use of City lots (City Hall and Farmers Market) as detailed below for the 2022 art festival.

- **Friday - Famers Market Lot Only** (*City Hall open for business 8-5*)
- **Saturday - City Hall lot Only** (*FM lot will not be accessible for majority of day due to evening event and set up*)
- **Sunday - City Hall lot and FM lot**

Beyond 2022, if commission chooses to continue to allow use of the public lots as fundraiser a process should be developed to allow for other groups to have the opportunity and not just be exclusive to WPHS. This process could either be handled at Commission or Parks and Recreation Advisory Board and specific lot use determined by staff based on overall operational factors.

Staff has no reservations if Commission chooses to discontinue the use of lots as a fundraising effort and moves to make available lot space during the art festival free public parking.

## background

For the past several years Winter Park High School's Athletic Department has been permitted to manage parking at City Hall and the Winter Park Farmers Market parking lots during the Winter Park Sidewalk Art Festival as a fundraiser for their programs and athletes. In more recent years, questions as to why WPHS is given this privilege over other groups has been raised as well as whether the lots would be better serve guest and residents if they were left open parking at no fee.

The letter of request from WPHS has been provided.

#### **alternatives / other considerations**

- Approve for 2022 with use as outlined in staff recommendation
- Deny request and allow for free public parking
- Approve for 2022 with use as outlined and direct staff/PRAB to develop process for beyond.
- Approve for 2022 with use as outlines and discontinue such use going forward with lots being used for free public parking.

#### **fiscal impact**

Minimal financial impact.

#### **ATTACHMENTS:**

[Art Festival Ask letter\\_2022.pdf](#)

# Winter Park High School

2100 Summerfield Road  
Winter Park, Florida 32792-5099  
Telephone: (407) 622-3200  
Fax: (407) 975-2434



To whom it may concern,

My name is Craig Russell and I am one of the PE Instructors at Winter Park High School. I would like to request the use of the Farmer's Market and City Hall parking lots during the Sidewalk Art Festival as a fundraiser for our classes and football teams. The WP Football Cats of Kindness volunteers are excited to partner with the funds generated from the event will directly support our students as it will be earmarked for study hall tutors, meal incentives, new equipment, CPR/First aid certifications, continuing education for players and coaches and camp entry fees. Please contact me with confirmation in regards to the event.

As executed from last year's event, we understand that there are some restrictions for the Farmers Market on Saturday and will adhere to them as well as maintaining 5-6 open spaces for Commissioner and City Department Heads at City Hall. We will be splitting the revenue 90% to the school 10% to the city.

Thank you for supporting the Winter Park High School athletics.

Sincerely,

---

**Craig Russell**  
Weights Instructor  
Varsity Football  
**Winter Park High School**



# City Commission agenda item

|                            |                                                                                |
|----------------------------|--------------------------------------------------------------------------------|
| item type Public Hearings  | meeting date February 23, 2022                                                 |
| prepared by Nicholas Lewis | approved by John Harbilas, Bronce Stephenson, Michelle del Valle, Randy Knight |
| board approval Completed   |                                                                                |
| strategic objective        |                                                                                |

## subject

Requests of Winter Park Town Center Ltd. (Winter Park Village):

## item list

- Conditional Use approval to construct a central architectural tower at a height of 63 feet, which requires a variance of 8 feet above the 55 feet (Regal Cinemas at Winter Park Village).
- Conditional Use approval for the installation of three electronic signs on the front façade of Regal Cinemas

**The applicant has requested a continuance to the March 23, 2022 City Commission Meeting to have sufficient time to address concerns raised by members of the Planning and Zoning Board during the February 1, 2022 Planning and Zoning Board Meeting.**

[motion / recommendation](#)

[background](#)

[alternatives / other considerations](#)

[fiscal impact](#)



# City Commission agenda item

|                            |                                                                 |
|----------------------------|-----------------------------------------------------------------|
| item type Public Hearings  | meeting date February 23, 2022                                  |
| prepared by Jeffrey Briggs | approved by Bronce Stephenson, Michelle del Valle, Randy Knight |
| board approval Completed   |                                                                 |
| strategic objective        |                                                                 |

## subject

Requests of Winter Park Christian Church and Creative Neighbors LLC.

## item list

- Winter Park Christian Church: Conditional Use approval to build a new replacement church facility on the 1.25 acres of the Lakemont frontage at 740/760 N. Lakemont Avenue, zoned R-1A;
- Creative Neighbors LLC:
  - Ordinance amending the Comprehensive Plan Future Land Use Map; from Institutional to Single Family Residential on the rear 5.25 acres. (1st Reading)
  - Ordinance amending the Zoning Map to change from Single-Family (R-1A) zoning to Planned Unit Residential District (PURD) zoning. (1st Reading)
  - Approval of Preliminary Concept Plan for the Planned Unit Residential District zoning and to provide subdivision plat approval to divide the east/rear 5.25 acres of 740/760 N. Lakemont Avenue to provide for 13 single-family home lots and 12 townhouses lots, common area park and retention tracts.

## motion / recommendation

The Planning & Zoning Board voted 5-2 to approve all of the requests except for the Comprehensive Development Plan as recommended and presented by staff.

## background

THE FOLLOWING INFORMATION IS NEW: These requests were tabled to this time certain meeting on Feb. 23rd. The issues of contention that caused the item to be tabled have been resolved. The applicant has reduced the size of the future homes and townhomes to meet both the maximum 43% FAR and maximum 50% impervious coverage, in compliance with traditional single-family development standards. Staff has also put the project information in a more concise format attached to this memo.

THE FOLLOWING INFORMATION IS REPEATED FROM THE LAST MEETING: This comprehensive application involves multiple requests for the redevelopment of the 6.5 acres of the Winter Park Christian Church properties at 740/760 N. Lakemont Avenue.

The request is to rebuild a new Winter Park Christian Church facility on the front 1.25 acres and to use the rear 5.25 acres for the development of 13 single family homes and 12 townhomes. Individually the requests are:

1. Conditional Use by the Winter Park Christian Church for the construction of a new replacement church facility;
2. Ordinance amending the Comprehensive Plan Future Land Use Map designation of Institutional to Single Family Residential for the rear 5.25 acres. (1st reading)
3. Ordinance amending the Zoning Map on the rear 5.25 acres from Single Family Residential (R-1A) to Planned Unit Residential District (PURD); (1st reading)
4. Request for approval of the Preliminary Concept Plan for a PURD development of 13 single family houses and 12 townhomes; and
5. Subdivision Plat approval to provide for the 13 single family lots and 12 townhouse lots along with the common area and retention along with the dedication of required public streets and easements..

### **Summary:**

The Winter Park Christian Church Inc. (Disciples of Christ) owns the 6.5 acres of property at 740/760 N. Lakemont Avenue, on which they have used for the Church since the late 1950's. In recent years, the Church membership has declined and the Church facilities that were last renovated significantly in 1975, need updating. From that situation arose the idea to sell the rear 5.25 acres of the property for residential development and to rebuild a new Church with modern facilities that would be more visible and hopefully build the congregation. This would be similar to what the Christian Science Church at 650 N. New York Avenue recently accomplished.

### **Request for Conditional Use for the new Church facility:**

The first part of this redevelopment project is to build the new replacement Winter Park Christian Church facility on the 1.25 acres adjacent to Lakemont Avenue. The future land use of the entire site is Institutional and the Zoning is Single Family (R-1A), in which Churches are Conditional Uses. The proposed plans, developed by ACI Architects, show a 6,500 sq. ft. facility with 150 seats in the sanctuary and 38 parking spaces. These plans meet the zoning code in all respects including setbacks, building height, parking, storm water retention, etc. Some of the parking will be a grass surface, which is permitted given the "light and infrequent use" of churches. Such parking allows the ability to save a quality live oak tree. There also are parking spaces that back into the roadway, which while not normally permitted, are again allowable given the infrequent usage.

### **Comprehensive Plan Change for the Residential Development:**

The Creative Neighbors LLC requests begin with the need to change the Comprehensive Plan future land use map designation of Institutional to Single Family Residential on the rear 5.25 acres that will be redeveloped as the Enclave project once the new Church is built. As this is the same Single-Family future land use designation as the surrounding

neighborhoods, such a change is consistent and compatible with the existing neighborhoods. It limits development to no more than 5 units per acre and no more than 43% FAR. The applicant's proposal complies with both criteria.

### **Zoning Change for the Residential Development:**

The Creative Neighbors LLC requests also include a change from the existing Single-Family Residential (R-1A) district zoning to the Planned Unit Residential District (PURD) zoning district. The PURD Zoning has been in the Code since the 1970's and is something that has been infrequently used, mostly because there is so little vacant land to develop as new subdivisions. The PURD zoning has been used for the creation of the Waterbridge, Windsong and Pennsylvania Place subdivisions. The essence of the PURD zoning is to allow a variety of housing/lot types and to aggregate the land that would otherwise be allocated to front and back yards into common area park tracts that are more visible and usable by everyone.

The PURD zoning is supposed to be a two-step process. First an applicant gets the approval for the PURD zoning based upon a "Preliminary Concept Plan". Once that is accomplished, the applicant then submits for approval of a "Comprehensive Development Plan". That second part is where any setbacks deviations from traditional single family are outlined and may be approved.

This proposed Preliminary Concept Plan matches the maximum 5 units/acre that would be permitted in the current R-1A zoning. The overall floor area ratio is to be in line with the 43% floor area ratio permitted in the current R-1A zoning. There is a townhouse component for a variety of housing types and a significant common area park tract for all to enjoy. The roadway is a dedicated right-of way with underground utilities within those areas, as is typically the case.

The Planning and Zoning Board and/or City Commission did not approve the "Comprehensive Development Plan" at this time, so any deviations to setbacks will be considered at a later time. The main focus at this time is whether the City Commission is comfortable with this redevelopment proposal, whether the City Commission is comfortable with a mix of townhouses and single-family homes.

### **Subdivision Plat:**

The subdivision plat itself is typical of other neighborhoods in the City. The streets will be dedicated public streets, with a typical 24 feet of travel roadway width. The alley behind the townhomes will be private but that is permitted as a secondary access. A storm water retention area is provided that has been sized to meet the City Code and that of the St. John River Water Management District for the impervious coverage runoff from all of the residential buildings, driveways and streets.



The applicants are requesting one variance which is to have a 41-foot wide right-of-way in lieu of the required 50 feet. That diminishes the 'green' parkway strip between the roadway and the sidewalk but otherwise does not impair the function of the roadway.

**Protections for the Adjacent Residential Neighborhoods:**

This is a dead-end neighborhood so there is no traffic onto any adjacent roadway other than the four lanes of North Lakemont Avenue. The plan, in addition to the park/open space tract, also has a 20-foot buffer strip of common area around the perimeter of the site that is to function as an open space buffer and walking path. This accomplishes a goal of tree preservation as many of the existing trees are located along those property lines and it also provides some separation from the new homes within the project from those in the adjacent neighborhoods. The applicant has sent notices and held two open houses at the Church to show the neighbors the proposed plans. At the P&Z Hearing, there was opposition from residents living on the west side of Lakemont, which were more concerned about the current conditions of Lakemont and concern of adding more traffic.

**Traffic Generation:**

These 25 new residential homes will generate a potential 290 vehicle trips per day, as 'net new' traffic assuming the church traffic is a constant. The daily average vehicle traffic on North Lakemont Avenue is about 20,000 cars per day, so this number of vehicles is de minimus.

**Summary and Recommendation:**

This project does not appear to adversely affect the adjacent neighbors in any fashion and provides creative land use (park site and buffer strip) in return for the combination of townhouse and single-family homes. The project is true to the Comprehensive Plan single-family density limit of 5 units/acre and to the 43% FAR limit and the 50% Impervious coverage limit.

[alternatives / other considerations](#)

[fiscal impact](#)

ATTACHMENTS:

[OCPA Map.JPG](#)

ATTACHMENTS:

[Colored Site Plan.JPG](#)

ATTACHMENTS:

[Ord.\\_Lakemont Church\\_Zoning.doc](#)

ATTACHMENTS:

[Ord.\\_Lakemont Church\\_Comp. Plan FLU.doc](#)

ATTACHMENTS:

[THE ENCLAVE IN WINTER PARK NARRATIVE.docx](#)

ATTACHMENTS:

[New WP Christian Church plan package.pdf](#)

ATTACHMENTS:

[Enclave Townhomes concept plans.pdf](#)

ATTACHMENTS:

[ENCLAVE DEVELOPMENT STANDARDS.xlsx \(OCT 12\).xlsx](#)

ATTACHMENTS:

[Single Family Home Architectural Concept Package.pdf](#)

ATTACHMENTS:

[Sec58-70 PURD Zoning District text.doc](#)





**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA  
AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE",  
ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO  
AS TO CHANGE THE ZONING FROM SINGLE FAMILY (R-1A)  
TO PLANNED UNIT RESIDENTIAL (PURD) DISTRICT ZONING  
ON THE REAR 5.25 ACRES OF THE WINTER PARK CHRISTIAN  
CHAURCH PROPERTIES AT 740/760 N. LAKEMONT AVENUE,  
MORE PARTICULARLY DESCRIBED HEREIN.**

**WHEREAS**, the City Commission intends to change the Zoning designation on the portion of the Winter Park Christian Church properties no longer intended for use by the Church, and

**WHEREAS**, the establishment of municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

**SECTION 1.** That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change the Zoning designation of Single Family Residential (R-1A) district zoning to Planned Unit Residential (PURD) district zoning on the rear 5.25 acres of the Winter Park Christian Church properties at 740/760 N. Lakemont Avenue.

**SECTION 2.** This ordinance shall become effective upon the effective date of the change to the future land use amendment for this property.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor Phillip Anderson

Attest:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO AMEND THE FUTURE LAND USE MAP SO AS TO CHANGE THE REAR 5.25 ACRES OF THE WINTER PARK CHRISTIAN CHURCH PROPERTY AT 740/760 N. LAKEMONT AVENUE FROM INSTITUTIONAL TO SINGLE FAMILY RESIDENTIAL, MORE PARTICULARLY DESCRIBED HEREIN.**

**WHEREAS**, the City Commission intends to amend its Comprehensive Plan to establish a single-family future land use on the remaining portion of the Winter Park Christian Church property no longer to be used by the Church. and

**WHEREAS**, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and pursuant to and in compliance with law.

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

**SECTION 1.** That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to establish a Single Family Residential future land use designation on the rear 5.25 acres of the Winter Park Christian Church properties at 740/760 N. Lakemont Avenue

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

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor Phillip Anderson

Attest:

\_\_\_\_\_  
City Clerk

# THE ENCLAVE IN WINTER PARK

## DEVELOPMENT SUMMARY

The Winter Park Christian Church (Disciples of Christ) was conceived in the late 1950's and is one of Winter Park's best examples of a uniquely-unsuspecting property. Located at 740 & 760 N. Lakemont Ave, this property is in close proximity to Lakemont Elementary School, The Lakemont YMCA and Phelps Park. With over six acres of land, The Winter Park Christian Church currently accommodates a school facility, 200 seat sanctuary, fellowship hall and meeting space (also the local voting center for its precinct) in three buildings totaling almost 13, 000 square feet.

At present, the church and its accessory structures have fallen into disrepair and are outdated for today's needs. To avoid closing the church due to insufficient funds necessary to improve the property, ACI Architects (headed by Larry Adams) was tasked with planning a full redevelopment of the site that would include the construction of a new Church (to be located on Lakemont Ave) and a new residential sub-division to be tucked behind on the remaining 5+ acres. The proposed re-development plan before you is the result of two equally necessary components of a thriving community... Worship, counseling and fellowship resource and creative community residences.

Our proposal suggests a new single story, 150 seat, 6,500 sq. ft. "traditional style" Church facility located directly on Lakemont Ave featuring a centralized park with mature oak and magnolia tree canopy, parking for 38 vehicles and a circular drop-off drive to accommodate all who visit. Additionally, in order to fund the new Church facility, Creative Neighbors, LLC will develop a new residential community offering 12 unit "Dual-Villa" townhomes and 13 single family lots encompassing *The Enclave in Winter Park*.

The twelve townhome villas are designed with only two units per building allowing for generous "recess and projections" and adequate "solids & voids", paramount when creating unique residences. Each townhome shall have a personalized elevation with one distinguishable entry per structure (giving the appearance of a single family residence. The Villas of 3,316 sq. ft. in size, will offer 2800 sq. ft. (conditioned) space, 4

bedrooms, optional elevator, 150 sq. ft. open-landscaped courtyard, 2-car garage with two additional off-street parking spaces and open porches.

The thirteen single family lots range in size from 6,471 sq. ft. to over 7,912 sq. ft. and will be designed individually by each buyer and constructed by one of three selected local contractors. Design variety is our top priority and will be overseen by the association/developer.

The Enclave in Winter Park will feature a 1/3 acre “*Center Park*” that will feature mature tree canopy and a starting point for the ½ mile fitness pathway along the perimeter of the property. We have carefully designed the development to protect over 90% of existing trees and will work to prune, protect and encourage continued growth of the enormous Oak trees throughout our new community.

We look forward to presenting our new project...The Enclave in Winter Park.

Thank you,

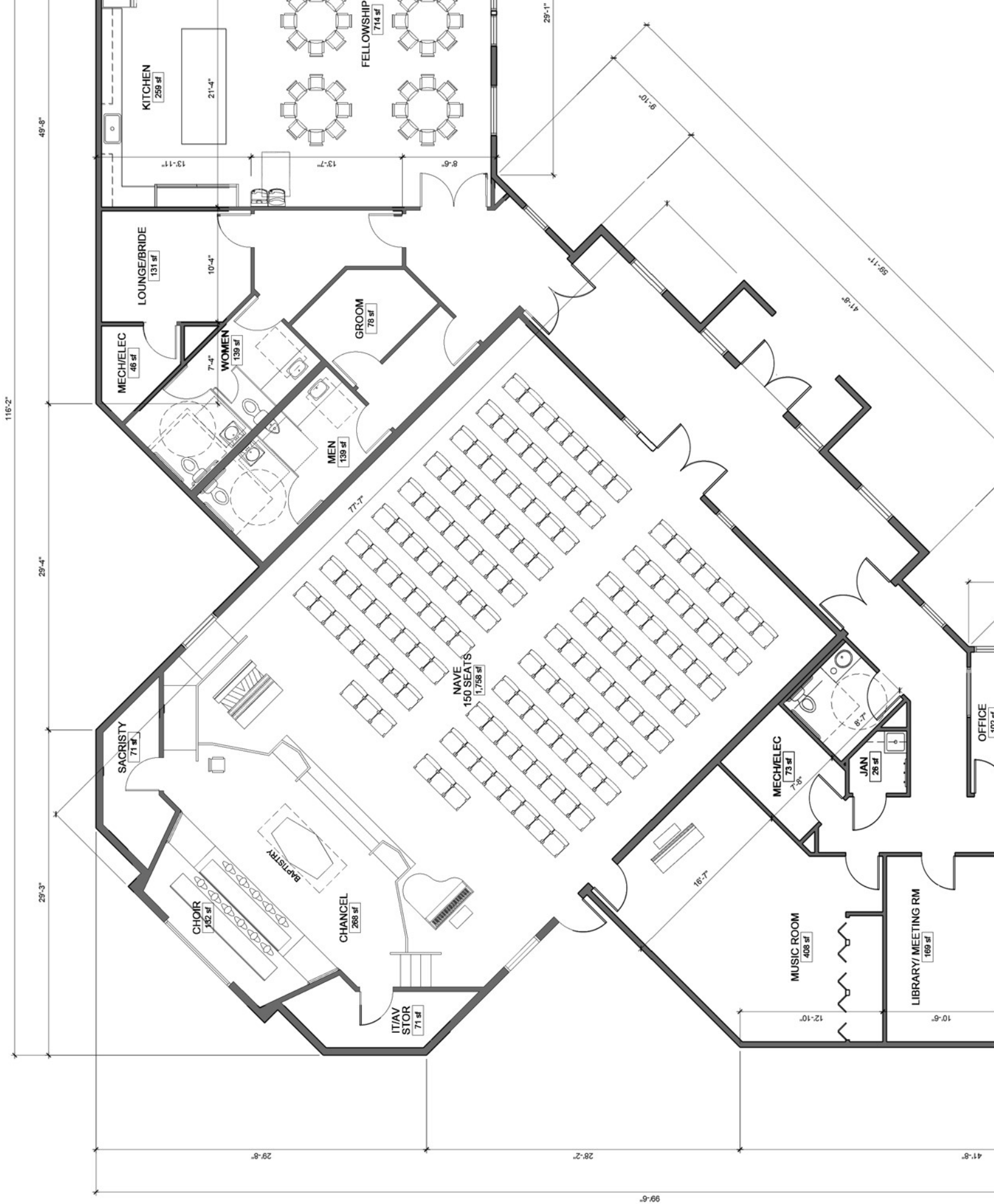
Creative Neighbors, LLC











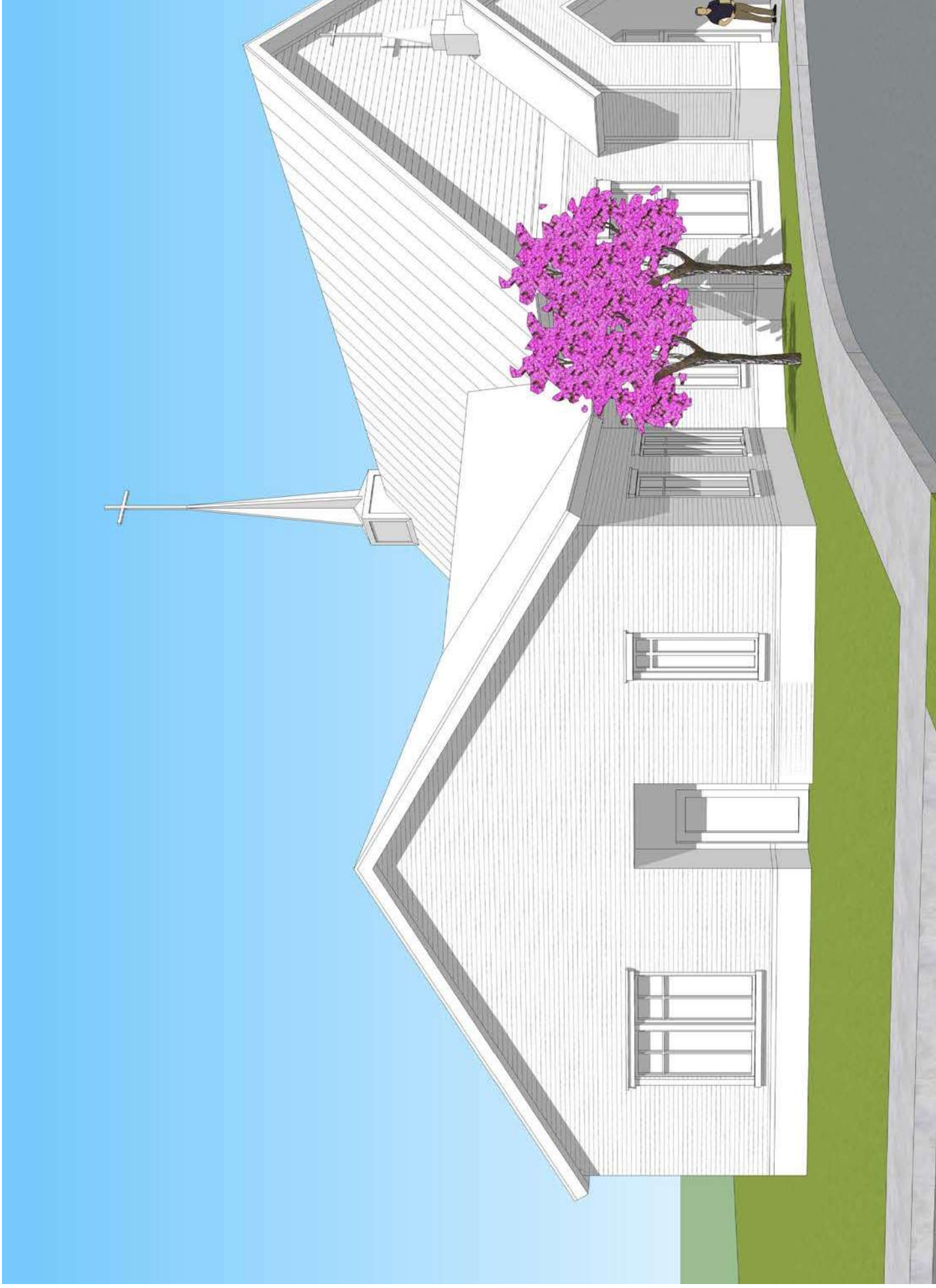




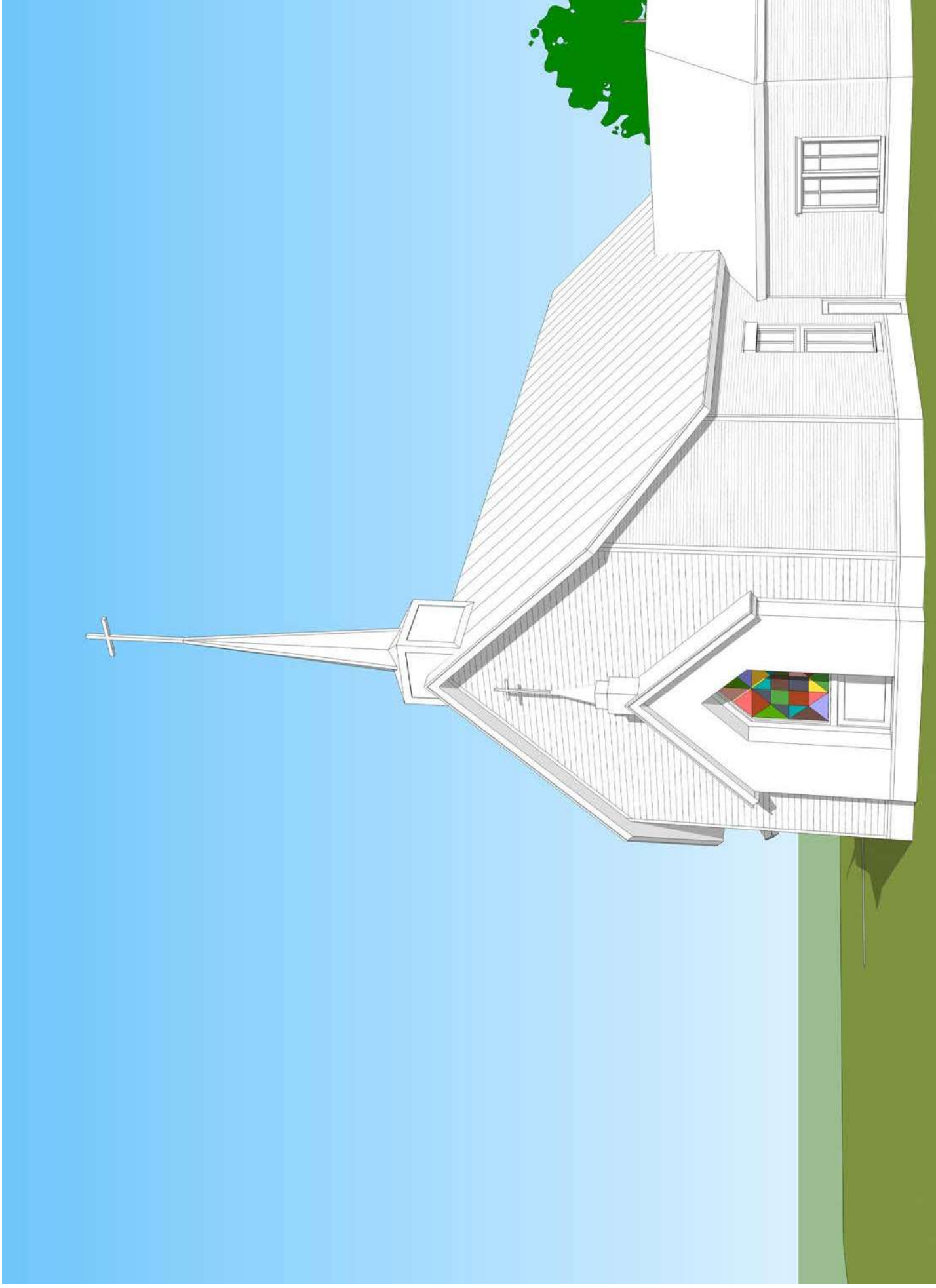








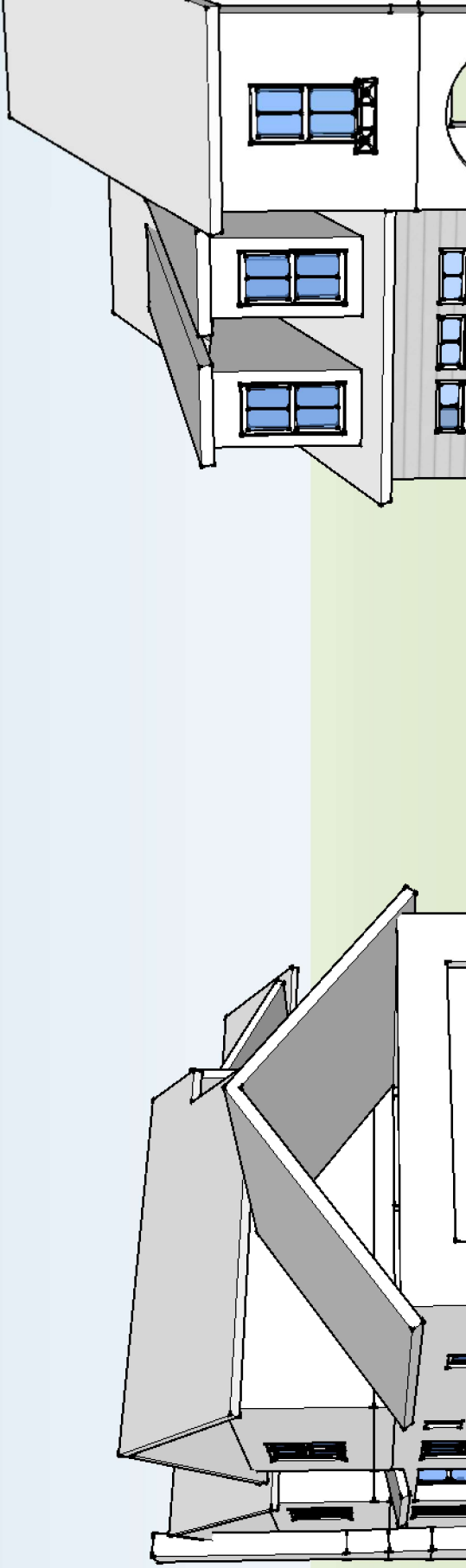
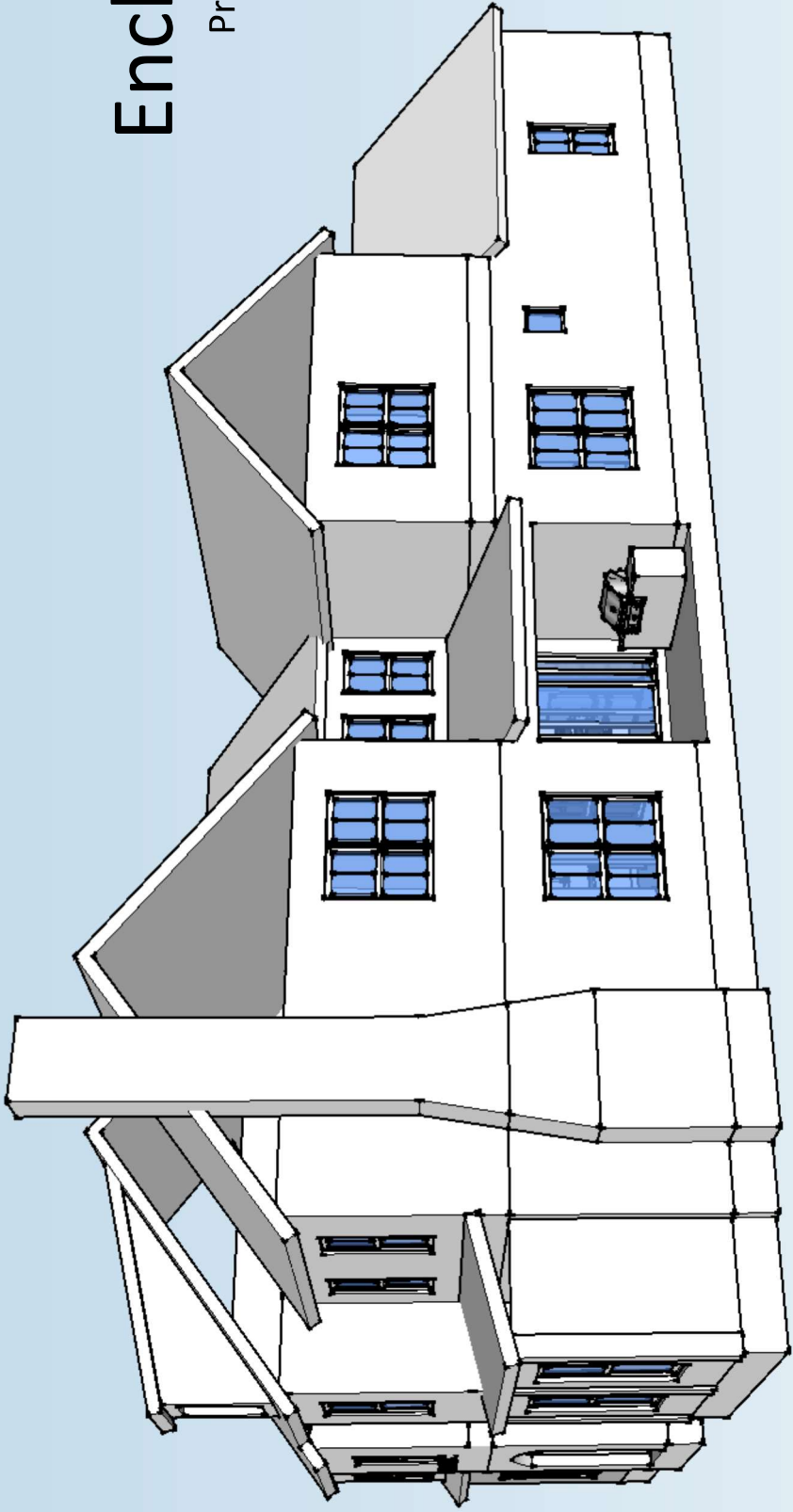


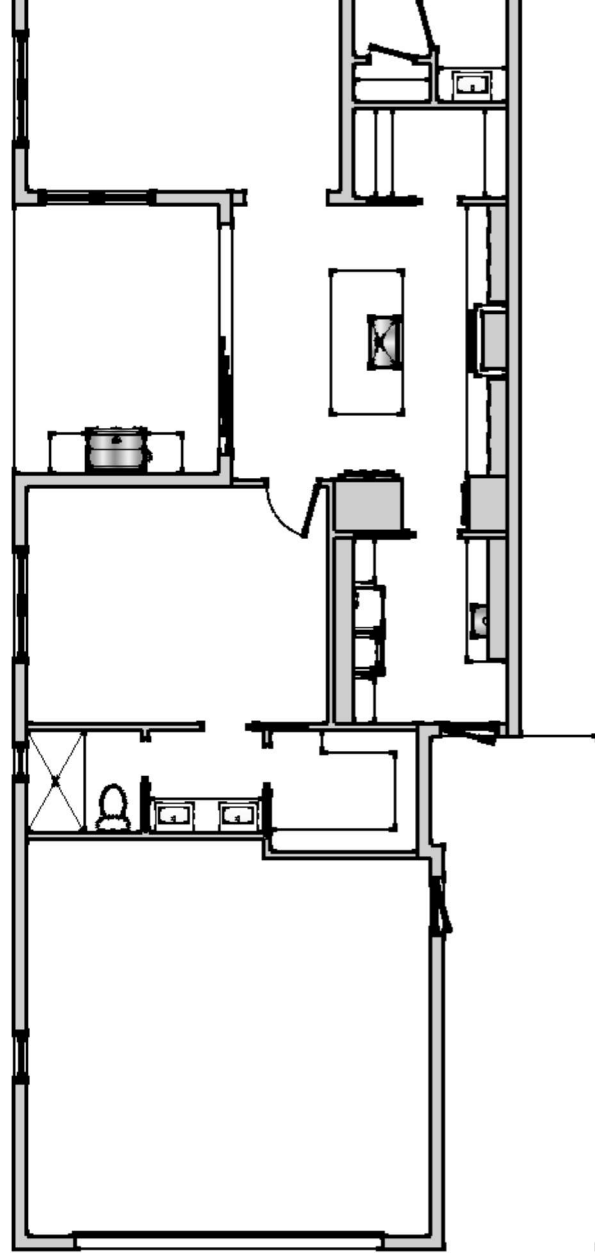


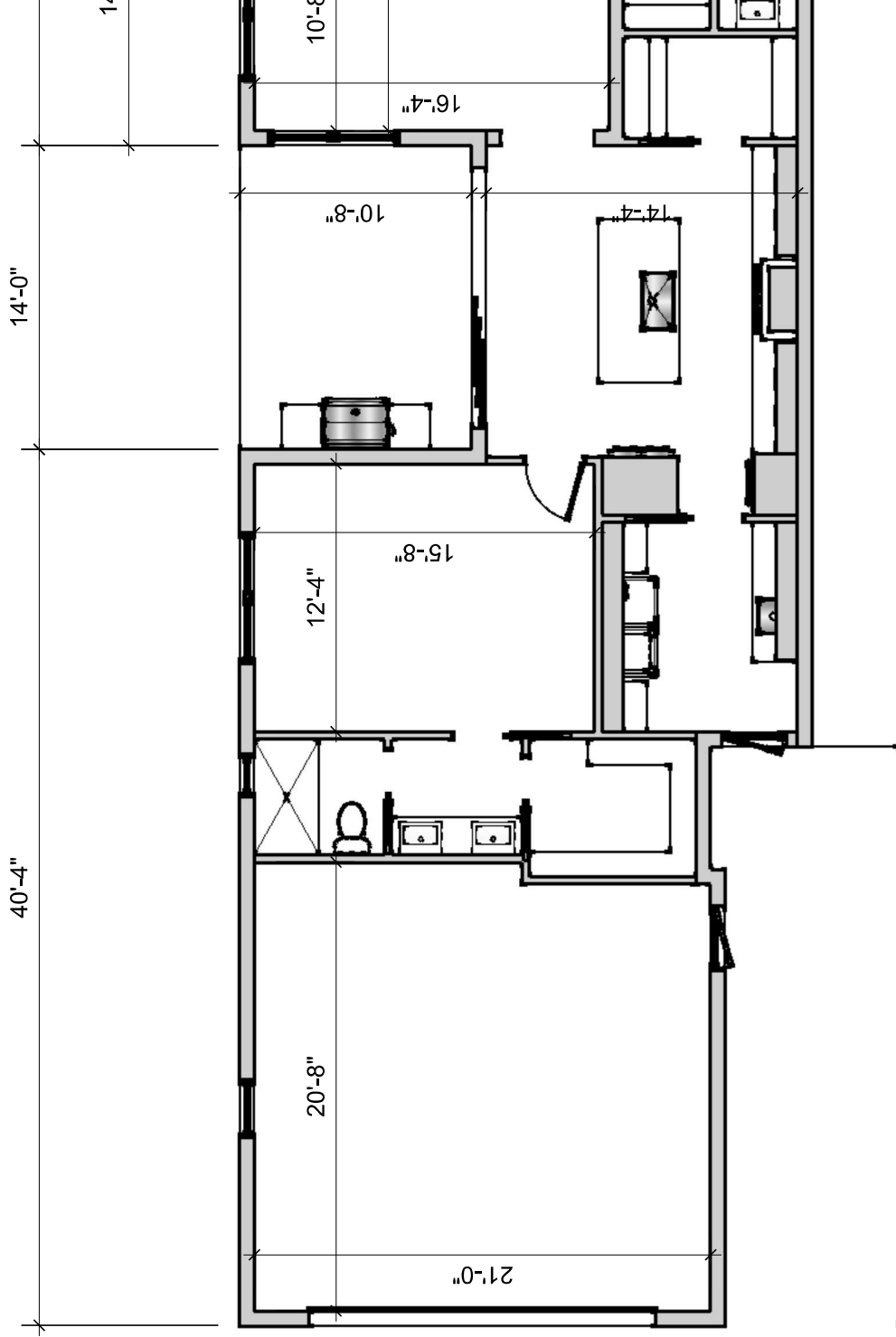


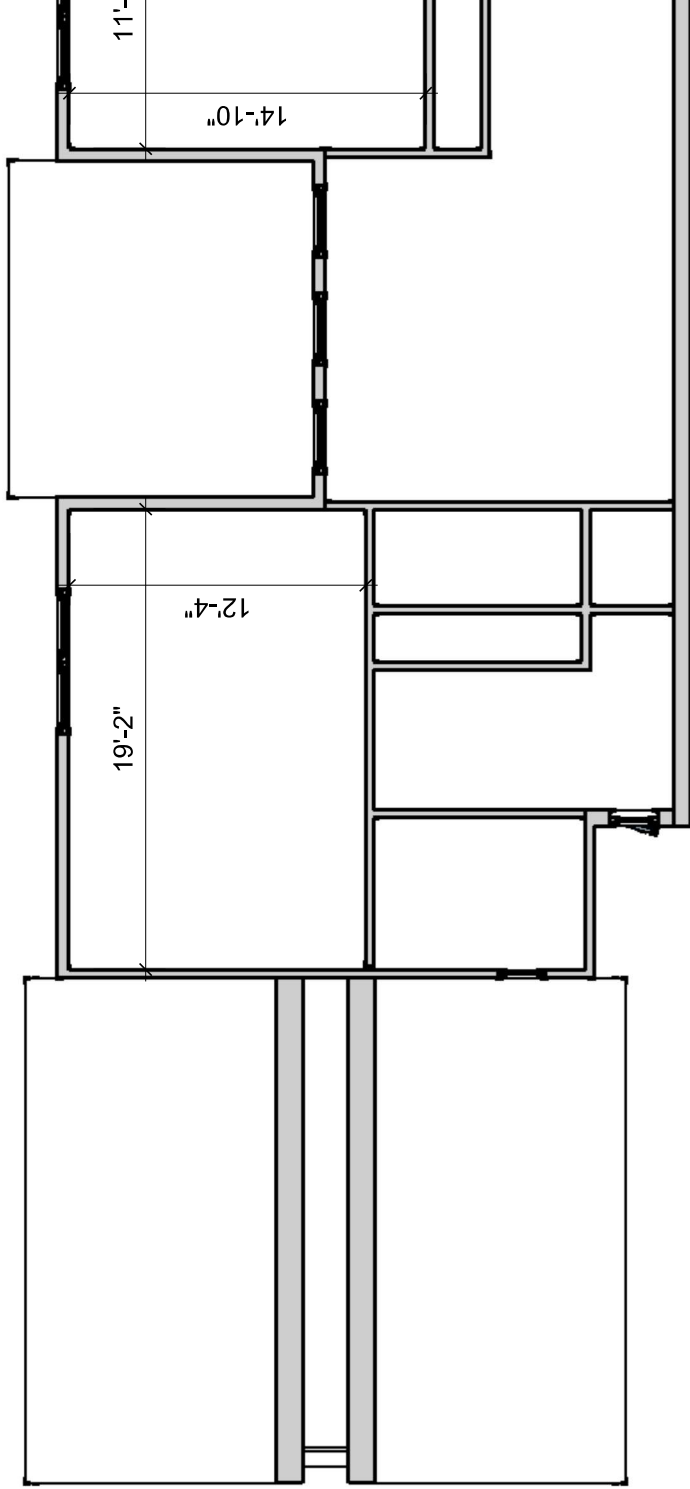


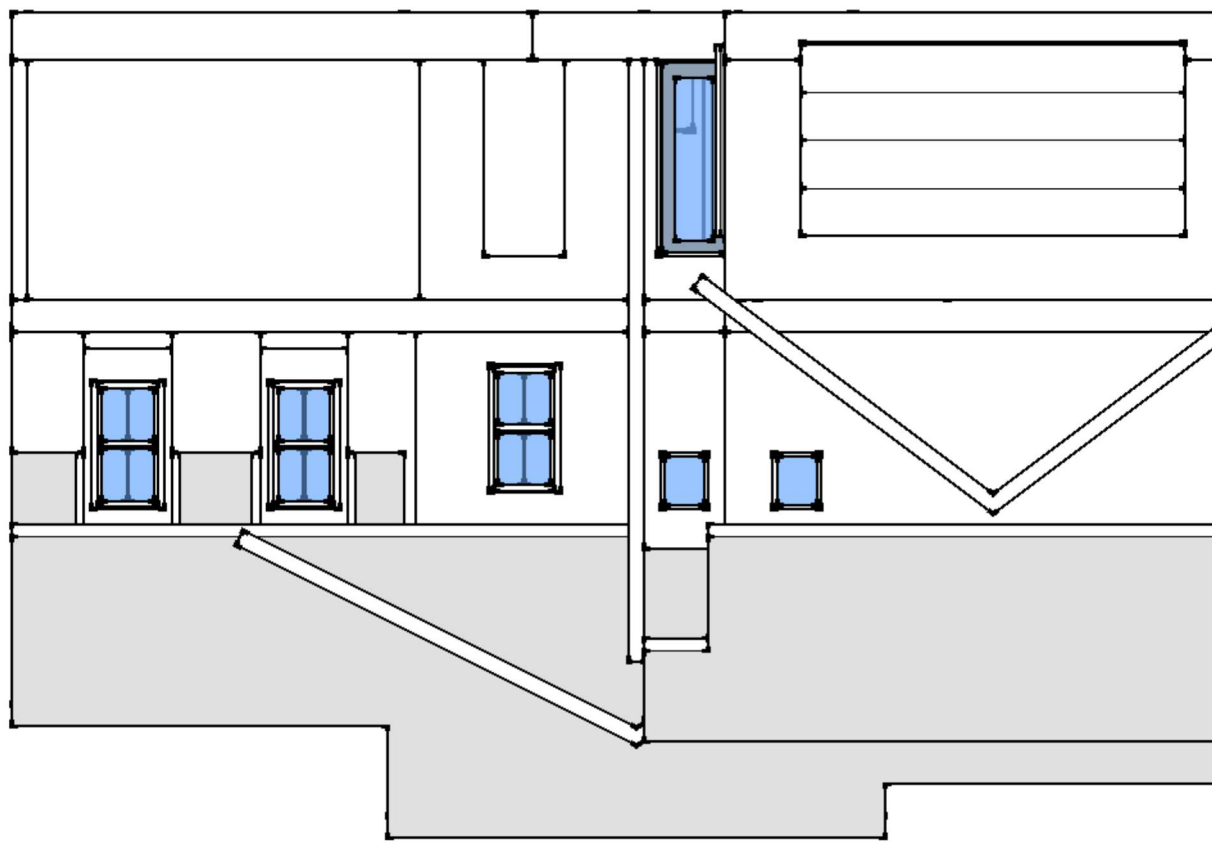
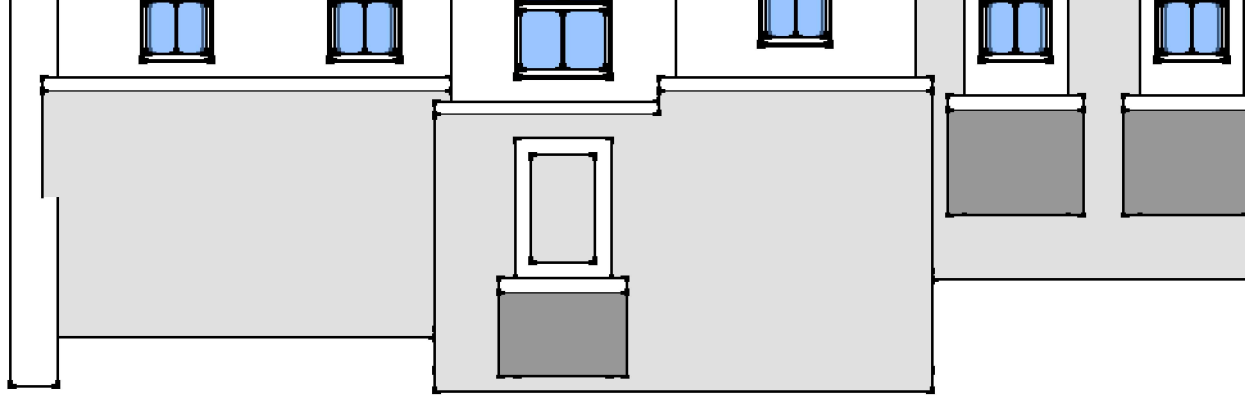
# Enclave Project

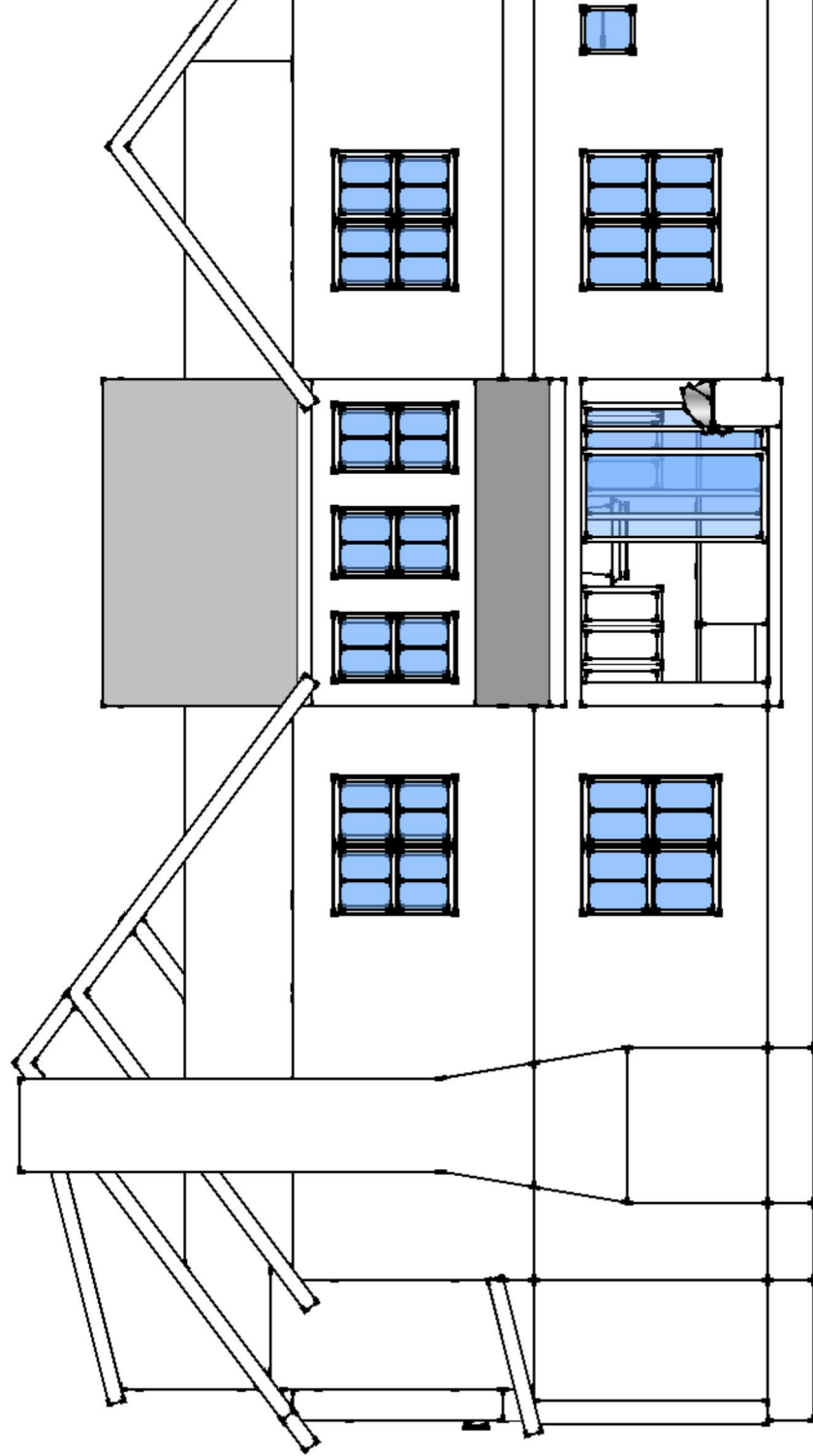


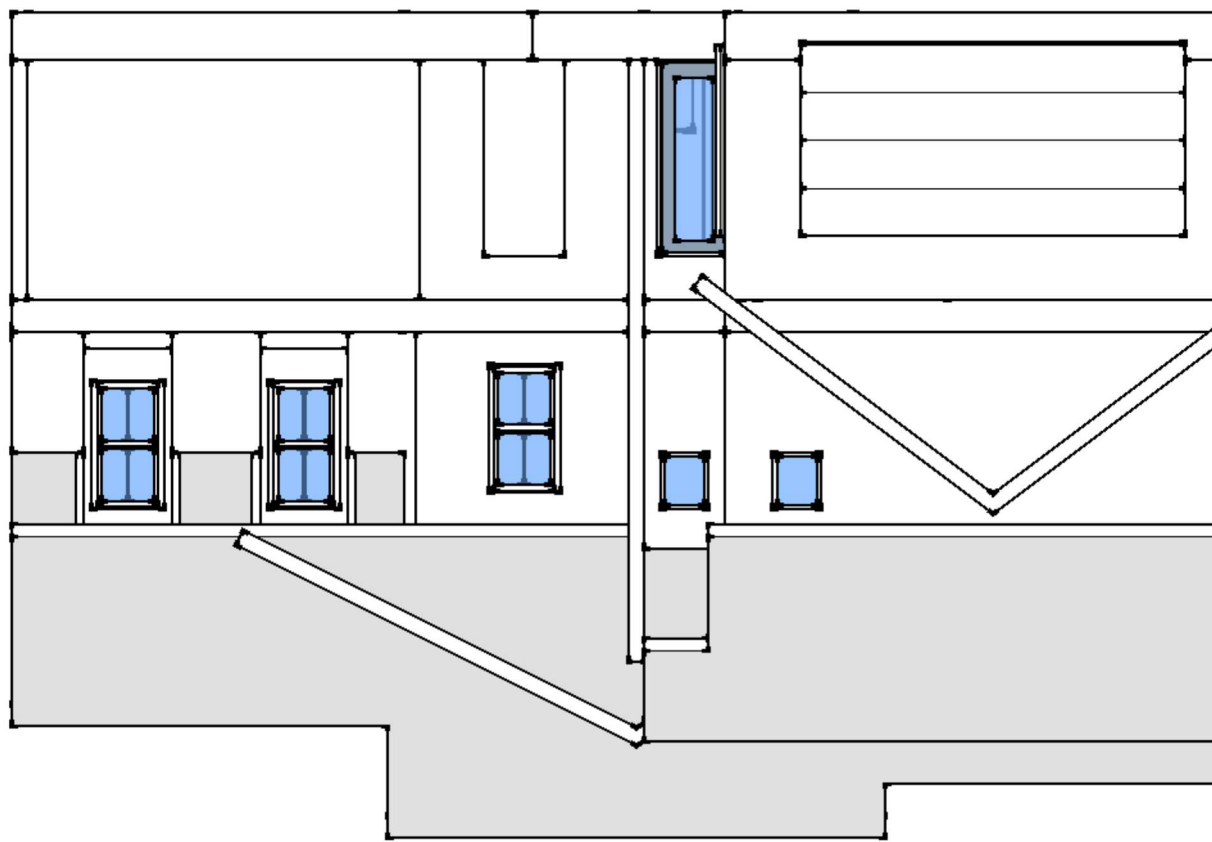
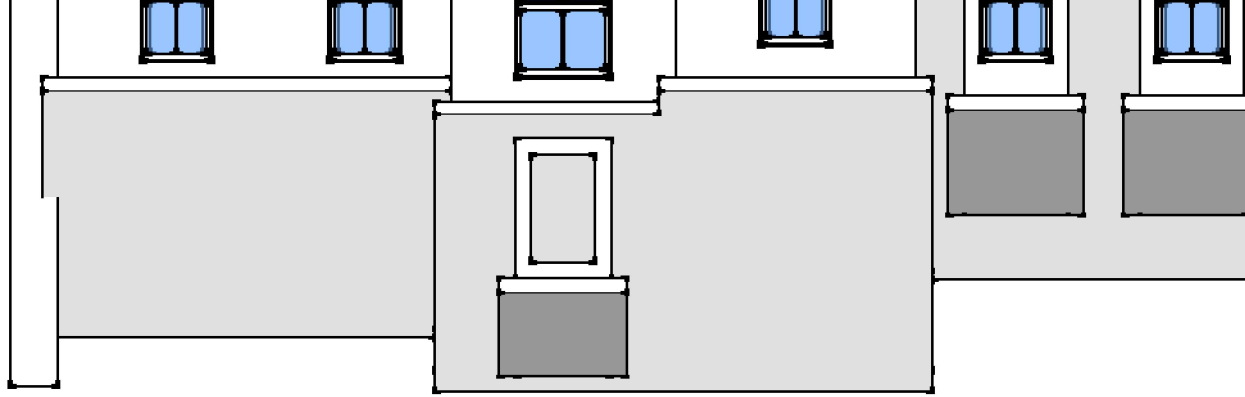




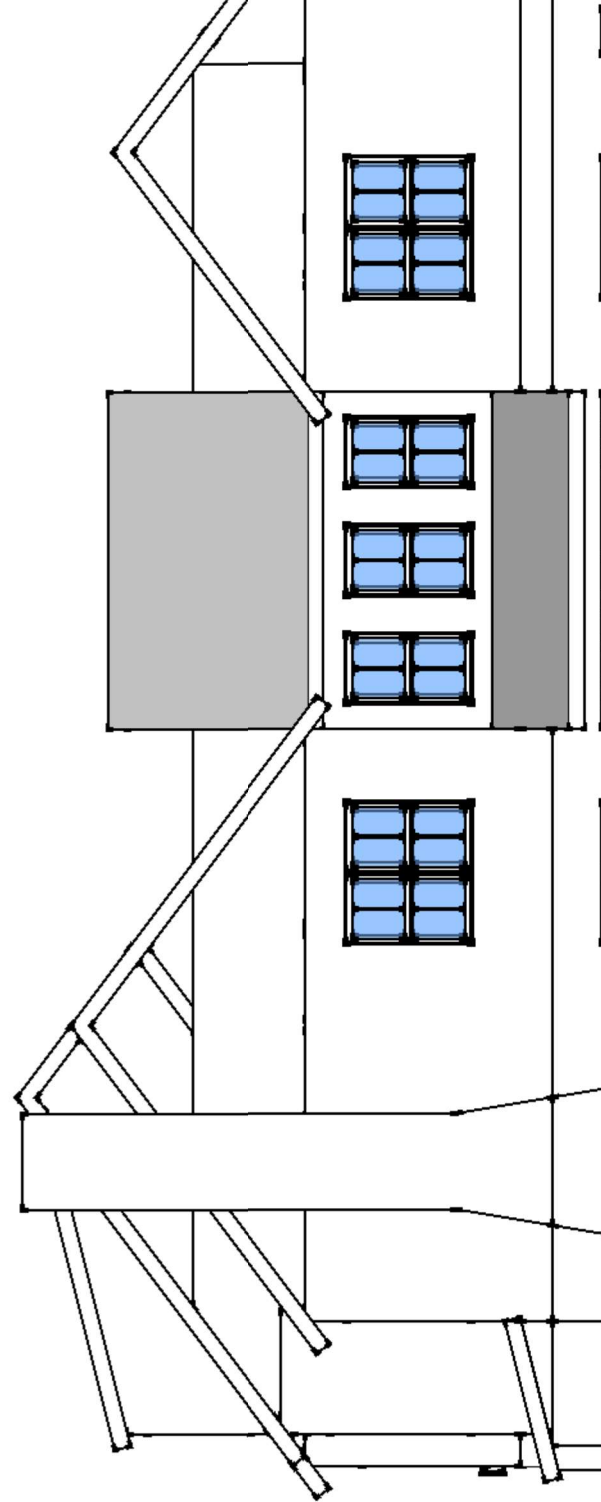
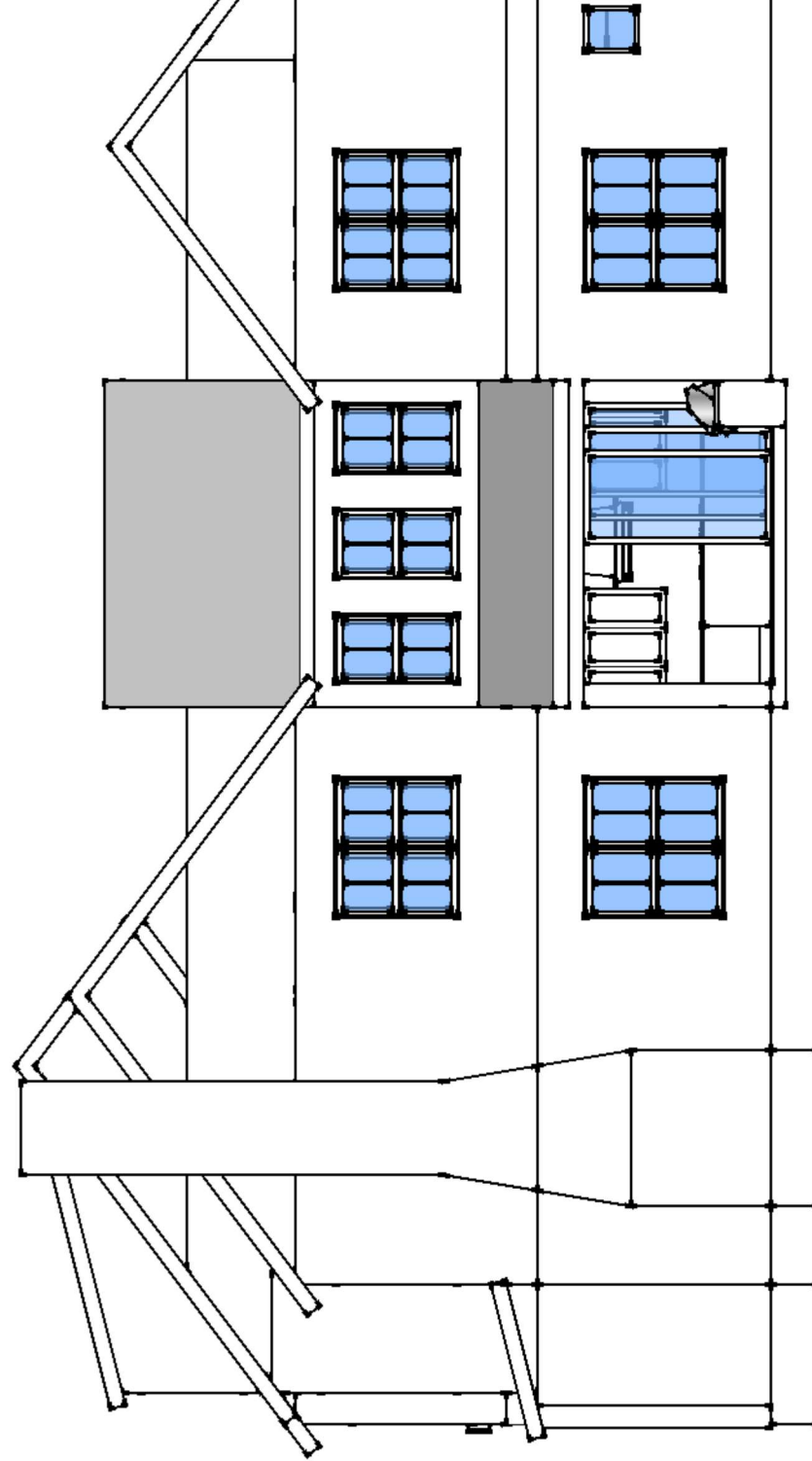












# THE ENCLAVE IN WINTER PARK DEVELOPMENT STANDARDS

## LOT TYPE:

### Regulations

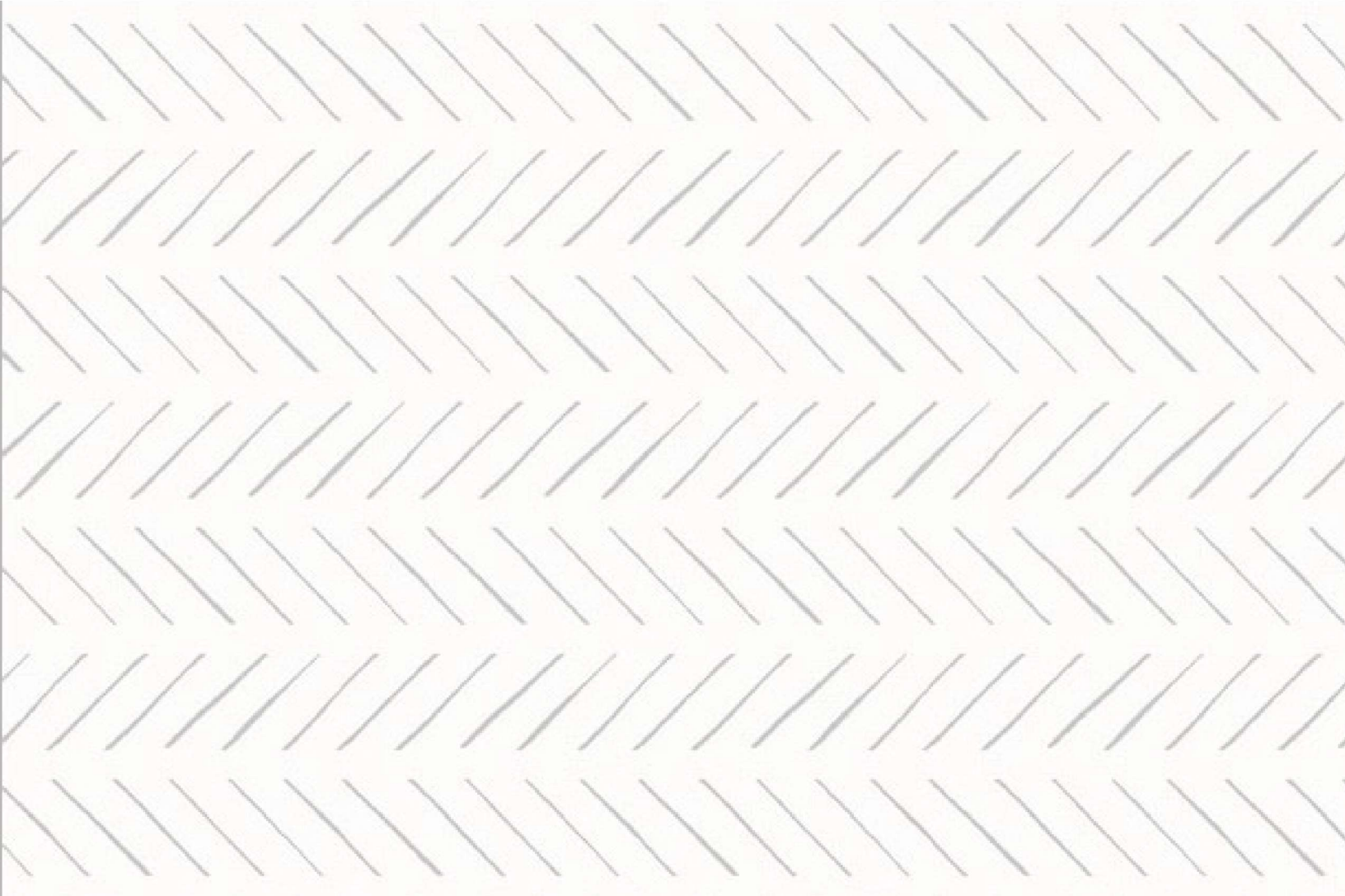
|                                                                          | A     | B     | C      | D      | E      | F      | G      |
|--------------------------------------------------------------------------|-------|-------|--------|--------|--------|--------|--------|
| Lot width                                                                | 59    | 57    | 59     | 60.43  | 60.43  | 60.36  | 62     |
| lot depth                                                                | 114   | 114   | 134.11 | 119.51 | 116.51 | 107.21 | 107.21 |
| Total lot size (sq.ft.)                                                  | 6,726 | 6,498 | 7,912  | 7,222  | 7,041  | 6,471  | 6,647  |
| Max. density allowed (du/ac)                                             | 5.0   | 5.0   | 5.0    | 5.0    | 5.0    | 5.0    | 5.0    |
| Front setback (1)                                                        | 20'   | 20'   | 20'    | 20'    | 20'    | 20'    | 20'    |
| Side setback (2) (3)                                                     | 6.5   | 6.5   | 6.5    | 6.5    | 6.5    | 6.5    | 6.5    |
| Recreation area side setback (9)                                         | 20'   | n/a   | 20'    | 20'    | 20'    | n/a    | 20'    |
| Rear setback (4)(9)                                                      | 20'   | 20'   | 20'    | n/a    | n/a    | 20'    | 20'    |
| Center Park rear setback                                                 | n/a   | n/a   | n/a    | 10'    | 10'    | n/a    | n/a    |
| Street-side setback (for front yard-facing garages) (5)                  | n/a   | n/a   | n/a    | 10'    | 10'    | 10'    | 10'    |
| Side yard setbacks to 2nd floor (10)                                     | 8'    | 8'    | 8'     | 8'     | 8'     | 8'     | 8'     |
| Accessory structures setbacks (including detached garages & guest house) | 5'    | 5'    | 5'     | 5'     | 5'     | 5'     | 5'     |
| Min. living space principal structure(sq.ft.)                            | 1,200 | 1,200 | 1,200  | 1,200  | 1,200  | 1,200  | 1,200  |
| Max. F.A.R (7)(11)                                                       | 47%   | 47%   | 47%    | 47%    | 47%    | 47%    | 47%    |
| Max. I.S.R (6) (8)                                                       | 65%   | 65%   | 65%    | 65%    | 65%    | 65%    | 65%    |
| Max. height                                                              | 35'   | 35'   | 35'    | 35'    | 35'    | 35'    | 35'    |

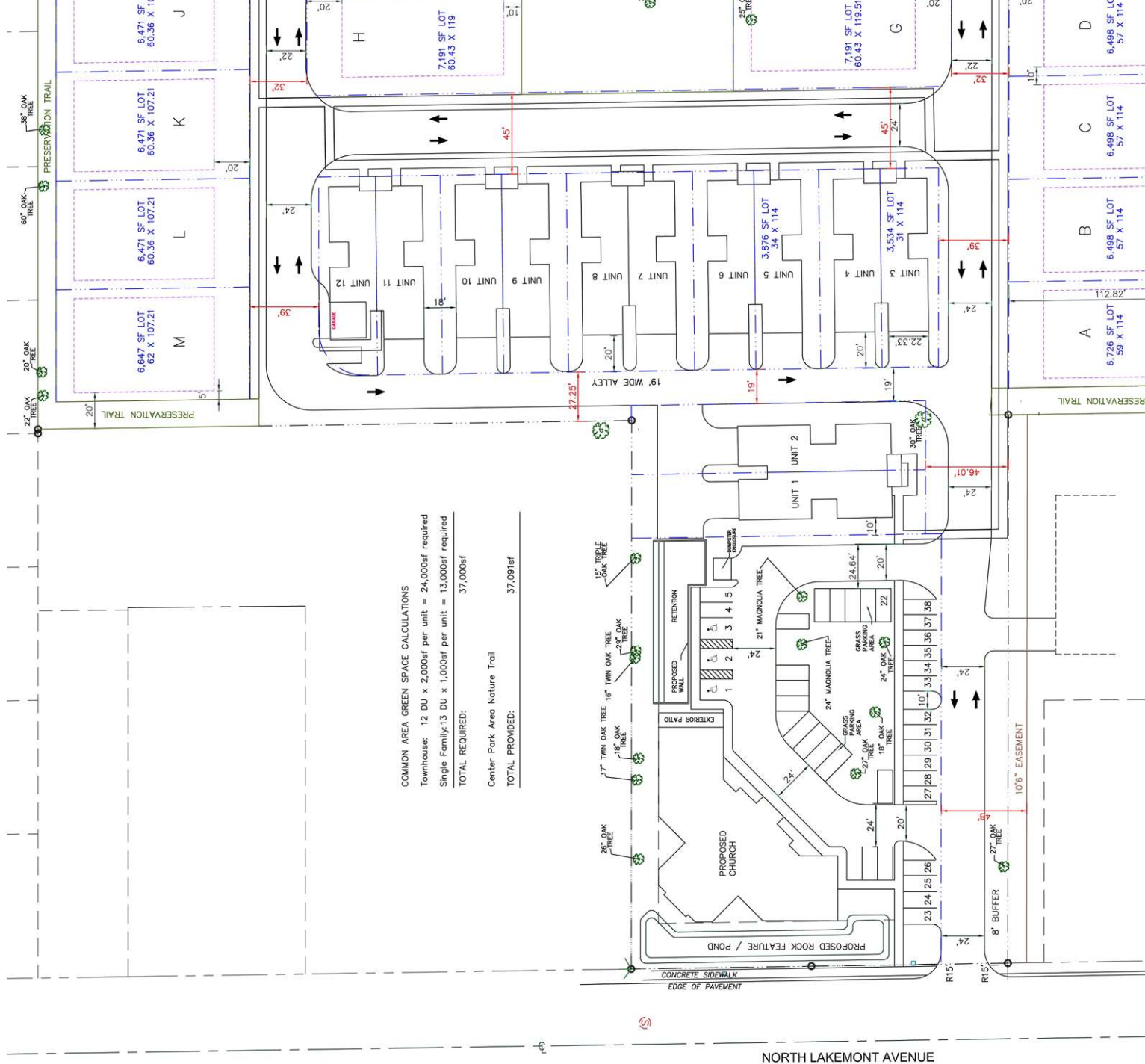
### Notes:

- 1) Measured from closest concrete edge (sidewalk or curb)
- 2) Does not include setbacks bordering recreation areas
- 3) Does not include lots bordering a street
- 4) Does not include lots bordering "Center Park"
- 5) Will be 20' from nearest concrete edge if garage faces side yard
- 6) Excludes roads & sidewalks.
- 7) Excluding open porches, screen enclosures, open cabanas and attached open breezways
- 8) Credit for rear-lot garages shall be given for distance equal to primary dwelling length by 8 feet width
- 9) Measured from building to outside perimeter line of easement
- 10) Applies to a minimum of one side of structure
- 11) Single family home lots may use .55 FAR

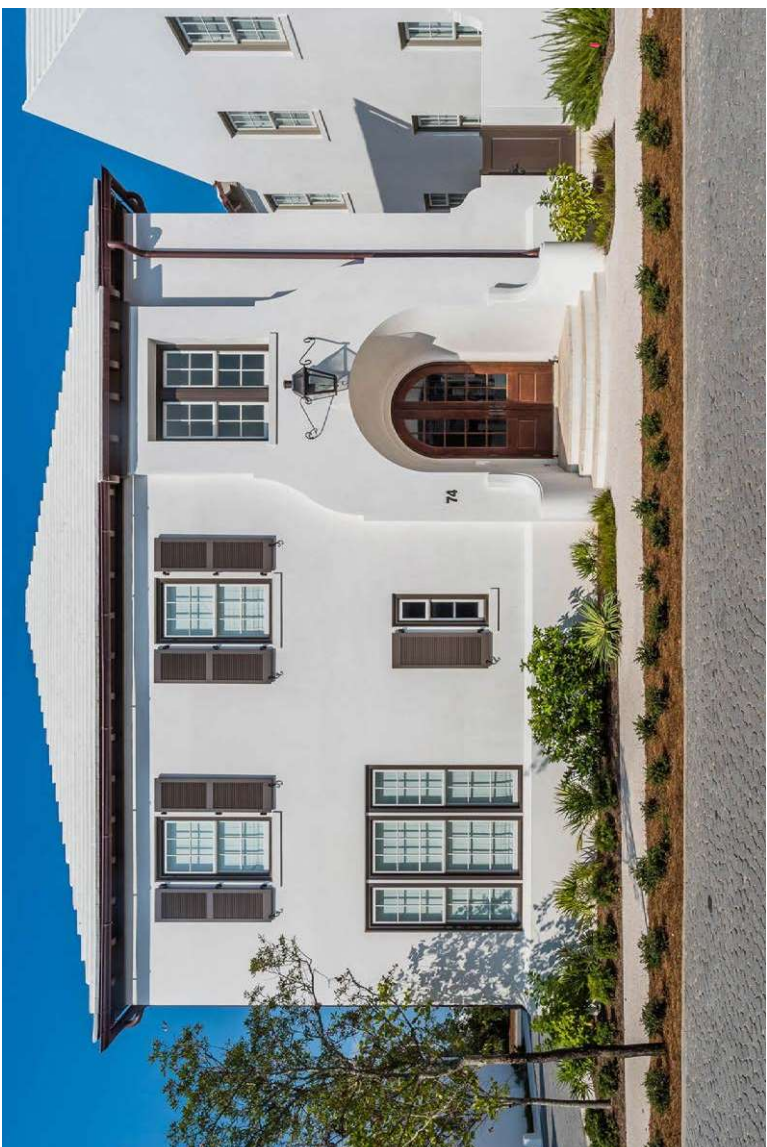
## **Additional Development Standards:**

- 1) All dwellings must include a entry element (open porch or stoop) that may infringe into front yard setback up to 8 feet (FAR exempt)
- 2) Front facing garages shall be allowed with homeowner association review and approval
- 3) 5 foot minimum rear & side setbacks for all site improvements (pool, patio, 8' high cabana or accessory structure walls)
- 4) Shared driveways may be allowed with approval of the homeowners association
- 5) HVAC equipment may be placed within the side yard setback when screened from the adjacent lot by 30" high stucco-concrete or brick wall. Landscaping screening is required to block view from street.
- 6) Rear-yard located garages may be attached with an open or enclosed breezway that shall not count toward the FAR
- 7) Pool water edge may be placed at edge of rear and side property lines within respective rear yards. Pool decks may be placed within side or rear property setbacks up to 50% of building setback. Screen enclosure require homeowners association approval
- 8) All lots with rear yards abutting the "Recreation trail" shall be limited to metal privacy fence with 3 1/2" open spacing
- 9) Each residence shall provide space for four off-street vehicles
- 10) Circular drives shall be permitted only with homeowners association approval
- 11) One common drive may serve two abutting properties without meeting the driveway setback requirement
- 12) Open second story balconies may be permitted above first floor open porch and will be excluded from FAR requirement
- 13) Minor deviations of the floor area ratio for principal dwelling and cottage dwelling may be considered up to three additional percent
- 14) Accessory guest house dwelling may be allowed and may include cooking facilities but may not be used as a rental dwelling
- 15) Screen pool enclosures may be permitted up to an additional 10 percent of the lot area in addition to the permitted building area
- 16) The area between a building and a street shall be landscaped with grass, plantings or both and shall require association approval
- 17) The principal dwelling may be placed in either the front of rear of the lot
- 18) Two off-street parking spaces shall be required for each principal building and one space shall be required for accessory dwelling
- 19) Driveway and parking surfaces may be placed one foot from rear or side property line if drainage flows away from neighboring property
- 20) Rear yard garages and accessory structures shall not exceed 8 feet high wall height





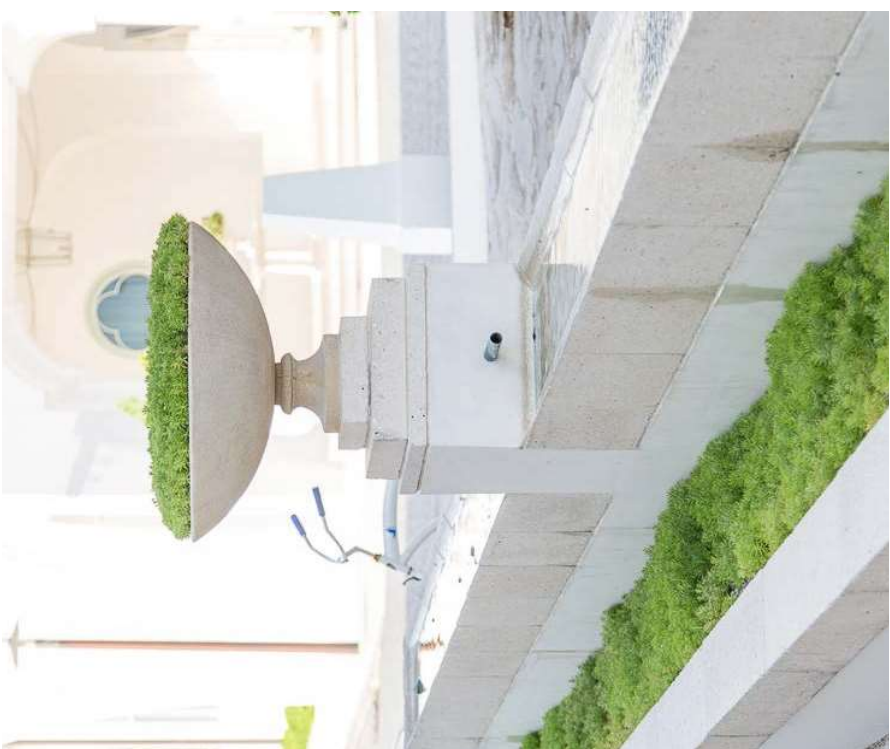
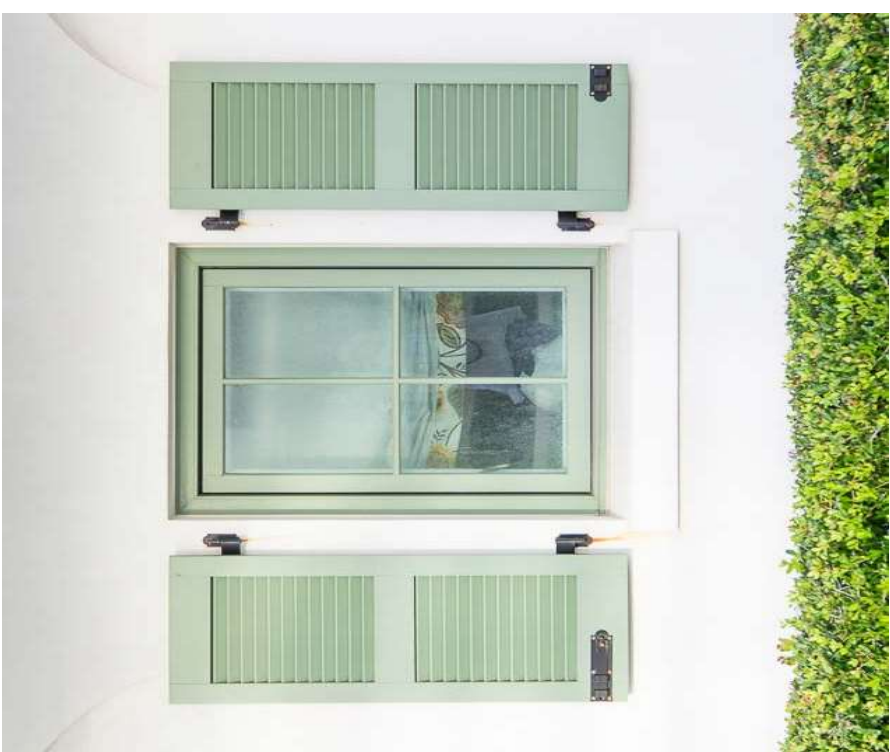






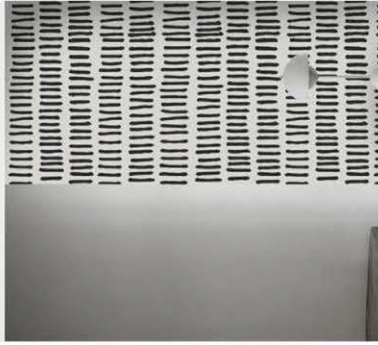


































## **Sec. 58-70. Planned Unit Residential Development (PURD) District.**

### *(a) Purpose and intent.*

(1) The planned unit residential development (PURD) district is established to encourage the development of large tracts of land as planned residential areas which provide a more varied and interesting urban pattern and are capable of incorporating new demands in the housing market and changes in design and technology in the building industry.

(2) Further, the objectives of the PURD district include:

- a. To provide a more desirable living environment than would be possible through the strict application of article requirements;
- b. To encourage developers to use a more creative approach in the development of land;
- c. To encourage a more efficient allocation and maintenance by private initiative of common open spaces within new residential areas;
- d. To encourage variety in the physical development pattern of the city;
- e. To provide for more efficient use of those public facilities and utilities required in connection with the new residential development;
- f. To encourage a variety of dwelling and building types within a neighborhood area; and
- g. To place emphasis on the density of dwelling units per acre rather than on minimum lot sizes, thereby permitting and encouraging a developer to preserve scenic and natural amenities.

(b) *Permitted uses.* The uses permitted within this district shall be primarily residential in character, and may include the following:

- (1) Single family detached dwellings;
- (2) Duplex townhouses or cluster housing but excluding garden apartments or density in a single building beyond that defined in this article;
- (3) Multiple-family dwellings provided, however, in no case shall the building height as defined in this article exceed 35 feet. Parapet walls or mechanical equipment and related structures may be added to the building height but in no case shall extend more than five feet above the height limitation established in this section;
- (4) Parks and recreational areas;
- (5) Churches.

### *(c) Development requirements and standards for approval.*

(1) The parcel for which a PURD is proposed must be compact in shape and be in a single ownership or control. The parcel must be a minimum of two acres in size.

(2) The overall density of development permitted on this tract shall not exceed five units per acre for properties designated as single-family in the comprehensive plan or ten units per acre for properties designated as low density or multi-family in the comprehensive plan. This calculation shall not include the land areas to be dedicated as road right-of-ways or stormwater retention areas necessary for those road right-of-ways. The residential units permitted in this district may be provided by a mixture of housing types provided that the number of multi-family units does not exceed 50 percent of the total residential units; the remaining units shall include cluster housing, attached and detached single family residences.

(3) Minimum land area per residential unit:  
Single family detached . . . 5,000 sq. ft.  
Cluster housing/townhouse . . . 2,500 sq. ft.  
Multiple-family unit . . . 1,500 sq. ft.

(4) Minimum land area per residential unit reserved in common open space:  
Single family detached . . . 1,000 sq. ft.  
Townhouse/cluster housing . . . 2,000 sq. ft.  
Multiple-family unit . . . 2,500 sq. ft.  
(Required stormwater retention areas shall not be counted toward meeting this requirement.)

(5) Minimum living area per residential unit:  
Single family detached . . . 1,500 sq. ft.  
Cluster house . . . 1,200 sq. ft.  
Townhouse . . . 1,000 sq. ft.  
Multiple-family unit . . . 750 sq. ft.

(6) There shall be no minimum setbacks, no minimum percentage of lot coverage and no minimum lot widths unless otherwise stated in this section. However, the location of proposed structures shall be shown on the development plan and the development of the PURD shall be subject to the minimum lot size, setback lines, lot coverage or floor area, specified in the approved plan. The proposed location arrangement of structures shall not be detrimental to existing or proposed adjacent dwellings or to the development of the neighborhood.

(7) When development standards are not proposed and adopted that are different than the applicable single family or low density building and accessory structure requirements, the regulations of this article shall apply.

(8) A minimum of two off-street parking spaces shall be provided for each residential unit in the planned unit residential development. For single family attached and detached houses, these spaces shall be provided on each residential lot; for the multiple-family units, parking may be provided in small parking areas adjacent to the units served.

(9) All streets within the PURD shall meet all the requirements outlined in the city's subdivision regulations.

(10) The common open space and recreational areas may be deeded to the city for general public use. If the city does not accept this land or the developer elects not to offer the areas for general public use, the developer of the PURD shall provide a legally constituted homeowners association which owns and maintains this common open space property. The legal instruments of this association shall be reviewed and shall be acceptable to the city commission. If the

property is owned by such an association, this property shall be subject to the city ad valorem taxes. The legal instrument creating this association shall be approved by the city commission.

(11) The perimeter of the planned unit residential development shall contain a buffer or setback strip of 50 feet to any adjacent private property, if the development includes any building over 30 feet in height. Otherwise a buffer or setback strip of 20 feet shall be provided. When a development contains buildings of differing heights, the buffer or setback strip shall be determined by the height of the building closest to the adjacent private property. No buildings, parking lots or other structures may be located within this area. However, swimming pools and pool decks may be permitted in these buffer areas subject to the normal residential setback requirements. The planning and zoning commission may recommend and the city commission may approve the erection of a fence or wall or the location of other buildings or structures within this buffer area if it is located adjacent to a public street and if those buildings or structures are consistent with the character of the surrounding area or as deemed appropriate to protect the privacy and amenities of the adjacent existing uses. This buffer area may be included in the required open space, but is not required to be, if this land is open to common use and not fenced for the private use of the adjacent residential unit.

(12) After the completion of a planned unit residential development, the use of the land and the construction, modification or alteration of any buildings or structures within the area covered by the plan shall be regulated by the approved development plan which shall be retained in the office of the building and zoning department of the city.

(13) No changes may be made in the approved development plan except as provided below:

a. Minor extensions, alterations or modifications of existing buildings or structures may be permitted after review and approval by the building official provided they are substantially consistent with the purposes and intent of the development plan.

b. Substantial change in permitted uses, location of buildings or other specifications of the development plan may be permitted, but only after public hearing and approval by the city commission upon receipt of the recommendation of the planning and zoning commission.

(d) *Review and approval procedure.* An application for a PURD shall be considered administratively as a petition for rezoning and will be subject to those procedures established in this article. Because of the nature of this district, additional procedures and requirements must be required; these are outlined in the following paragraphs. The application and additional supportive data shall be submitted to the building official.

(1) *Pre-application conference.* The applicant for a PURD is encouraged to confer with the city's administrative staff prior to submitting a formal application to discuss the general concept of the plan and to obtain information regarding projected programs and other matters of the city which might affect the development.

(2) *Preliminary concept plan.*

a. Applications for PURD districts shall be accompanied by a preliminary concept plan and supporting documents that properly present necessary basic data such as the location and size of the entire proposed development, the existing and proposed land uses by type and density, the location of existing streets and highways, the location of streets proposed in the development, public uses, such as parks, playgrounds or other open spaces, and typical

examples of various proposed buildings. The applicant shall also identify the present ownership of all land included in the development, indicate the expected sequence of development, and define the objectives and intent of the planned unit residential development.

b. An application for approval of the planned unit residential development (PURD) shall be reviewed by the planning and zoning commission and the city commission in public hearings with final approval being given by the city commission. In the review the following points will be considered:

1. Adherence to the city's comprehensive planning policies;
2. The proper relation between the proposed development and the surrounding uses, and the effect of the plan upon the city's comprehensive plan;
3. The adequacy of existing and proposed streets, utilities, and other public services to serve the development;
4. The character, design and appropriateness of the proposed land uses and their adequacy to encourage desirable living conditions, to provide separation and screening between uses where desirable to preserve the natural amenities of the land; and
5. The adequacy of open space areas and recreation facilities within the PURD. If a PURD district is approved, the building official shall change the zoning map to designate the appropriate PURD district and the date of approval. Planned unit residential developments shall also be subject to approval by the city commission receiving upon the recommendation of the planning and zoning commission of a comprehensive development plan (which shall substantially comply with the approved concept plan) prior to issuance of permits or authorization of development.

(3) *Comprehensive development plan.* The application shall be supported by a development plan and a written summary of intent, and shall show the relation between the proposed development and the surrounding area, both existing and proposed. The following information shall also be presented for review:

- a. A general location map;
- b. Existing topographic conditions, including contour intervals of one foot based on field surveys or photogrammetric methods;
- c. The existing and proposed land uses and the proposed location of all buildings or structures in the PURD;
- d. The location of existing and proposed streets and major thoroughfares;
- e. The location of all existing and proposed utilities, including a preliminary utility and drainage plan;
- f. The present zoning of the surrounding area;
- g. A legal description of the subject property;

h. The location and use of existing and proposed public, semipublic, or community facilities such as schools, parks and open spaces. This will include areas proposed to be dedicated or reserved for community or public use as required by this district;

i. Perspective drawings of representative building types except for detached single-family dwellings and their accessory buildings. These drawings should indicate general architectural type and appearance; and

j. If a proposed development creates special problems or involves unusual circumstances or if the planning and zoning commission desires additional information to more adequately evaluate the proposal, such data may be required. Examples include an off-street parking and loading plan, an economic feasibility report or market analysis, a traffic study and circulation plan for the area or any other information needed.

(4) *Development report.* The applicant shall submit a written statement with the plan that shall include the following information:

a. A state of the present ownership of all land within the proposed development;

b. An explanation of the character of the PURD, including a summary of acres for each use, the number of dwelling units and the gross density by type of land use. The statement shall include standards for floor area ratio, lot size, yard and spacing requirements for each type of dwelling unit. In the event any standards are not included in the development report, the applicable zoning standards for the single family, cluster housing or multi-family housing shall be utilized. This shall apply to the principal structure as well as any accessory structures such as swimming pools, fences, walls, etc.

c. A general statement of the proposed development schedule and progression of unit division or staging;

d. Statement giving the proposed ownership of the multiple-family units; and

e. Agreements, provisions and covenants which govern the use, maintenance, and protection of the development of common or open areas where public dedication is not contemplated.

(5) *Staff review.* After all required information has been received, the administrative staff of the city will have 30 days to review it. During this time, the staff may require the applicant to provide additional information which it deems necessary to adequately consider the comprehensive development plan.

(6) *Public hearings.* After this review period, the planning and zoning commission and city commission will hold public hearings. The administrative staff will present its recommendations to the commissions at these hearings. Approval of the comprehensive development plan will be contingent upon its conformance to the approved preliminary concept plan.

(7) *Subdivision plan.* The applicant may file a preliminary subdivision plan with the development plan in order that tentative approval of the subdivision may be granted by the planning and zoning commission. In no case, however, shall subdivision approval precede approval of the development plan. The building official shall issue building permits for structures in the area covered by the approved comprehensive development plan if they are in substantial conformity with the approved preliminary concept plan, the development schedule, and with all



other applicable regulations. If the developer questions the building official, the matter will be resolved by the planning and zoning commission.

(8) *Revision of comprehensive development plan.* Any major or substantial changes in the approved comprehensive development plan which affects the intent and character of the development, the land use pattern and density, the location or dimensions of streets or structures, or similar substantial changes shall be reviewed and approved by the city commission subsequent to the receipt of the recommendation of the planning and zoning commission. A request for a revision of the comprehensive development plan shall be supported by a written statement of why the revisions are necessary or desirable. The planning and zoning commission or city commission may require any additional supportive data they deem necessary.

(9) *Duration of approval.* Approval by the city commission shall be for one year or the submitted development schedule. If no construction has begun within one year after approval of the development plan, or if the applicant fails to maintain the approved development schedule, the approval of the comprehensive development plan shall lapse and be of no further effect. If the approval of the comprehensive development plan lapses under this provision the comprehensive development plan shall automatically be removed from the official zoning map and the area shall automatically revert back to the zoning district which applied to the area prior to the approval of the comprehensive development plan. The city clerk shall also file a notice of revocation with the recorded comprehensive development plan.

(e) Approved development plan standards for approved PURD's. Except as shown below, the applicable zoning standards (based on the comprehensive plan) shall apply for all principal and accessory structures. In addition, for Waterbridge and Windsong subdivisions, the development standards of Section 58-65 Lakefront (R-1AAA) District, subsection (f)(8) "Side wall articulation" shall be applied and other development standards of Section 58-65(f) may be applied except where the approved Windsong and Waterbridge development standards contain more restrictive requirements.

(1) Winter Park Oaks and Waterbridge as shown below:

| <b>Setbacks</b> | <b>Winter Park Oaks</b>                 | <b>Waterbridge</b>                                   |
|-----------------|-----------------------------------------|------------------------------------------------------|
| Front           | 20'                                     | 25' Single<br>Family<br>20' Zero Lot Line            |
| Side            | 5'                                      | 10' Single<br>Family<br>10' (one side) Zero Lot Line |
| Rear            | 10' lots 1-20 & 26-40<br>15' lots 21-25 | 20' Single<br>Family<br>10' Zero Lot Line            |

- (2) Alabama Hotel: Only as shown on development plan report.
- (3) Winter Park Towers Village: Only as shown on development plan report.
- (4) Genius or Windsong property as shown below:

| Lot Type*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | A          | B          | C(12)      | D(9)       | E(11)      | F(10)      | G(8)       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|------------|------------|------------|------------|------------|
| Lot width                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 200'       | 150'       | 125'       | 125'       | 100'       | 100'       | 60'        |
| Lot depth                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 435'       | 300'       | 200'       | 150'       | 150'       | 100'       | 105'       |
| Max. density (DU/AC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | .5         | .97        | 1.7        | 2.3        | 2.9        | 4.4        | 6.0        |
| Minimum Setbacks:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |            |            |            |            |            |            |            |
| Front                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 50'        | 35'        | 25'        | 25'        | 25'(1)(2)  | 20'(1)     | 15'(3)     |
| Side                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 30'        | 25'        | 15'        | 15'        | 10'        | 10'        | 5'         |
| Rear                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 75'        | 50'        | 25'        | 25'        | 25'        | 20'        | 20'        |
| Lake (4) (5)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 75'        | 75'        | 75'        | --         | --         | --         | --         |
| Min. living area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 2,500 s.f. | 2,000 s.f. | 1,800 s.f. | 1,500 s.f. | 1,500 s.f. | 1,500 s.f. | 1,200 s.f. |
| Max. height                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 40'        | 35'        | 35'        | 35'        | 35'        | 35'        | 30'        |
| Max F.A.R. (%)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 20%        | 25%        | 30%        | 33%        | 33%        | 38%        | 45%(6)     |
| Max. impervious surface (%)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 35%        | 40%        | 45%        | 50%        | 50%        | 50%        | 55%(7)     |
| <ol style="list-style-type: none"> <li>1. The front setback may be reduced to 20 feet if the house includes a front porch.</li> <li>2. The front setback may be reduced to 20 feet if the lot fronts upon a common green/park.</li> <li>3. Garages must be set back a minimum of ten feet behind the primary facade line. (please see Item 14 below for exceptions)</li> <li>4. Setback is from normal high water elevation.</li> <li>5. Minimum setback for all site improvements, (pools, patio, etc.).</li> <li>6. The maximum FAR on all lots within Windsong-Elizabeth's Walk will be 45 percent, except for lots 2-6, 9-20, 49-50, and 61-62, for which the maximum FAR will be 55 percent; and lots 33-47, for which the maximum FAR will be 33 percent.</li> <li>7. The maximum impervious surface on all lots within Windsong-Elizabeth's Walk will be 55 percent, except for lots 2-6, 9-20, 49-50, and 61-62, for which the maximum impervious surface will be 65 percent; and lots 33-47, for which the maximum impervious surface will be 50 percent. All other development standards for lots 33-47 Windsong-Elizabeth's Walk, shall conform to those listed as Type "E" lots referenced above.</li> <li>8. The house constructed on Windsong-Elizabeth's Walk, lot 1 will be limited to single story in height.</li> <li>9. Lots 13 and 32-34 in Windsong-North Shore are less than 18,750 sq. ft. and less than 125 feet in width, as approved by the city commission.</li> <li>10. The minimum lot width for lots 6 and 7, Windsong-Lakeside Section One is 87.5 feet; for lots 8-10 Windsong-Lakeside Section One the minimum lot width is 90 feet; and the minimum lot width for lots 1-12 Windsong-North Shore is 95 feet, as approved by the city commission.</li> <li>11. The rear yard setback for lots 39 and 40 Windsong-Lookout Landing shall be 35 feet, and the house on these two lots shall be limited to single story in height.</li> <li>12. Lots are permitted 35 feet of building height, if side setbacks to that second story component over 30 feet in height are increased to 15 feet.</li> </ol> |            |            |            |            |            |            |            |

13. As per Windsong-Lakeside Section One, the front setback on Mizell Avenue for new construction after October 1, 2001 shall be 20 feet for lot 1, 25 feet for lot 2, 30 feet for lots 3, 4 and 5, 40 feet for lots 6 and 7 and 30 feet for lots 8, 9 and 10.

14. The waters edge for any pool on all of the lots within Windsong (lot types A--G) may be placed to the edge of the respective minimum side yard setback referenced above, and to within 10 feet of all rear property lines, within the respective rear yard setback. Pool decks may be placed within the side or rear yard setback, up to one-half of the distance within the respective side or rear setback for a particular lot type. Screen pool enclosures may be permitted at a ten-foot set back if limited to one-story in height, as per zoning regulations. Setbacks on lakefront lots may be permitted by the planning and zoning commission at a 60 feet setback in lieu of the required 75-foot setback and the side setbacks on lakefront lots may also be reduced to 12.5 feet in lieu of the required 25 feet by the planning and zoning commission if deemed advisable to preserve existing trees

15. As to Elizabeth's Walk, the following additional development standards shall apply:

(a) HVAC equipment may be placed within the side yard setback lines for lots 1-32 and 48-71 Elizabeth's Walk. To screen the equipment from the adjacent lot, a minimum four-foot high stucco-concrete block and/or brick screen wall, shall be constructed on the side yard property line. If visible from the front street, landscaping shall be used in front of said HVAC equipment, so as to screen the equipment from the front;

(b) The front and rear yard setbacks for lots 2-6, 9-20, 30-31, 48-51 and 60-63 Elizabeth's Walk may be reduced to ten feet provided the front and rear setback is ten feet only on houses with front side entry and rear side entry garages. In addition, the front yard setback may be further reduced by three feet on lots 1-32 and 48-71, in Elizabeth's Walk, in the event the additional three-foot setback relief is utilized for a deeper front open porch on the respective house. On any lot where the front and rear yard setback is reduced to ten feet, a corresponding increase in the side yard setback will be required, as follows:

- On houses that are two-story with a front garage, the side setbacks will increase to 13 feet total (with five feet minimum on one side).
- On houses that are one-story with a rear-entry garage, the side setbacks will increase to 15 feet total (with five feet minimum on one side).
- On houses that are two-story with a rear-entry garage, the side setbacks will increase to 20 feet total (with seven feet six inches minimum on one side).
- On houses that are one-story with a front garage, the side yard setbacks shall remain ten feet total (with five feet on each side).
- On houses that have a front-entry garage (garage doors facing the street), the garage front facade shall be setback a minimum to ten feet behind the primary house facade line. If the front garage plan has a side-entry or courtyard-entry garage (no garage doors facing the street), the garage front facade may be placed at the respective front yard setback line.

(c) All corner lots shall be allowed to have rear-entry garage plans, with the driveway exiting the side street.

(d) Any lots with a rear-entry garage may be connected to the main house by an enclosed or unenclosed breeze way, which connection will be counted in the FAR for the house,

(e) All front garages on any lot with a reduced front yard setback must be one-story in height and function, and all rear-entry garages which back up to Glenridge Way must be one-story in height and function, however Lots 2-6 Elizabeth's Walk, which back up to Preserve Point Drive, may have a two-story function on the rear-entry garage, subject to additional tree plantings within the rear of said lot, or within the landscaping buffer outside the lot and the seven-foot Preserve Point wall, to screen any two-story function on said lot.

\*See Plats of Windsong--Chart Attached

Lot types A-F may utilize a five percent increase in floor area ratio in accordance with the provisions of Section 58-65 "Lakefront (R-1AAA) District" subsection (f), paragraph (8) "d" and table notes in accordance with the lot width.

One-story dwelling provisions: Homes in all lot types (A--G) limited to one-story with a maximum building height of 25 feet may utilize an additional five percent increase in the allowable floor area ratio and a maximum impervious coverage of 60 percent. These one-story homes which qualify for the five percent floor area ratio increase shall use a maximum floor area of 5,200 square feet on lots with areas of 11,600 square feet to 13,600 square feet.

(5) Pennsylvania Place property as shown below:

a. Lots 1 and 29:

15-foot side buffer on the outside of each lot (side facing adjoining property).

Ten-foot side setback on inside of each lot (side facing neighboring home within the property).

Front and rear setbacks 25 feet.

b. Lot 2:

20-foot street side setback.

Ten-foot interior side setback.

Front and rear setback 25 feet.

c. Lots 3--16:

Side setbacks of 5 feet, both sides.

Front setbacks of 25 feet.

Rear setbacks, 25 feet from centerline.

d. Lots 17--20:

Setback 15 feet from closest edge of access easement.

Setback 20 feet from closest edge of pavement.

Ten-foot side setbacks.

e. Lots 21--27:

Front setback 25 feet.

Rear setback 20 feet from closest edge of pavement.

Ten-foot side setbacks.

f. Lot 28:

Front and rear setback 25 feet.

Ten-foot side setbacks.

g. Corner lots 21, 24 and 25:

20-foot street side setback.

h. Maximum floor area ratio for all lots is 38 percent.

i. No additional setback for the second story up to 30 feet in height and on lots 90 feet or greater, 35 feet is permitted with a side setback of 15 feet to that second story component over 30 feet in height.

j. Impervious coverage up to 50 percent (excluding private alleys) and up to 55 percent for one-story houses without semi-circular driveways.

k. Lots with 25-foot street front setbacks may reduce front setback five feet for front porch.

(6) Within the single-family lots of Waterbridge Subdivision and on Lot types A through E in the Windsong Subdivision containing residences that are 5,000 square feet or larger in gross floor area, a second kitchen may be included in a dwelling or cabana subject to not having a separate utility meter and not allowing this portion of the dwelling to be rented, let or hired out for occupancy whether compensations be paid directly or indirectly and subject to executing a deed restriction which outlines the above restrictions. That deed restriction shall be recorded prior to the issuance of the building permit and shall be removed only with the consent of the city.

(Ord. No. 2296, §§ 1, 2, 4-13-99; Ord. No. 2336, § 1, 12-14-99; Ord. No. 2344, §§ 1, 2, 5-9-00; Ord. No. 2443-01, § 3, 10-9-01; Ord. No. 2453-02, § 1, 1-8-02; Ord. No. 2510-03, § 3, 4-8-03; Ord. No. 2601-04, § 3, 9-13-04)



# City Commission **agenda item**

|                                  |                                                                        |
|----------------------------------|------------------------------------------------------------------------|
| <b>item type</b> Public Hearings | <b>meeting date</b> February 23, 2022                                  |
| <b>prepared by</b> Rene Cranis   | <b>approved by</b> Bronce Stephenson, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed  |                                                                        |
| <b>strategic objective</b>       |                                                                        |

## **subject**

Requests of RSRW Properties LLC:

## **item list**

- Ordinance: Annexing the property at 1471 Harmon Avenue (2nd reading)
- Ordinance: Establishing Low Density Residential Future Land Use (2nd reading)
- Ordinance: Establishing Low Density Residential (R-2) zoning in order to build up to a two-family dwelling. (2nd reading)

## **motion / recommendation**

Staff recommendation is for approval

## **background**

The City of Winter Park, received a request to annex the property at 1471 Harmon Avenue from unincorporated Orange County, into the City. If approved, the City needs to establish a Low Density Residential Future Land Use designation in the Comprehensive Plan and Low Density Residential (R-2) zoning on this property.

The owners are proposing to redevelop the 1923 platted lot for a two-family dwelling, commonly referred to as a duplex, which is similar to other buildings in that area. The use of a duplex may be permitted under the City's current R-2 zoning regulations. Should the annexation be approved, the new development will be able to take advantage of the City utility connections, which exist along Harmon Avenue. The property is now zoned R-2 in Orange County and is designated "Low Medium Density Residential" in the Orange County Comprehensive Plan. This request is consistent with what exists under the County designation.

## **alternatives / other considerations**

## **fiscal impact**

### ATTACHMENTS:

[Location map.pdf](#)

### ATTACHMENTS:

[Annexation Ord. for Harmon Ave.pdf](#)

### ATTACHMENTS:

[Ord. Comp. Plan FLU 1471 Harmon Ave.pdf](#)

### ATTACHMENTS:

[Ord. Zoning 1471 Harmon Ave.pdf](#)





## Annexation Request

**Harmon Avenue**

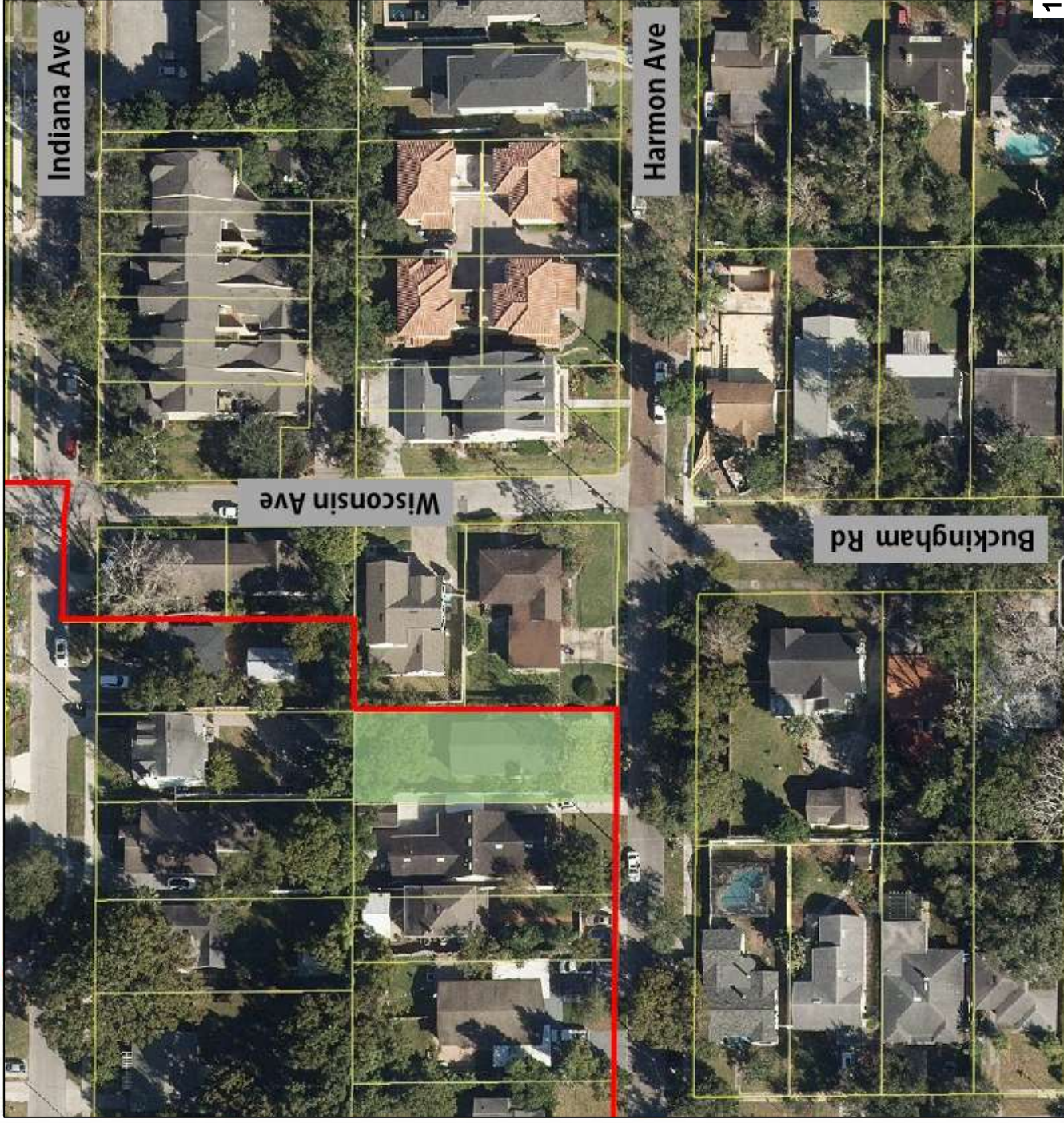
City of Winter Park  
Florida



WP Boundary



Proposed Annexations



## ORDINANCE 3232-22

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 0.16 ACRES OF REAL PROPERTY LOCATED AT 1471 HARMON AVENUE, AS MORE SPECIFICALLY DESCRIBED HEREIN, INTO THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY OF WINTER PARK JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the property owner of 1471 Harmon Avenue has requested that the City enact a voluntary annexation for the property, also identified by Orange County Tax Parcel ID # 12-22-29-4996-13-150; and

**WHEREAS**, the Subject Property being annexed is proposed for redevelopment as a two-family dwelling unit; and

**WHEREAS**, the City of Winter Park has determined that the Subject Property is reasonably compact and contiguous to the municipal limits of the City of Winter Park, that annexation of the Subject Property will not result in the creation of an enclave and that the Subject Property meets the prerequisites and standards set forth in Section 171.044, Fla. Stat., for voluntary annexation into the City of Winter Park; and

**WHEREAS**, the City of Winter Park has provided adequate notice required by general law for the annexation of the Subject Property and has conducted the required public hearing prior to the adoption of this Ordinance.

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

**SECTION 1: *Recitals.*** The above “Whereas” clauses are true and correct and constitute legislative findings of the City of Winter Park City Commission and are incorporated herein by this reference.

**SECTION 2: *Property Annexed.*** That, after conducting two public hearings and having found that the Owners’ petition for voluntary annexation of the Subject Property meets the prerequisites and standards for annexation under general law, the Subject Property, as further legally defined below and as graphically shown on the map attached hereto as Exhibit “A” and the legal description of Lot 15, Block M, per the plat of Lawndale as recorded in Plat Book H, Page 118 of the Public records of Orange County, Florida

**SECTION 3: *Effect of Annexation.*** That the City of Winter Park, shall have all of the power, authority, and jurisdiction over and within the Subject Properties as described in Section 2 hereof, and the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall

apply and shall have equal force and effect as if all territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

**SECTION 4: *Apportionment of Debts and Taxes.*** Pursuant to § 171.061, Fla. Stat., the area annexed to the City shall be subject to all taxes and debts of the City upon the effective date of annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

**SECTION 5: *Instructions to Clerk.*** Within seven (7) days following the adoption of this Ordinance, the City Clerk or her designee is directed to file a copy of this Ordinance with the clerk of the circuit court and the chief administrative officer of Orange County as required by § 171.044(3), Fla. Stat.

**SECTION 6: *Severability.*** Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

**SECTION 7: *Effective Date.*** This Ordinance shall become effective after its adoption at its second reading.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the City Commission of the City of Winter Park, Florida.

**APPROVED:**

\_\_\_\_\_  
Phillip Anderson, Mayor

**ATTEST:**

\_\_\_\_\_  
Rene Cranis, City Clerk

## Exhibit "A"





## **ORDINANCE XXXX-XX**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I "COMPREHENSIVE PLAN" FUTURE LAND USE MAP SO AS TO ESTABLISH LOW DENSITY RESIDENTIAL FUTURE LAND USE ON THE ANNEXED PROPERTY AT 1471 HARMON AVENUE AND TO INDICATE THE ANNEXATION ON THE OTHER MAPS WITHIN THE COMPREHENSIVE PLAN, MORE PARTICULARLY DESCRIBED HEREIN.**

**WHEREAS**, the City of Winter Park has officially annexed the property more particularly described below in compliance with Chapter 171, Florida Statutes, and

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

**WHEREAS**, on December 9, 2021, the Planning and Zoning Board held a public hearing on the proposed future land use map amendment set forth herein and made a recommendation to the City Commission concerning the same, and

**WHEREAS**, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and pursuant to and in compliance with law.

### **NOW THEREFORE BE IT ENACTED, AS FOLLOWS:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to establish a Commercial future land use designation on the annexed properties comprised of the parcel at 1471 Harmon Avenue, as also identified by Orange County Tax Parcel ID #: 12-22-29-4996-13-150 and further described as:

LOT 15, BLOCK "M", LAWNDALDE SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK "H", PAGE 118, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

**SECTION 2.** This Ordinance shall become effective 31 days after its adoption unless timely challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. If timely challenged, this Ordinance will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance pursuant to Chapter 163, Florida Statutes.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor Phillip Anderson

Attest:

\_\_\_\_\_  
Rene Cranis, City Clerk

## **ORDINANCE XXXX-XX**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO ESTABLISH LOW DENSITY RESIDENTIAL (R-2) ZONING ON THE ANNEXED PROPERTY 1471 HARMON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN.**

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

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

**WHEREAS**, on December 7, 2021, the Planning and Zoning Board held a public hearing on the rezoning set forth herein and made a recommendation to the City Commission regarding such rezoning, and

**WHEREAS**, the City Commission finds that the rezoning set forth herein is consistent with the Comprehensive Plan and meets the requirements for rezoning under the City's Comprehensive Plan and land development regulations, and

**WHEREAS**, the establishment of municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

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

**SECTION 1.** That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to establish Low Density Residential (R-2) district zoning on the annexed parcel at 1471 Harmon Avenue, as also identified by Orange County Tax Parcel ID #: 12-22-29-4996-13-150.

LOT 15, BLOCK "M", LAWNSDALE SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK "H", PAGE 118, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

**SECTION 2.** This Ordinance shall become effective immediately upon the effectiveness of the companion ordinance amending the City of Winter Park Comprehensive Plan to designate the property described in Section 1 of this Ordinance with the Commercial future land use.



**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor Phillip Anderson

Attest:

\_\_\_\_\_  
Rene Cranis, City Clerk



# City Commission **agenda item**

|                           |                                              |
|---------------------------|----------------------------------------------|
| item type Public Hearings | meeting date February 23, 2022               |
| prepared by Rene Cranis   | approved by Michelle del Valle, Randy Knight |
| board approval Completed  |                                              |
| strategic objective       |                                              |

## **subject**

Ordinance: Authorizing conveyance of property at 654 Selkirk Drive (2nd reading)

## **motion / recommendation**

## **background**

## **alternatives / other considerations**

## **fiscal impact**

## **ATTACHMENTS:**

[Ordinance Authorizing the Conveyance of Selkirk Property.docx](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK,  
FLORIDA, AUTHORIZING THE SALE AND  
CONVEYANCE OF THE CITY OWNED PROPERTY  
LOCATED AT 654 SELKIRK DRIVE, WINTER PARK;  
PROVIDING FOR CONFLICTS AND AN EFFECTIVE  
DATE.**

**WHEREAS**, Section 2.11 of the Charter of the City of Winter Park, Florida, authorizes the City Commission, by ordinance to convey or authorize by administrative action the conveyance of any lands of the City of Winter Park (“City”); and

**WHEREAS**, on January 24, 2022, the City acquired that certain real property located at 654 Selkirk Drive, Winter Park, Florida, being legally described to wit (the “Property”):

Lot 7, Block C, Kenilworth Shores Section Five, according to the plat thereof as recorded in Plat Book Y, Page 135, of the Public Records of Orange County, Florida.

**WHEREAS**, the City acquired that the Property for the purpose of resolving a dispute and avoiding litigation; and

**WHEREAS**, the City has determined that there is not a municipal use for the Property and that such Property was not acquired for a municipal use; and

**WHEREAS**, the City Commission deems it advisable to sale and convey the property to pursuant to the terms of a purchase and sale contract to be negotiated by the City Manager, which is subject to further approval by the City Commission via a majority vote.

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

**SECTION 1. RECITALS.** The recitals stated hereinabove are incorporated herein by reference and are made fully a part of this Ordinance.

**SECTION 2. AUTHORIZATION.** The City Commission hereby authorizes the sale and conveyance of the Property described above pursuant to terms and conditions to be negotiated by the City Manager. The contract for the purchase and sale of the Property is subject to further approval by the City Commission via a majority vote. This Ordinance shall constitute the authorization by the City Commission pursuant to Section 2.11 of the Charter of the City of Winter Park, Florida, for the sale, transfer and conveyance of the Property.

**SECTION 3. CONFLICTS.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_ day \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor Phil Anderson

ATTEST:

\_\_\_\_\_  
City Clerk, Rene Cranis

s:\aka\clients\winter park\mike miller, llc, purchase from w600-26106 ordinance authorizing the conveyance of selkirk property.docx



# City Commission agenda item

|                            |                                                                                |
|----------------------------|--------------------------------------------------------------------------------|
| item type Public Hearings  | meeting date February 23, 2022                                                 |
| prepared by Nicholas Lewis | approved by John Harbilas, Bronce Stephenson, Michelle del Valle, Randy Knight |
| board approval Completed   |                                                                                |
| strategic objective        |                                                                                |

## subject

Request of Z Properties for:

## item list

- Ordinance authorizing the conveyance of a stormwater pond drainage easement (1st reading); and
- Approval to grant an easement to enlarge and maintain the city-owned retention pond located behind 341 N. Pennsylvania Avenue and to route stormwater retention from previously approved office building located at 301 N. Pennsylvania Avenue to the city-owned retention area. This item was continued from the February 9, 2022 meeting.

## motion / recommendation

Staff recommendation is for approval subject to any conditions desired by the City Commission.

## background

Z Properties, for Douglas Partners Realty, LLC is requesting approval for an ordinance granting the attached Stormwater Pond Drainage Easement Agreement (easement agreement) with Douglas Partners Realty, LLC (Douglas Partners) and Diversified Property Investments, Inc. (Diversified), who are the respective owners of 301 N. Pennsylvania Avenue (Douglas Partners Property) and 271 N. Pennsylvania Avenue (Diversified Property) to permit both properties to utilize the City-owned regional stormwater retention pond located adjacent to Israel Simpson Court.

The retention area, located at Orange County Parcel Identification Number: 06-22-30-3724-13-001, was originally constructed to serve as regional retention for the Israel Simpson Court subdivision. In addition to the neighborhood, the retention area was also proactively designed to be modified to serve the future redevelopment of other surrounding properties including 341 N. Pennsylvania (owned by the Early Rising Lodge

and renovated by Z Properties) as well as 311 and 331 N. Pennsylvania (both owned by the Baker family).

In 2019, the City approved a lease agreement with the applicant to lease the eastern 33 feet of the City-owned retention area to permit five parking spaces as part of the applicant's remodeling of 341 N. Pennsylvania. As part of that agreement, the applicant agreed to take over all maintenance of the retention area. As part of the current request, the applicant will continue to be responsible for the operation, maintenance, and repair of the retention pond.

As provided in the easement agreement, at their sole expense, Z Properties on the behalf of Douglas Partners agrees to design, permit and construct modifications to the pond to accommodate the increased demand from both 271 and 301 N. Pennsylvania Avenue properties. As part of the easement agreement, the applicant is required to submit for review, comment and approval by the City detailed design and construction plans for the retention pond. The City is also authorized to inspect the property during construction. After construction is complete, the City shall receive a final survey, and certification by the applicant's engineer that the retention area was constructed according to the approved design and construction plans.

The applicant has two options for stormwater retention. First, underground retention may be constructed on-site for roughly \$100,000. The applicant's second, and preferred option, is to tie-in to the existing line that runs through the rear of the Douglas Partners Property and discharges into the regional retention pond. Staff from public works verified that the retention area can be resized to retain the water from both the Douglas Partners and Diversified Properties. The applicant estimates the cost of this option to be roughly \$50,000. Due to the significant savings this would provide the applicant, they are proposing to donate \$25,000 to the Affordable and Workforce Housing Trust Fund in accordance with Comprehensive Plan Policy 1-H-2.

## **alternatives / other considerations**

### **fiscal impact**

#### **ATTACHMENTS:**

[Stormwater Pond Easement Agreement 2-11-2022.doc](#)

#### **ATTACHMENTS:**

[Exhibit A - Boundary Survey - IS-81087\\_Joined Lots-Model.pdf](#)

#### **ATTACHMENTS:**

[Ordinance Authorizing Stormwater Drainage Easement Agreement 01-21-2022.docx](#)

ATTACHMENTS:

[Comp Plan Policy 1-H-2.JPG](#)



After recording return to:

City of Winter Park  
Attn: City Clerk  
401 S. Park Avenue  
Winter Park, FL 32789  
Orange County Tax Parcel ID # 06-22-30-3724-13-001

### **STORMWATER POND DRAINAGE EASEMENT AGREEMENT**

**THIS STORMWATER POND DRAINAGE EASEMENT AGREEMENT** (hereinafter referred to as the “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2022, by and between CITY OF WINTER PARK, a Florida municipal corporation, whose address is 401 S. Park Avenue, Winter Park, Florida 32789 (hereinafter referred to as the “Grantor”), DOUGLAS PARTNERS REALTY, LLC, whose address is 336 W. Morse Blvd., Winter Park, Florida 32789 and its successors and/or assigns (“Douglas Partners”), and DIVERSIFIED PROPERTY INVESTMENTS, INC., whose address is whose address is 336 W. Morse Blvd., Winter Park, Florida 32789 and its successors and assigns (“Diversified”) (Douglas Partners and Diversified are hereinafter collectively referred to as the “Grantees”).

### **W I T N E S S E T H:**

**WHEREAS**, Grantor is the owner of that certain stormwater pond and related improvements located upon that certain 0.20 +/- acre parcel of real property fronting on Israel Simpson Court located in the City of Winter Park, Orange County, Florida, having Tax Parcel Identification Number 06-22-30-3724-13-001, and depicted and legally described as Parcel #3 in **Exhibit “A”** attached hereto and incorporated herein by referenced (“Retention Pond Property”); and

**WHEREAS**, Douglas Partners is the fee simple owner of that certain 0.47 +/- acre parcel of real property located at 301 N. Pennsylvania Avenue, City of Winter Park, Orange County, Florida, having Orange County Tax Parcel Identification Number 06-22-30-1168-05-113, and depicted and legally described as Parcel #1 in **Exhibit “A”** attached hereto and incorporated herein by reference (“Office Property”); and

**WHEREAS**, Diversified is the fee simple owner of that certain 0.27 +/- acre parcel of real property located at 271 Pennsylvania Avenue, City of Winter Park, Orange County, Florida, having Orange County Tax Parcel Identification Number 06-22-30-1168-05-122, and depicted and legally described as Parcel #2 in **Exhibit “A”** attached hereto and incorporated hereby by reference (“Diversified Property”); and

**WHEREAS**, the Diversified Property is currently improved with a 4,868 square foot, two story building and its stormwater drainage needs are accommodated in part by the Office Property; and

**WHEREAS**, Douglas Partners intends to develop the Office Property with an 6,000 square foot office building office (“Project”) but has inadequate land onsite to accommodate the stormwater drainage conveyance, retention and treatment needs of the Project and the current needs of the developed Diversified Property; and

**WHEREAS**, Grantees desires to obtain from the Grantor, and the Grantor desires to grant to Grantees, a non-exclusive, perpetual, stormwater pond drainage easement for the sole purpose of the

conveyance, retention, and detention of storm water run-off originating from the Office Property and the Diversified Property to accommodate the Project (herein “Stormwater Pond Drainage Easement”); and

**WHEREAS**, the legal description for the Stormwater Pond Drainage Easement is same as the Retention Pond Property depicted and described as Parcel #3 attached hereto as **Exhibit “A”**, except that the Grantee shall not disturb the vehicle parking area upon the Retention Pond Property; and

**NOW THEREFORE**, in consideration of the aforesaid premises, the sum of \$10.00, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Grantor and Grantee do hereby agree as follows:

1. **RECITALS.** The foregoing Recitals are true and correct and are incorporated herein as material provisions of this Agreement by this reference.

2. **STORMWATER POND DRAINAGE EASEMENT GRANT.** Grantor does hereby give, grant and convey to Grantees, a non-exclusive, perpetual, stormwater pond drainage easement for the sole purpose of the conveyance, retention, and detention of storm water run-off originating from the Office Property and Diversified Property to the stormwater pond upon the Retention Pond Property subject to the conditions and terms set forth herein. The stormwater run-off originating from the Office Property and Diversified Property being conveyed to the Retention Pond Property shall be limited to the volume for which was originally approved by the Grantor in plans on file with the City of Winter Park and shall not be increased or expanded. Grantees shall not permit other properties to connect to the drainage systems upon the Office Property and Diversified Property that would cause additional stormwater drainage to flow into the Retention Pond Property. The Stormwater Pond Drainage Easement shall be for the benefit of the Office Property and Diversified Property. Grantor shall retain all other rights of ownership, possession and use of the Retention Pond Property, including the right to convey, retain and treat additional stormwater in the Retention Pond benefitting the Grantor’s property interests or public rights-of-way. This instrument does not grant any easement rights in Grantor’s public rights-of-way and drainage systems thereon.

3. **CONSTRUCTION.** Provided that Douglas Partners obtains all necessary development orders and permits for the Project and obtains Grantor’s approval for the design of the Retention Pond, Douglas Partners shall, at Douglas Partners’ sole cost, design, permit and construct modifications of the retention pond upon the Retention Pond Property and other drainage improvements of sufficient size and capacity to accommodate the Grantor’s existing drainage needs for public rights-of-way and improvements thereon, any other existing drainage into the Retention Pond Property, and the needs of the Project and as constructed condition of the Diversified Property (“Retention Pond”). Prior to construction of the Retention Pond, Douglas Partners shall submit to the Grantor for review and comment detailed design and construction plans for the Retention Pond and obtain approval for the same from the Grantor. Douglas Partners’ design, construction, use and operation of the Retention Pond shall not disturb or interfere with the existing vehicle parking area upon the Retention Pond Property. Douglas Partners shall allow Grantor to inspect the construction of the Retention Pond. Upon completion of the Retention Pond, Douglas Partners shall cause to be provided to Grantor (i) a signed, sealed and certified “as-built” survey of the Retention Pond to be completed and certified to Grantor; and (ii) a signed and sealed certification by the engineer of record that the Retention Pond was constructed according to approved design and construction plans.

4. **MAINTENANCE & COST.** After completion of construction of the Retention Pond, Douglas Partners (and its successors and assigns), at its sole cost, will be responsible for the operation, maintenance, and repair (including replacement if and when replacement is needed) of the Retention Pond

and the improvements, sod and landscaping thereon. Such maintenance obligations by Douglas Partners includes routine mowing and trimming of sod and landscaping. In the event Douglas Partners fails to properly operate, maintain and repair (or replace) the Retention Pond and improvements, sod or landscaping thereon, Grantor shall have the right to self-perform such work and invoice Douglas Partners for the cost of the same, which Douglas Partners shall pay to Grantor within ten (10) days of receipt of the invoice.

If the Grantor is not timely paid for any amount owed under this Agreement, Grantor shall have all rights and remedies at law and in equity to collect amounts due. Past due amounts under this Agreement shall accrue interest at the rate of twelve percent (12%) per annum. In addition, Grantor shall have the right to place a lien against the Office Property for any amount due and not timely paid to Grantor under this Agreement by recording a notice of lien. The recorded notice of lien shall constitute a lien upon the Office Property and the lien may be foreclosed upon for the benefit of the Grantor (or its successors and assigns) at any time that is at least thirty (30) days after the notice of lien was recorded in the public records. Such recorded notice of lien shall be superior to all other liens and encumbrances that become a matter of record after the recording date of this Agreement regardless of when the notice of lien is recorded. Grantor may foreclose such lien in accordance with the procedures established in Section 702.10, Florida Statutes, or successor or other statute providing for lien foreclosure procedures. The Office Property owner may obtain a release from the lien by paying the amount stated in the lien, plus accrued interest of twelve percent (12%) per annum, plus attorney's fees and costs incurred by the Grantor in filing and collecting upon the lien and amounts owed.

5.     DONATION. Douglas Partners shall make a \$25,000.00 donation to the Grantor's Affordable and Workforce Housing Trust Fund as a precondition to exercising the easement rights under this Agreement. If such donation is not made by Douglas Partners within thirty (30) days from the execution of this Agreement, the Grantor shall have the right to terminate this Agreement upon written notice to Douglas Partners. Upon termination pursuant to this paragraph, the Grantor shall have the right to record a notice of termination of this Agreement.

6.     ENVIRONMENTAL/INDEMNIFICATION. Grantees shall not allow and shall affirmatively prevent any and all hazardous wastes, hazardous substances, petroleum products, trash and other adverse matters from draining, being placed in or on, or otherwise coming onto or into the Stormwater Pond Drainage Easement and Retention Pond. Grantees shall ensure the proper operation, maintenance and repair of all drainage inlets, pipes and connections upon or connected from the Office Property and Diversified Property to the Retention Pond. Grantees hereby indemnify and hold Grantor harmless from any and all damages, penalties, claims, cleanups, remediations, assessments, lawsuits, disputes, attorneys' fees (with attorneys selected by Grantor), experts' fees and other adverse matters which in any way relate to Grantees' breach or violation of Grantees' obligations under this Agreement.

7.     TERMINATION. The Grantor shall have the right to terminate this Agreement, without cost or penalty, upon written notice to the Grantees if the Project does not receive all necessary development orders and building permits on or before February 1, 2023. Upon termination pursuant to this paragraph, the Grantor shall have the right to record a notice of termination of this Agreement.

8.     DURATION, SUCCESSORS AND ASSIGNS. This Agreement and the rights and obligations contained herein shall be deemed to run with the title to the lands referred to herein for the benefit and burden of parties, as their interests may exist, and the successors and assigns of Grantees forever, unless terminated as provided herein. It is expressly covenanted and agreed that this Agreement does in no way convey the fee simple title to all or a portion of Grantor's property, but is only a permanent non-exclusive Stormwater Pond Drainage Easement for the limited purposes herein stated.

Grantor may have Grantor's agents, employees, contractors and other designees carry out Grantor's rights or obligations under this Agreement.

9. **RECORDING/EFFECTIVE DATE.** This Agreement shall be recorded in the Public Records of Orange County, Florida. This Agreement shall be effective upon its execution by all of the parties hereto.

10. **GOVERNING LAW.** This Agreement shall be governed by and construed under the laws of the State of Florida. Venue for any proceeding brought pursuant to this Agreement shall be in Orange County, Florida. Nothing herein shall constitute a waiver of Grantor's sovereign immunity, police power or home rule authority or of any other privilege, immunity or defense afforded to Grantor or its officials, employees or agents under law.

11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement and understanding between the parties hereto relating to the subject matter hereof and may not be amended, waived or discharged, except by an instrument in writing executed by Grantees and the Grantor (or their respective successors and assigns), which written document shall be recorded in the Public Records of Orange County, Florida. No prior oral or written agreement shall have any force or effect whatsoever unless contained within this Agreement.

12. **MISCELLANEOUS.** The headings as used herein are for reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations, and warranties as set forth herein, or limit the provisions or scope of any section herein nor shall headings be used in interpreting all or any portion of this Agreement. In the event of any lawsuit arising out of or connected with the use of the Stormwater Pond Drainage Easement or rights and obligations created by this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including paralegal and appellate attorney's fees, from the party or parties who do not prevail.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**"GRANTEES"**  
**DOUGLAS PARTNERS REALTY,**  
**LLC**

\_\_\_\_\_  
By:

Its: \_\_\_\_\_

STATE OF FLORIDA     }  
COUNTY OF \_\_\_\_\_}

The foregoing instrument was acknowledged before me this [ ] by physical presence or [ ] by online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_ as managing member of **Douglas Partners Realty, LLC** who is personally known \_\_\_\_\_ or who produced identification of the following type:

Notary Stamp:

NOTARY PUBLIC  
STATE OF FLORIDA

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**“GRANTEES”**

**DIVERSIFIED PROPERTY  
INVESTMENTS, INC.**

\_\_\_\_\_  
By:

Its: \_\_\_\_\_

STATE OF FLORIDA     }  
COUNTY OF \_\_\_\_\_}

The foregoing instrument was acknowledged before me this [ ] by physical presence or [ ] by online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_ as managing member of **Diversified Property Investments, Inc.** who is personally known \_\_\_\_\_ or who produced identification of the following type:

Notary Stamp:

NOTARY PUBLIC  
STATE OF FLORIDA

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**“GRANTOR”**  
**CITY OF WINTER PARK, a Florida**  
**municipal corporation**

\_\_\_\_\_  
Phil Anderson, Mayor

STATE OF FLORIDA}  
COUNTY OF ORANGE}

The foregoing instrument was acknowledged before me this [ ] by physical presence or [ ] by online notarization \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Phil Anderson as Mayor of the CITY OF WINTER PARK, a Florida municipal corporation, who is personally known \_\_\_\_\_ or who produced identification of the following type:

Notary Stamp:

NOTARY PUBLIC  
STATE OF FLORIDA

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

S:\AKA\CLIENTS\WINTER PARK\PLANNING AND CRA W600-26037\301 N PENN LLC\STORMWATER POND EASEMENT AGREEMENT 2-11-2022.DOC

## Boundary Survey

### Legal Description:

· PARCEL #1: (301 N PENNSYLVANIA AVENUE, WINTER PARK, FL. 32789)

THE NORTH 100 FEET OF LOTS 11 AND 12, BLOCK E, CAPEN'S ADDITION TO WINTER PARK, ACCORDING TO THE PLAT OF THE SAME, AS RECORDED IN THE PUBLIC RECORDS OF FLORIDA. SUBJECT TO A RIGHT OF WAY EASEMENT OVER THE NORTH 40 FEET THEREOF, AS RECORDED IN OF

PARCEL #2 (271 N PENNSYLVANIA AVENUE, WINTER PARK, FL. 32789)

LOT 12, BLOCK E, LESS THE NORTH 100 FEET THEREOF, CAPENS ADDITION TO WINTER PARK, ACCORDING TO THE PLAT OF THE SAME, AS RECORDED IN THE PUBLIC RECORDS OF FLORIDA.

PARCEL #3 (RETENTION POND)

THAT PART OF LOT 13 DESCRIBED AS BEGINNING NORTHEASTERLY MOST CORNER OF SAID LOT 13 THENCE RUN N 78-08-48 W ALONG SAID NORTH RIGHT-OF-WAY LINE OF ISRAEL SIMPSON CT; THENCE RUN N 78-08-48 W ALONG SAID NORTH RIGHT-OF-WAY LINE OF ISRAEL SIMPSON CT; THENCE RUN S 89-57-57 W, 114.22 FEET TO THE POINT OF BEGINNING.

### -Site Benchmark Information-

 #1

Found Box Cut on curb, 4.5' West of  
Concrete Apron  
Elevation: 91.39'

 #2

Top of Nail & Disk located at the Southeast  
Corner of Subject Property.  
Elevation: 91.38'

### -Benchmark Information-



Orange County Datum Elevation: 88.40'

Identification Number: L651001

(Elevations are based upon NGVD 88 Datum)



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK,  
FLORIDA, AUTHORIZING THE CONVEYANCE OF A  
STORMWATER POND DRAINAGE EASEMENT OVER,  
UNDER AND THROUGH THE CITY OWNED PROPERTY  
LOCATED ADJACENT TO ISRAEL SIMPSON COURT  
HAVING ORANGE COUNTY TAX PARCEL  
IDENTIFICATION NUMBER 06-22-30-3724-13-001;  
PROVIDING FOR CONFLICTS AND AN EFFECTIVE  
DATE.**

**WHEREAS**, Section 2.11 of the Charter of the City of Winter Park, Florida, authorizes the City Commission, by ordinance to convey or authorize by administrative action the conveyance of any lands of the City of Winter Park (“City”); and

**WHEREAS**, the City is the owner of that certain 0.20 +/- acre parcel of land fronting on Israel Simpson Court located in the City of Winter Park, Orange County, Florida, having Tax Parcel Identification Number 06-22-30-3724-13-001 (herein “City Property”); and

**WHEREAS**, Douglas Partners Realty, LLC has requested a non-exclusive stormwater pond drainage easement over, under and through the City Property for the purpose of conveying, retaining and treating stormwater drainage for the proposed office building project at 301 N. Pennsylvania Avenue, Winter Park, Florida, and the existing 4,868 square foot, two story building at 271 Pennsylvania Avenue.

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

**SECTION 1. RECITALS.** The above recitals are incorporated herein by reference and made a part of this Ordinance.

**SECTION 2. APPROVAL.** The City Commission of the City of Winter Park hereby approves the City’s granting and execution of a Stormwater Pond Drainage Easement Agreement with Douglas Partners Realty, LLC and Diversified Property Investments, Inc. in the form and with terms as set forth in the Stormwater Pond Drainage Easement Agreement attached hereto. Either the Mayor or City Manager is authorized to execute the Stormwater Pond Drainage Easement Agreement on behalf of the City. This Ordinance shall constitute the authorization by the City Commission pursuant to Section 2.11 of the Charter of the City of Winter Park, Florida, to grant, execute and deliver the Stormwater Pond Drainage Easement Agreement.

**SECTION 3. CONFLICTS.** If any Ordinances or parts of Ordinances conflict with any of the provisions of this Ordinance, the provisions of this Ordinance shall control.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_ day\_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor Phil Anderson

ATTEST:

\_\_\_\_\_  
City Clerk, Rene Cranis

S:\AKA\CLIENTS\Winter Park\Planning and CRA W600-26037\301 N Penn LLC\Ordinance Authorizing Stormwater Drainage Easement Agreement 01-21-2022.docx

**Policy 1-H-2: If Non-Residential Zonings Are Approved, Compensation Required for Lost Housing** In situations where a change to non-residential Comprehensive Plan Amendment is approved, in this planning area, the loss of housing or housing potential must be compensated for through the provision of housing or negotiated fees in lieu of housing, paid to the Affordable and Workforce Housing Trust Fund.