



**CITY COMMISSION AGENDA  
CITY HALL COMMISSION CHAMBERS  
300 W. Plant Street**

**REGULAR MEETING**

**NOVEMBER 10, 2011**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum

Invocation and Pledge of Allegiance

**1. APPROVAL OF MINUTES**

Regular Meeting of October 27, 2011

**2. PRESENTATION**

A. Presentation to individuals who performed by-stander CPR in Winter Garden saving two lives

**3. FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 11-35:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 75.94 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF MARSH ROAD, EAST OF WILLIAMS ROAD AND WEST OF AVALON ROAD (CR 545) AT 16851 AND 17001 MARSH ROAD, FROM CITY NZ TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Waterside on John's Lake PUD) **with the second reading and public hearing being scheduled for December 8, 2011** – Community Development Director Williams

B. **Ordinance 11-36:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 7.497 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF ROPER ROAD AND DANIELS ROAD, FROM CITY R-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Serenades By Sonata PUD) **with the second reading and public hearing being scheduled for December 8, 2011** – Community Development Director Williams

C. **Ordinance 11-38:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING AND REVISING CHAPTER 78, ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES PERTAINING TO UNIFORM REQUIREMENTS FOR PUBLICLY OWNED TREATMENT WORKS, INDUSTRIAL WASTE HANDLING, AND TREATMENT OF WASTEWATER IN ACCORDANCE WITH THE CLEAN WATER ACT AND RULE 62-625 OF THE FLORIDA ADMINISTRATIVE CODE AND OTHER APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for December 8, 2011** – Public Services Director Cochran

4. **REGULAR BUSINESS**

- A. Recommendation to approve the Request-for-Qualifications rankings for Professional Engineering Services for retrofitting wastewater treatment plant #2 (old Louis Dreyfus Citrus Plant) and authorize staff to negotiate a contract for engineering design services with CPH Engineering – Public Services Director Cochran
- B. Recommendation to authorize the City Manager to enter into an election agreement with Orange County Supervisor of Elections for the 2012 election cycle – City Clerk Golden
- C. Appointments to fill two vacancies on the election Canvassing Board – City Clerk Golden

5. **MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker*)

6. **MATTERS FROM CITY ATTORNEY** – Kurt Ardaman

7. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer

- A. City Survey presentation
- B. Discussion on Lake Cove Pointe drainage

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a Regular Meeting on December 8, 2011 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

**NOTICE:** In accordance with Florida Statutes 286.0105, if any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City of Winter Garden does not prepare or provide such record.

	Those needing assistance to participate in any of these proceedings should contact the City Clerk's Office at least 48 hours in advance of the meeting (407) 656-4111 x2254.		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director.
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# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

October 27, 2011

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

**Present:** Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, Kent Makin, and Colin Sharman

**Also Present:** City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Public Services Director Don Cochran, Finance Director Robin Hayes, Human Resources Director Frank Gilbert, Police Lieutenant Bill Sullivan, Deputy Fire Chief Matt McGrew, Information Technology Director Bob Reilly, Economic Development Director Tanja Gerhartz, and Parks and Recreation Director Jay Conn

### 1. **APPROVAL OF MINUTES**

**Motion by Commissioner Buchanan to approve the executive session and regular meeting minutes of October 13, 2011 as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.**

### 2. **PRESENTATION**

A. Mayor Rees read and presented Proclamation 11-09 to Victoria Laney declaring October 29 to November 5, 2011 as the Week of the Family.

Victoria Laney accepted the proclamation and thanked the City of Winter Garden for being family friendly with events that the City sponsors.

B. Mayor Rees and the City Commission presented Mr. Carris with a key to the City in recognition of his many years of volunteer service on Planning and Zoning and Code Enforcement Boards.

### 3. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 11-27:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 209+/- ACRES LOCATED ON THE WEST SIDE OF AVALON ROAD AND SOUTH OF THE FLORIDA TURNPIKE INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-27 by title only. City Manager Bollhoefer stated that this is the second reading for this ordinance as previously discussed at the last meeting for the Tucker Ranch property.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Boulter to adopt Ordinance 11-27. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- B. **Ordinance 11-28:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 7.88± ACRES LOCATED ON THE EAST SIDE OF 9<sup>th</sup> STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-28 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Sharman to adopt Ordinance 11-28. Seconded by Commissioner Makin and carried unanimously 5-0.**

- C. **Ordinance 11-29:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 7.88± ACRES OF LAND LOCATED ON THE EAST SIDE OF 9<sup>th</sup> STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE FROM ORANGE COUNTY LOW-MEDIUM DENSITY RESIDENTIAL TO CITY MULTI OFFICE INDUSTRIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-29 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Makin to adopt Ordinance 11-29. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- D. **Ordinance 11-30:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 7.88± ACRES OF LAND LOCATED ON THE EAST SIDE OF 9<sup>th</sup> STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE FROM ORANGE COUNTY LOW-MEDIUM DENSITY RESIDENTIAL TO CITY MULTI OFFICE INDUSTRIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-30 by title only.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Boulter to adopt Ordinance 11-30. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- E. **Ordinance 11-31:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 13.39± ACRES OF REAL PROPERTY GENERALLY LOCATED EAST OF 9<sup>th</sup> STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE FROM CITY I-1 LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT AND CITY C-2 ARTERIAL COMMERCIAL DISTRICT TO CITY I-2 GENERAL INDUSTRIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-31 by title only. City Manager Bollhoefer stated that this property adjoins the same piece of property that the City is annexing and is part of the same process of changing the zoning for the entire piece.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Buchanan to adopt Ordinance 11-31. Seconded by Commissioner Makin and carried unanimously 5-0.**

- F. **Ordinance 11-32:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE III, PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-190, CONTRIBUTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-32 by title only. City Manager Bollhoefer stated that as discussed at the last meeting, this ordinance increases the City's Police and Firefighter Pension contribution from one percent to three-and-one-half percent.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Sharman to adopt Ordinance 11-32. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- G. **Ordinance 11-33:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING AND RESTATING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, SECTIONS 54-26 THROUGH 54-185, INCLUSIVE, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-33 by title only. City Manager Bollhoefer stated that currently the general employees are not contributing to the pension plan. This ordinance requires an employee contribution of two-and-one-half percent. Also included are some changes required by state law such as limiting the amount of overtime and sick time payouts that can be counted towards a pension.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Bouler to adopt Ordinance 11-33. Seconded by Commissioner Sharman and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

- A. **Recommendation to approve an interlocal agreement with Orange County for Fire Dispatch Services**

Deputy Fire Chief McGrew stated that this interlocal agreement is with Orange County to provide Fire Dispatch Services. It is the same agreement that has been in place for the past six years and staff is very happy with the service. This agreement is for three years and one change has been made; Orange County must provide a ten month notice if they wish to make any changes to the agreement. The County must also provide the City with the costs involved in such a change to allow the City to make a decision as to whether or not to accept the changes. The City shares dispatchers with the surrounding cities. Staff recommended approval.

**Motion by Commissioner Buchanan to approve the interlocal agreement with Orange County for Fire Dispatch Services. Seconded by Commissioner Boulter and carried unanimously 5-0.**

**B. Appointments to the Planning and Zoning Board for a term of three years, for expiring terms of Mac McKinney (District 1), Jerry Carris (District 2), Rohan Ramlackhan (District 3) and James Dunn (District 4) on October 31, 2011**

City Clerk Golden shared that Mr. Carris has decided not to seek reappointment, whereas the other three members are requesting reappointment.

Mayor Rees asked about the attendance record of those seeking reappointment. Ms. Golden responded that everyone has been attending.

Mayor Rees recognized that Mr. Carris resides in District 2 and asked Commissioner Buchanan if he had anyone that he wished to nominate for the seat.

Commissioner Buchanan noted that Mr. Eric Weiss was present and asked that he come and introduce himself to the City Commission.

Mr. Weiss came forward and shared with the Commission that he is a resident of the Lakeview Reserve Subdivision where he serves on the homeowner's association board. He also noted that he is currently serving as the chairperson on the Architectural Review Board for his subdivision. He has lived in Winter Garden for the past 10 years.

Commissioner Buchanan stated that after reviewing the applications submitted, he felt Mr. Weiss was the most qualified for this appointment.

**Motion by Commissioner Buchanan to appoint Eric Weiss to the Planning and Zoning Board (District 2) for a three-year term. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**Motion by Commissioner Makin to reappoint Mac McKinney to the Planning and Zoning Board (District 1) for a three-year term. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**Motion by Commissioner Boulter to reappoint Rohan Ramlackhan to the Planning and Zoning Board (District 3) for a three-year term. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**Motion by Commissioner Sharman to appoint Jimmy Dunn to the Planning and Zoning Board (District 4) for a three-year term. Seconded by Commissioner Makin and carried unanimously 5-0.**

- C. **Resolution 11-09:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AUTHORIZING BINGO TO BE CONDUCTED AT A MUNICIPAL OWNED PROPERTY AS A FUNDRAISER TO BENEFIT THE AMERICAN CANCER SOCIETY "RELAY FOR LIFE" BY THE CITY EMPLOYEE TEAM, PURSUANT TO SECTION 849.0931(11)(D), FLORIDA STATUTES AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 11-09 by title only. Community Relations Manager Vaughn stated that as an internal (staff only) fundraiser for the American Cancer Society, they would like to conduct bingo and therefore this resolution would be required. She noted that this is for a one day event.

**Motion by Commissioner Sharman to approve Resolution 11-09. Seconded by Commissioner Makin and carried unanimously 5-0.**

5. **MATTERS FROM CITIZENS** – There were no matters.
6. **MATTERS FROM CITY ATTORNEY** – There were no matters.
7. **MATTERS FROM CITY MANAGER**

- A. **Recommendation to schedule the 2012 run-off election date for April 10, 2012**

City Manager Bollhoefer stated that the City Commission needs to schedule the run-off election date.

**Motion by Commissioner Sharman to approve the run-off election date (April 10, 2012) four weeks after the general election, if needed. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- **Winter Garden Heritage Foundation**

Ron Sikes, 291 Gary Drive, Winter Garden, Florida, with the Winter Garden Heritage Foundation, stated the rain experienced during the MusicFest affected their revenues from the sale of merchandise. He noted that one way of making some of this up would be if they could be allowed to have a beer cart and offer evening entertainment to the public on Plant Street during the Art Festival being presented by the Downtown Merchants Guild November 19<sup>th</sup> and 20<sup>th</sup> (Saturday and Sunday). He noted the Merchants Guild has endorsed this opportunity and this is a one-time request.

Commissioner Makin asked about the location of their setup.

Mr. Sikes responded that it would be west of the fountain.

Commissioner Buchanan asked about the specifics for the times because he would not want it to be too early or too late.

Mr. Sikes responded that it will not be before noon and would stop the music and beer sales in the evening about 11:00 p.m. He noted that some of the bands have already committed to performing for free, should the City Commission approve this request. They are also looking to use the gazebo east of the fountain for their stage. They may also want to use the City stage at the corner of South Boyd Street and Plant Street.

Commissioner Buchanan stated that he is okay with the noon until 11:00 p.m. for Saturday, but he would prefer not to have alcohol sold on Sunday.

Mr. Sikes responded that they would not sell any later than the art festival would run on Sunday.

Mayor Rees stated that he has concerns on this issue and he would be willing to make a donation instead of selling alcohol on Sunday.

Andy Bruns stated that this event is the same night as the car show on Saturday from 3:30 p.m. until 8:30 p.m. He noted that his event also benefits the Toys for Tots to be held in Tremaine Street parking lot.

City Manager Bollhoefer asked Mr. Bruns if the live music could be used instead of the car show's recorded music so there is no conflict. Mr. Bruns replied that his disc jockey plays music and makes announcements during the car show.

Mr. Sikes stated that his sound system could be made available for any car show announcements.

There was discussion on possible alternatives for setting up each venue and will be resolved with staff.

**Motion by Commissioner Sharman to approve allowing the Winter Garden Heritage Foundation to have an outside event with beer sales on Saturday, November 19, 2011, from 12:00 noon until 11:00 p.m. and on Sunday, November 20, 2011, from 12:00 noon until 5:00 p.m. Seconded by Commissioner Boulter and failed 2-3; Mayor Rees, Commissioner Makin and Commissioner Buchanan opposed.**

**Motion by Commissioner Buchanan to approve the Winter Garden Heritage Foundation to have an outside event with beer sales from 12 noon until 11:00 p.m. on Saturday, November 19, 2011 only. Seconded by Commissioner Makin and carried unanimously 5-0.**

- **Plant Street Post Office**

City Manager Bollhoefer stated that staff would like to make the post office an offer that he thinks will help keep the Plant Street post office open. The post office currently pays the City \$847 a month in rent, which includes renting the building, power, water, and use of a janitor for cleaning. He stated that in order to keep the post office in the downtown

area he proposes sending them a letter offering them the use of its building for a lesser amount or for free in order to get to increase our chances of keeping the post office downtown.

**Motion by Commissioner Buchanan to approve the City Manager's request to offer less rent to the United States Postal Services for their Plant Street location. Seconded by Commissioner Sharman and carried unanimously 5-0.**

City Manager Bollhoefer announced that at on November 16<sup>th</sup> at 5:30 p.m. at Tanner Hall there will be a meeting regarding this issue and encouraged everyone to attend.

**8. MATTERS FROM MAYOR AND COMMISSIONERS** – There were no matters.

The meeting adjourned at 7:15 p.m.

APPROVED:

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Mayor John Rees

ATTEST:

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City Clerk Kathy Golden, CMC

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Ed Williams, Community Development Director

**Via:** City Manager Mike Bollhoefer

**Date:** **November 2, 2011**                      **Meeting Date: November 10, 2011**

**Subject:** Rezoning  
Marsh Road (75.94 +/- Acres)  
Parcel ID# 05-23-27-0000-00-001  
Parcel ID# 06-23-27-0000-00-003

**Issue:** Applicant is requesting to rezone 75.94 +/- Acres of land. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation NZ, which means that the property has not yet been zoned since it was annexed into the City of Winter Garden in September 2007. The subject property is designated Urban Village on the Future Land Use Map of the Comprehensive Plan.

**Discussion:**

City Staff recommend approval of the proposed Ordinance. Rezoning the subject property from City NZ to City PUD is not inconsistent with the Future Land Use Map of the City's Comprehensive Plan. Further, the adjacent property owners should not be negatively impacted as the majority of the surrounding property is agricultural use land with few existing residences. (See attached Staff Report)

**Recommended Action:**

Staff recommends approval of the first reading of Ordinance 11-35, (Rezoning of 75.94± acres located on Marsh Road from City NZ to City PUD) with second reading and adoption on December 8, 2011.

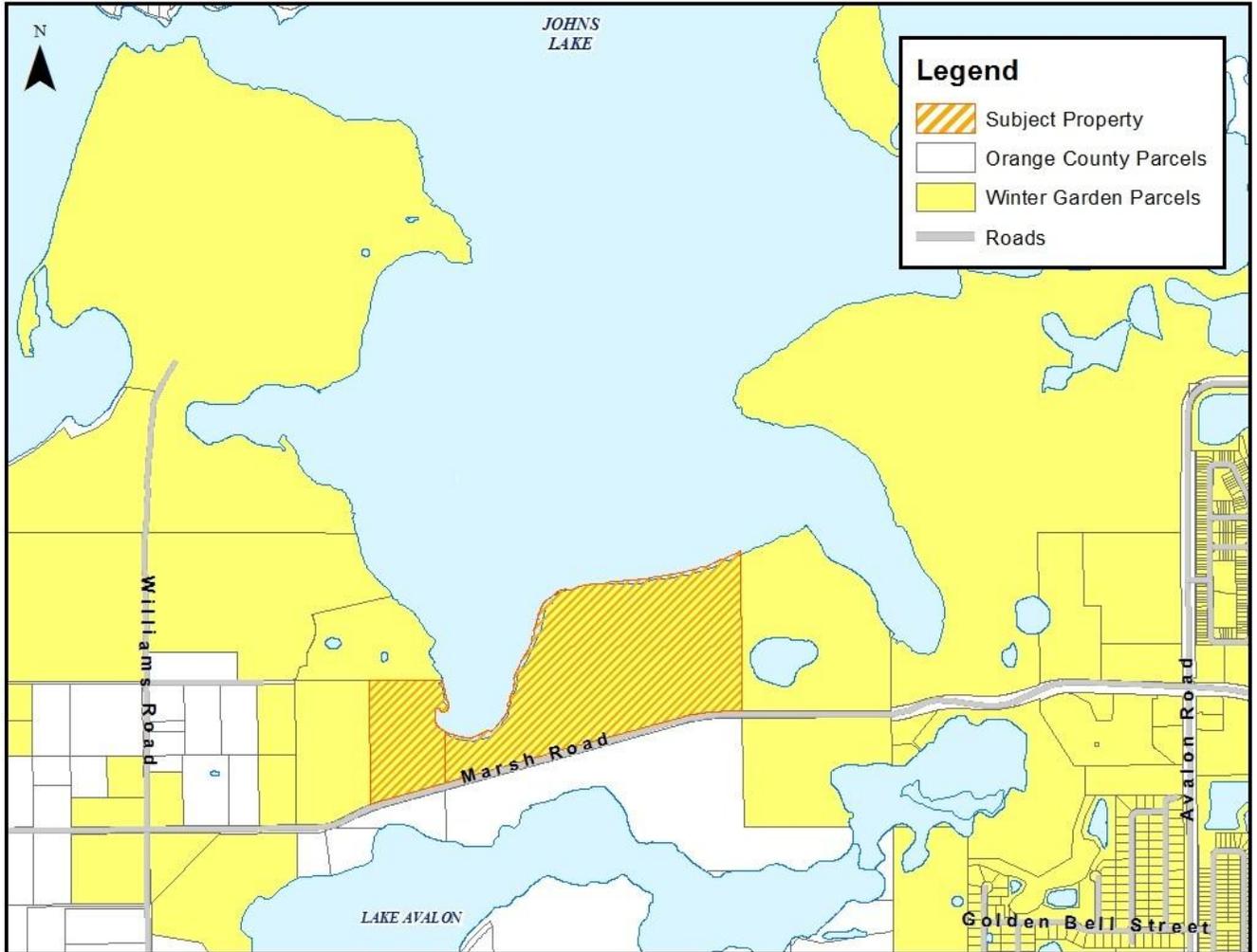
**Attachments/References:**

Location Map  
Ordinance 11-35  
Staff Report  
PUD Plan

# LOCATION MAP

Ordinance 11-35

Marsh Road - 75.94 Acres  
Waterside on Johns Lake - PUD



ORDINANCE 11-35

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 75.94 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF MARSH ROAD, EAST OF WILLIAMS ROAD AND WEST OF AVALON ROAD (CR 545) AT 16851 AND 17001 MARSH ROAD, FROM CITY NZ TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Waterside on John's Lake PUD)

**WHEREAS**, the Owner(s) of real property generally described as approximately 75.94 ± acres of certain real property generally located on the north side of Marsh Road, east of Williams Road and west of Avalon Road (CR 545) at 16851 and 17001 Marsh Road in Winter Garden, Florida, being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"), desire to rezone their property from City NZ to City PUD, and

**WHEREAS**, after public notice and due consideration of public comment, the City Commission of the City of Winter Garden hereby finds and declares the adoption of this Ordinance and the proposed development of the Property is consistent with the City of Winter Garden Comprehensive Plan, the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden, and the City of Winter Garden Code of Ordinances, and

**WHEREAS**, in order to address school capacity, the Owner(s) of the Property are in the process of obtaining approval from the School Board of Orange County, Florida with respect to a transfer for school capacity credits available under certain existing Capacity Enhancement Agreements, and such approval is anticipated to be obtained by December 6, 2011, therefore;

**BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:**

**SECTION 1: Rezoning.** After due notice and public hearing, the zoning classification of the Property, as described in Exhibit "A" attached hereto, is hereby rezoned from City NZ to City PUD in the City of Winter Garden, Florida subject to the following conditions, provisions and restrictions:

- a. **Conceptual Plan-** All development on the Property must substantially conform to the requirements identified in the Waterside on John's Lake Planned Unit Development Preliminary Plan attached hereto as Exhibit "B." Should any conflict be found between this Ordinance and the Waterside on John's Lake Planned Unit Development Preliminary Plan attached hereto

as Exhibit “B”, then the standards and conditions established by this Ordinance shall control.

- b. Zoning-** Unless specifically noted elsewhere in Exhibit “B” attached hereto, all residential development on the Property must comply with the general zoning requirements of the R-1 Single Family Residential District for any structures, including but not limited to swimming pools, screen rooms, accessory structures and buildings, that are developed on the Property.
- c. JPA-** Unless specifically noted elsewhere in Exhibit “B” attached hereto, all development of the Property must conform to the requirements of the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden dated January 24, 2007.
- d. Design Criteria/Architectural Standards-**
  - 1. Lot Size-** Minimum lot width shall be 70 feet for internal lots and 90 feet for all lakefront lots.
  - 2. Building Height-** Maximum building height shall be 35 feet.
  - 3. Minimum Living Area-** Minimum living area for each residential unit shall be 2,000 square feet.
  - 4. Signage-** All signage shall be reviewed and permitted by the City of Winter Garden. All proposed signage, with the exception of street and traffic signs, shall be submitted for review and approval as part of the Development Agreement for the Property.
  - 5. Setbacks and Required Yards-**
    - 90 foot wide lots: side yard setback shall be no less than 7.5 feet; rear yard setback shall be no less 30 feet for all lake front lots and no less than 20 feet with the exception of lakefront lots which shall maintain a 30 foot rear yard setback; and front yard setback shall be no less than 25 feet with the exception of homes with 5 foot recessed garage or side loaded garage which shall maintain a 20 foot front yard setback. Any landscaping or fencing installed within the 7.5 foot side yard setback shall be designed and constructed so as not to interfere with any easement function.
    - 70 foot wide lots: side yard setbacks shall be no less than 5 feet and shall be unobstructed by any mechanical equipment including, but not limited to, AC units, pool equipment, water

filtration systems, gas tanks, propane tanks, and any other utility or service equipment; rear yard setback shall be no less than 20 feet; and front yard setback shall be no less than 25 feet with the exception of homes with 5 foot recessed garage or side loaded garage which shall maintain a 20 foot front yard setback. Any landscaping or fencing installed within the 5 foot side yard setback shall be designed and constructed so as not to interfere with any easement function.

**6. Common Recreation and Open Space-**

The Property is located within the Resource Protection Overlay, and in compliance with the City of Winter Garden Comprehensive Plan Future Land Use Element Policies 1-3.1.7 and 1-3.1.8 will provide no less than 25% Wekiva Study Area Open Space.

To the greatest extent possible, 5% of the developable area of the Property shall be set aside for active, dry-land recreational use. In the event that this requirement cannot be met wholly or in part, then a financial contribution in accordance with Chapter 110, Article V, Division 2 of the City Code of Ordinances shall be made to the City Recreation Fund to fulfill the requirement.

**e. Staff Conditions-** All development on the Property must comply with the following conditions:

1. The Property will be constructed in two (2) phases of development with approximately 86 lots in each phase. The main entrance will be constructed with the first phase of development; the second access point located on the east side of the Property shown on Exhibit "B" will be a gated exit-only point for resident use and will be used as temporary construction access. Roadway improvements for access to the Property from Marsh Road, including turn lanes and roundabout, are the responsibility of the Owner. The design requirements of the roundabout are subject to review and approval of the City Engineer.
2. Extension of utility lines to proposed or existing stub-outs near the intersection of Marsh Road and Avalon Road will be at the developer's expense.
3. A master utilities analysis is required to be provided to the City for review prior to approval of preliminary plat and may include an upsizing agreement with the City.
4. All streets within the Property will be private and will be maintained

by the Homeowner's Association.

5. Permits or exemptions are required from SJRWMD (stormwater) and FDEP (water, wastewater, NPDES) prior to construction.
6. Fifty (50) percent of all required water and sewer impact fees shall be paid prior to City execution of FDEP permits and issuance of building permits. Provide flow calculations for Utility Department verification of impact fees. Final plans will not be approved for construction until utility impact fees have been paid and FDEP permits have been issued.
7. The City of Winter Garden will inspect private site improvements only to the extent that they connect to City owned/maintained systems (roadways, drainage, utilities, etc.). It is the responsibility of the Owner and Design Engineer to ensure that privately owned and maintained systems are constructed to the intended specifications. The City is not responsible for the operation and maintenance of privately owned systems, to include, but not be limited to, roadways, parking lots, drainage, stormwater ponds or on-site utilities.
8. No fill or runoff will be allowed to discharge onto adjacent properties without the necessary easements; existing drainage patterns shall not be altered. Provide erosion control plan prior to issuance of building permit. Site construction shall adhere to the City of Winter Garden erosion and sediment control requirements as contained in Chapter 106 – Stormwater of the City of Winter Garden Code of Ordinances.
9. Once the plans are approved, a preconstruction meeting is required prior to any commencement of construction. The applicant shall pay all engineering review and inspection fees at the preconstruction meeting prior to construction. Provide certified engineer's cost estimate or executed construction contract as basis of inspection fees (2.25%).
10. The City of Winter Garden is not authorizing or approving drainage discharges onto private property or property owned or controlled by others. Obtaining permission, easements or other approvals that may be required to drain onto private property is the Owner/Developer's responsibility. Should the flow of stormwater runoff from, or onto adjacent properties be unreasonable or cause problems, the City will not be responsible and any corrective measures required will be the responsibility of the Owner. Maintenance of on-site or off-site drainage improvements will be

the responsibility of the Owner, not the City.

11. Providing positive drainage within the site is the responsibility of the Design Engineer. The City will not maintain any portion of the on-site drainage systems or parking lot(s).
12. If approval is granted by the City of Winter Garden, it does not grant authority to enter, construct or otherwise alter the property of others, nor does it waive any permits that may be required by federal, state, regional, county, municipal or other agencies that may have jurisdiction.
13. Boat docks, piers, and any other shoreline improvements are subject to the approval and permitting processes of the City of Winter Garden and the Florida Department of Environmental Protection. All lakefront lots are not guaranteed boat docks, piers, or any other shoreline improvements, each lakefront lot will be reviewed individually based on lot configuration and other physical characteristics.
14. Buffer area provided along eastern property boundary shall be consistent with the Wekiva Protection Act. Required setbacks from Karst feature located east of the Property shall not be encroached upon and shall be maintained in compliance with the Wekiva Protection Act and the City of Winter Garden Comprehensive Plan.

## **SECTION 2: *General Requirements.***

- a. **Development Agreement-** A Development Agreement must be approved and recorded prior to approval of Preliminary Plat of the Property. The Development Agreement shall include, but is not limited to, project phasing, utilities, right-of-way, transportation/roadway system, design standards, impact fees, recreation fund contribution, stormwater, signage, and schools.
- b. **Stand Alone Clause-** Each phase of development of the Property must operate as an individual unit in that each particular phase will be able to stand-alone in the event that no other phase is developed.
- c. **Land Development Approvals and Permits-** This Ordinance does not require the City to issue any permit or approval for development, construction, preliminary plat, final plat, building permit, or other matter by the City relating to the Property or the project or any portion thereof. These and any other required City development approvals and permits shall be processed and issued by the City in accordance with procedures set forth in the City's Code of Ordinances and subject to this Ordinance.

- d. **Amendments-** Minor amendments to this Ordinance will be achieved by Resolution of the City Commission of the City of Winter Garden. Major amendments to this Ordinance will require approval of the City Commission of the City of Winter Garden by Ordinance.

**SECTION 3: Zoning Map.** The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

**SECTION 4: Non-Severability.** Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

**SECTION 5: Effective Date.** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** \_\_\_\_\_, 2011.

**SECOND READING AND PUBLIC HEARING:** \_\_\_\_\_, 2011.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

\_\_\_\_\_  
JOHN REES, Mayor/Commissioner

**ATTEST:**

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

Exhibit "A"

# LEGAL DESCRIPTION

(PER TITLE COMMITMENT FILE)

PARCEL I:

THAT PORTION OF THE FRACTIONAL NORTHWEST 1/4 LYING NORTH OF MARSH ROAD, OF SECTION 5, TOWNSHIP 23 SOUTH, RANGE 27 EAST, OF ORANGE COUNTY, FLORIDA.

PARCEL II:

THE SOUTH 1/2 OF THE FRACTIONAL EAST 1/2 OF THE NORTHEAST 1/4 (LESS WEST 1/2 OF SAME LYING NORTH OF ROAD AND ALSO, LESS THAT PORTION OF THE FRACTIONAL EAST 1/2 OF THE NORTHEAST 1/4 LYING SOUTH OF MARSH ROAD), OF SECTION 6, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

CONTAINING: 127.71 ACRES MORE OR LESS AS DESCRIBED  
AND 76.25 ACRES MORE OR LESS LYING LANDWARD  
OF THE SAFE UPLAND LINE.

Exhibit "B"

# **COVER PAGE**

## **PLANNED UNIT DEVELOPMENT PRELIMINARY PLAN**

### **WATERSIDE ON JOHNS LAKE**

**REVISED SEPTEMBER 2011**

**(7 PAGES - ATTACHED)**

# PLANNED UNIT DEVELOPMENT PRELIMINARY PLAN

A PLANNED UNIT DEVELOPMENT IN THE CITY OF WINTER GARDEN, FLORIDA

# WATERSIDE ON JOHNS LAKE

**PARCEL ID. NUMBERS: 05-23-27-0000-00-001,  
06-23-27-0000-00-002,  
06-23-27-0000-00-003**

**REVISED SEPTEMBER 2011**

## LEGAL DESCRIPTION

(PER TITLE COMMITMENT FILE)

PARCEL I:

THAT PORTION OF THE FRACTIONAL NORTHWEST 1/4 LYING NORTH OF MARSH ROAD, OF SECTION 5, TOWNSHIP 23 SOUTH, RANGE 27 EAST, OF ORANGE COUNTY, FLORIDA.

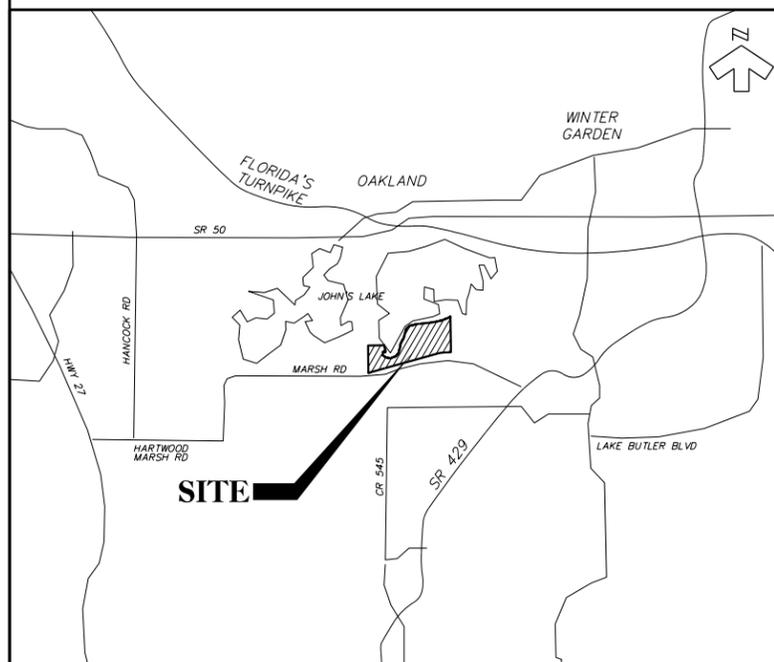
PARCEL II:

THE SOUTH 1/2 OF THE FRACTIONAL EAST 1/2 OF THE NORTHEAST 1/4 (LESS WEST 1/2 OF SAME LYING NORTH OF ROAD AND ALSO, LESS THAT PORTION OF THE FRACTIONAL EAST 1/2 OF THE NORTHEAST 1/4 LYING SOUTH OF MARSH ROAD), OF SECTION 6, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

CONTAINING: 127.71 ACRES MORE OR LESS AS DESCRIBED AND 76.25 ACRES MORE OR LESS LYING LANDWARD OF THE SAFE UPLAND LINE.

## PROJECT DESCRIPTION

A 172 UNIT SINGLE FAMILY PLANNED UNIT DEVELOPMENT, GATED ENTRANCE.



**SITE LOCATION**

**PREPARED FOR  
CENTERLINE HOMES**

**1511 EAST STATE ROAD 434  
SUITE 1009**

**WINTER SPRINGS, FLORIDA 32708**

**CONTACT: ROBERT HUTSON**

**PHONE: (407) 278-0303**

### OWNER/APPLICANT

WARREN HARDIN EDWARDS, III  
16851 MARSH ROAD  
WINTER GARDEN, FLORIDA 34787  
PHONE: (213) 924-7010

### ENGINEER/SURVEY/ENVIRONMENTAL

BOWYER-SINGLETON & ASSOCIATES, INC.  
520 SOUTH MAGNOLIA AVE.  
ORLANDO, FLORIDA 32801  
PHONE: (407) 843-5120  
CONTACT: SCOTT STEARNS, P.E.

### GEOTECHNICAL ENGINEER

UNIVERSAL ENGINEERING SCIENCES, INC.  
3532 MAGGIE BOULEVARD  
ORLANDO, FLORIDA 32811  
PHONE: (407) 423-0504  
CONTACT: ARAVIND RANGASWAMY, M.S., P.E.

### TRAFFIC ENGINEER

LUKE TRANSPORTATION ENGINEERING  
CONSULTANTS, INC.  
29 EAST PINE STREET  
ORLANDO, FLORIDA 32828  
PHONE: (407) 423-8055  
CONTACT: J. ANTHONY LUKE, P.E.

### LANDSCAPE ARCHITECT

PARKER-YANNETTE  
825 SOUTH U.S. HWY. ONE  
SUITE 330  
JUNIPER, FLORIDA 33477  
PHONE: (561) 747-5069  
CONTACT: CHUCK YANNETTE

## TABLE OF CONTENTS

SHEET NO.	DESCRIPTION
1	COVER SHEET
2	PD PRELIMINARY PLAN
3	BOUNDARY SURVEY & EXISTING CONDITIONS PLAN
4	LANDSCAPE BUFFER CONCEPT
5	MARSH ROAD BUFFER CONCEPT
6	MAIN ENTRANCE & PARK AREA CONCEPT
7	PROJECT IMAGINING

THIS IS TO CERTIFY THAT THE ROADWAY CONSTRUCTION PLANS AND SPECIFICATIONS AS CONTAINED HEREIN WERE DESIGNED TO APPLICABLE STANDARDS AS SET FORTH IN THE "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS" AS PREPARED BY FLORIDA DEPARTMENT OF TRANSPORTATION.



FLORIDA  
WINTER GARDEN  
WATERSIDE  
ON JOHNS LAKE

DATE	BY	DESCRIPTION

CONTRACTOR "AS-BUILTS" were furnished to the City of Winter Garden, Florida. The contractor is responsible for the accuracy of the "As-Builts" and for the compliance with my knowledge of what was actually observed on site.

Contractor's Name: \_\_\_\_\_  
Engineer: \_\_\_\_\_  
Not valid without the signature and the original raised seal of a Florida Registered Engineer.

DATE	JUNE 2011
DESIGNED	SKH
CHECKED	MSS
SCALE	N/A
PROJECT NO.	EDWD/PO
FILE NAME	EDWD/POcover
SHEET	1 OF 7

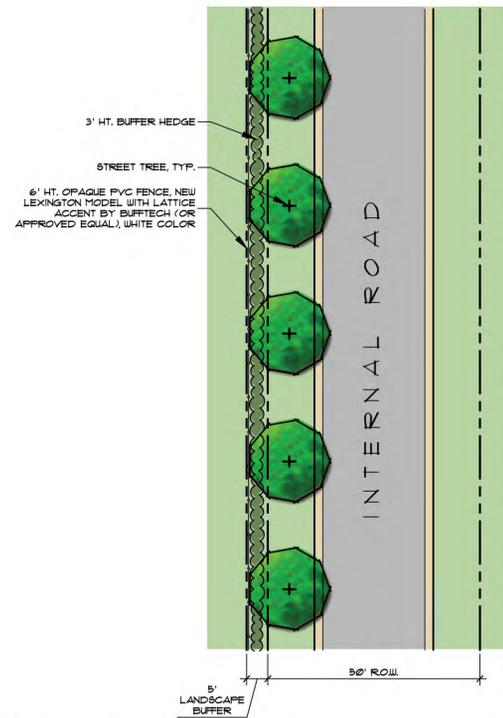
10/18/2011

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10:21:38 AM

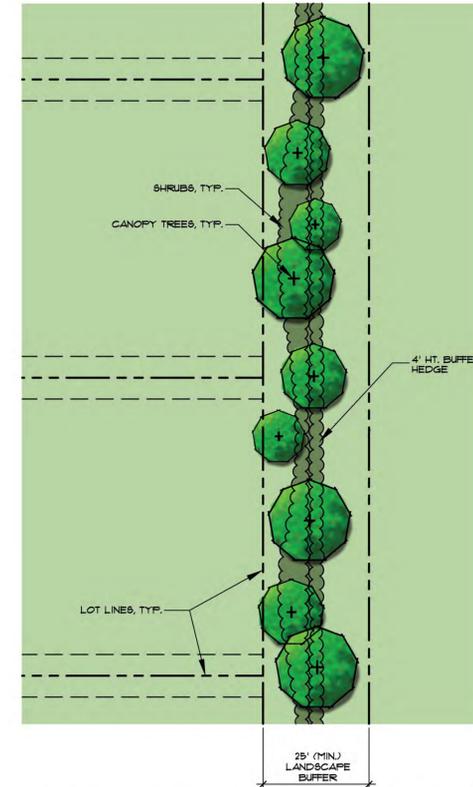






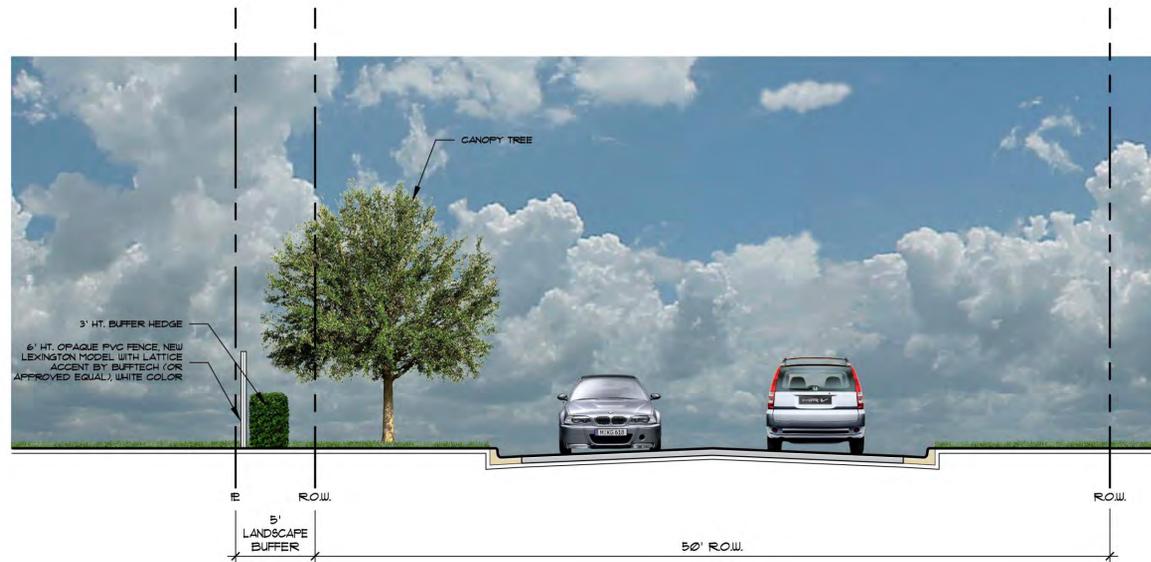
**A** WEST BUFFER PLAN VIEW

SCALE: 1"=20'-0"



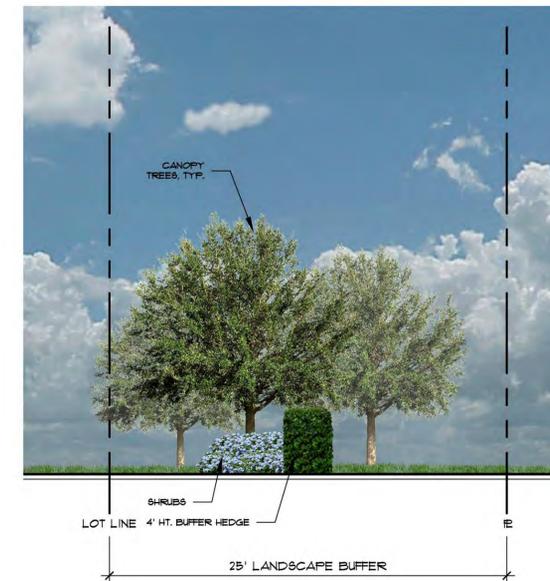
**C** EAST BUFFER PLAN VIEW

SCALE: 1"=20'-0"



**B** TYPICAL WEST BUFFER SECTION

SCALE: 3/16"=1'-0"



**D** TYPICAL EAST BUFFER SECTION

SCALE: 3/16"=1'-0"

# Waterside on Johns Lake

Winter Garden, Florida

# Centerline Homes

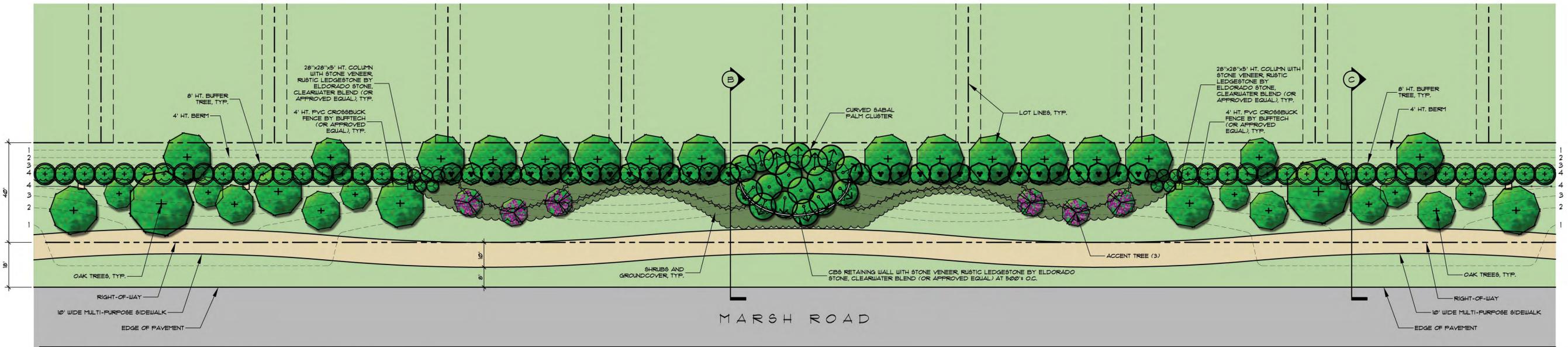


**PARKER-YANNETTE**  
design group, inc.

LANDSCAPE ARCHITECTURE  
PLANNING • GRAPHICS  
825 South U.S. Highway One  
Suite 330  
Jupiter, Florida 33477  
Telephone: (561) 747-5069  
Fax: (561) 747-2041  
Email: mail@pydg.com

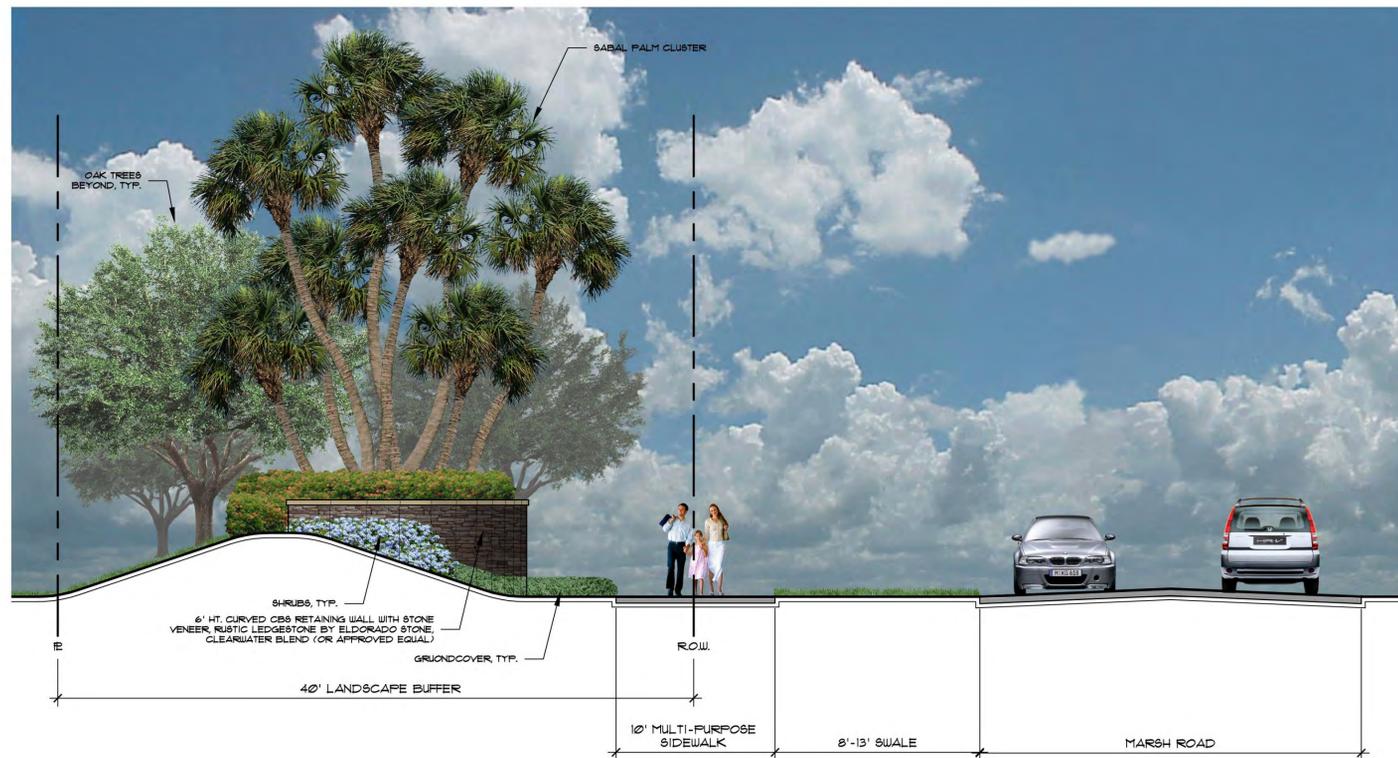
July 2011  
rev. September 12, 2011

Sheet 4



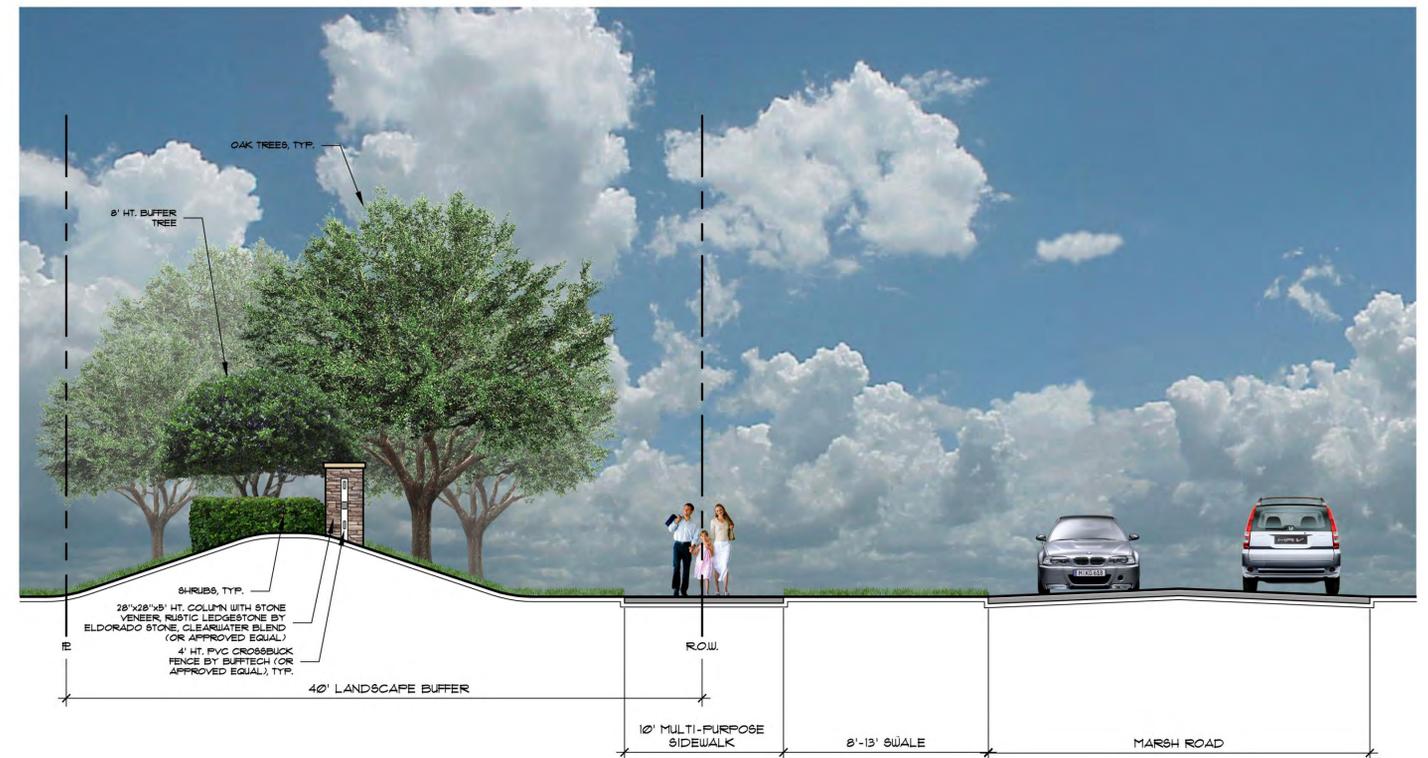
**A** SOUTH BUFFER PLAN VIEW

SCALE: 1"=20'-0"



**B** TYPICAL SOUTH BUFFER SECTION 'B'

SCALE: 3/16"=1'-0"



**C** TYPICAL SOUTH BUFFER SECTION 'C'

SCALE: 3/16"=1'-0"

# Waterside on Johns Lake

Winter Garden, Florida

## Centerline Homes



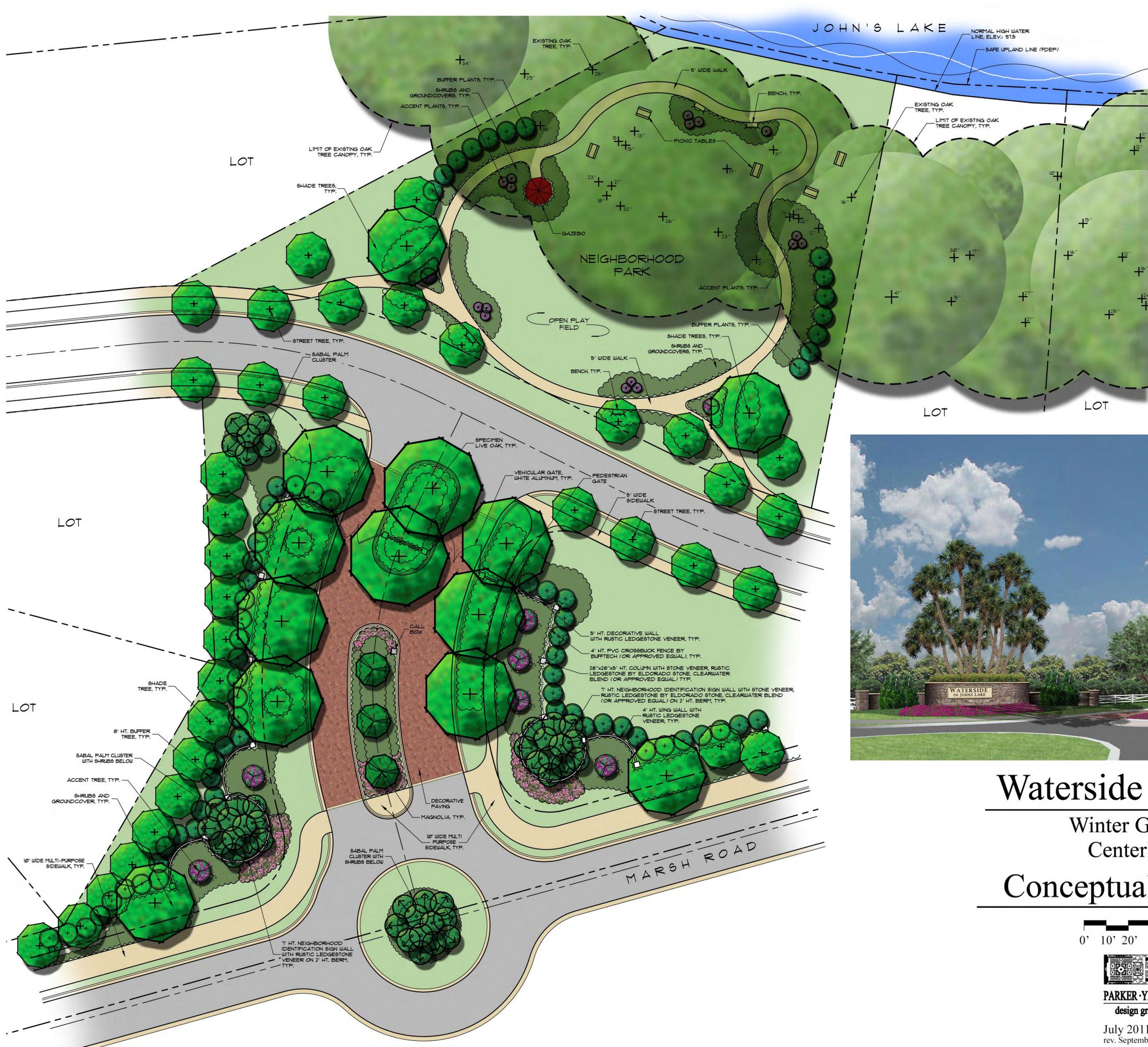
**PARKER-YANNETTE**  
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Jupiter, Florida 33477

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Email: mail@pyrdg.com

July 2011  
rev. September 12, 2011

Sheet 5



# Waterside on Johns Lake

Winter Garden, Florida  
Centerline Homes

## Conceptual Entry/Park Plan



**PARKER-YANNETTE**  
design group, inc.

LANDSCAPE ARCHITECTURE  
PLANNING GRAPHICS  
825 South U.S. Highway One  
Suite 330  
Jupiter, Florida 33477  
Telephone: (561) 747-5069  
Fax: (561) 747-2041  
Email: mail@pydg.com

July 2011  
rev. September 12, 2011

Sheet 6

# WATERSIDE ON JOHNS LAKE



LAKEFRONT HOMES



INTERIOR HOMES



# CITY OF WINTER GARDEN

## PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

# STAFF REPORT

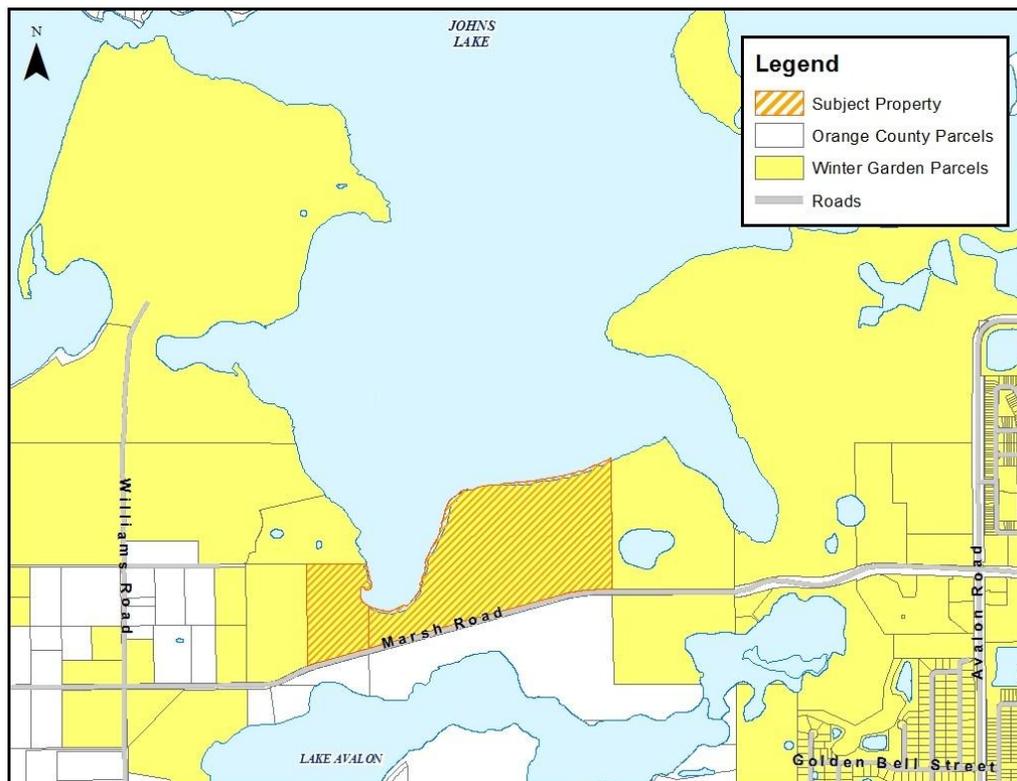
**TO:** PLANNING AND ZONING COMMITTEE  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** OCTOBER 31, 2011  
**SUBJECT:** REZONING  
**Marsh Road (75.94+/- ACRES)**  
**PARCEL ID # 05-23-27-0000-00-001**  
**PARCEL ID # 06-23-27-0000-00-003**

**APPLICANT:** WARREN HARDIN EDWARDS, III

### INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property, located on Marsh Road east of Williams Road and west of Avalon Road, is approximately 75.94± acres. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting to rezone 75.94± acres of land. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation NZ, which means that the property has not yet been zoned since it was annexed into the City of Winter Garden in September 2007. The subject property is designated Urban Village on the Future Land Use Map of the Comprehensive Plan.

### **EXISTING USE**

The subject property presently consists of one Single-Family Residential home and the remainder of the property is agricultural use (Timberland & Orange Grove).

### **ADJACENT LAND USE AND ZONING**

The property located to the north is a Single Family residence zoned NZ in the City. The property located to the east is agricultural use (Timberland & Orange Grove) and is zoned NZ in the City. The property to the west is zoned NZ in the City, and is agricultural use (Timberland & Orange Grove). The properties to the south are agricultural use (Orange Grove & Timberland), one property is zoned NZ in the City and the other is located in unincorporated Orange County and is zoned A-1.

The surrounding properties are all located within the JPA expansion area as adopted by the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden. Additionally, the subject property as well as many of the surrounding properties (a total of 596 acres) were annexed into the City of Winter Garden by Ordinance 07-34. At the time the properties were annexed into the City they were not assigned zoning or future land use designation in the City of Winter Garden. Subsequently, as part of the EAR based amendments to the City's Comprehensive Plan which were adopted in 2010, the subject property and surrounding properties (a total of 642.73 acres) were assigned a future land use designation of Urban Village on the Future Land Use Map of the City's Comprehensive Plan.

### **PROPOSED USE**

The applicant proposes to develop the 75.94 ± acre site into a residential planned unit development of 172 single family homes.

### **PUBLIC FACILITY ANALYSIS**

The property has a standard residential driveway point of transportation access at this time because it is used for a single family residence and agricultural uses. However, if the property is developed as proposed by the applicant then additional transportation access would be provided in the form of a round-a-bout at the main entrance on Marsh Road and a secondary access point for resident exit only access.

The property is not currently a water or sewer customer of the City of Winter Garden; however water, sewer, and reclaimed utilities will be required for any new development of the property. At such time that the property is developed, all necessary utility lines will be extended and connections made, all extension and connection costs shall be borne by the property owner.

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

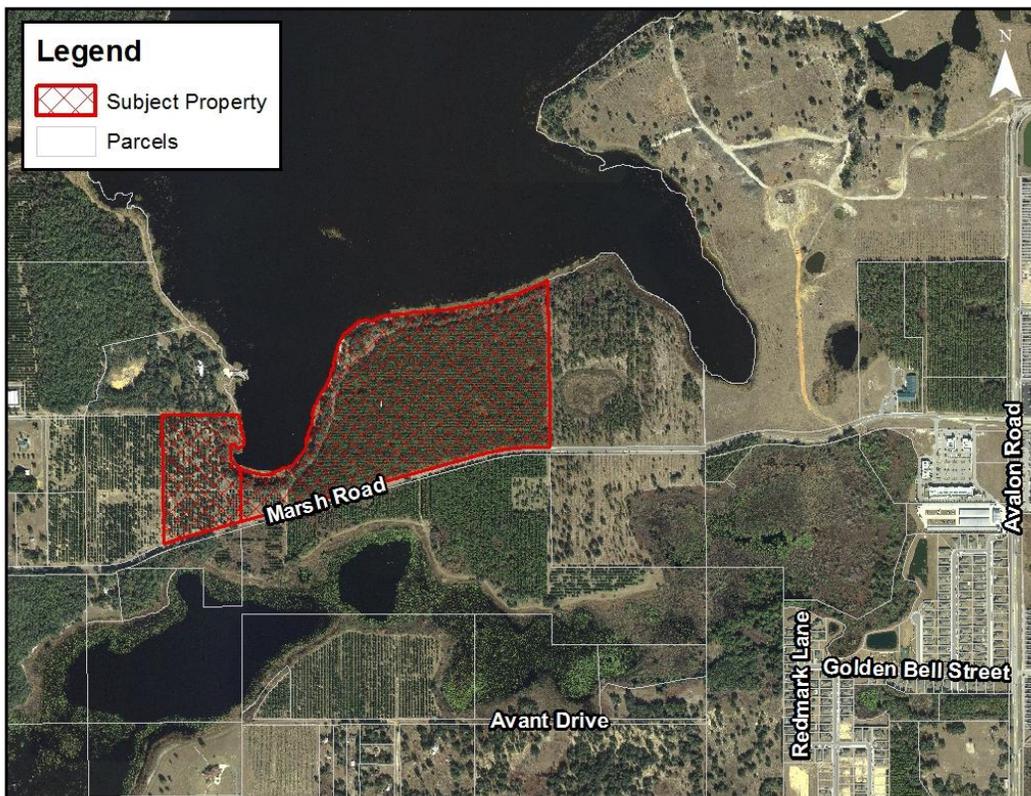
### SUMMARY

City Staff recommend approval of the proposed Ordinance. Rezoning the subject property from City NZ to City PUD is consistent with the Future Land Use Map of the City's Comprehensive Plan, and is consistent with the trend of development in the area. Further, the adjacent properties should not be negatively impacted as the majority of the surrounding property is agricultural use land with few existing residences.

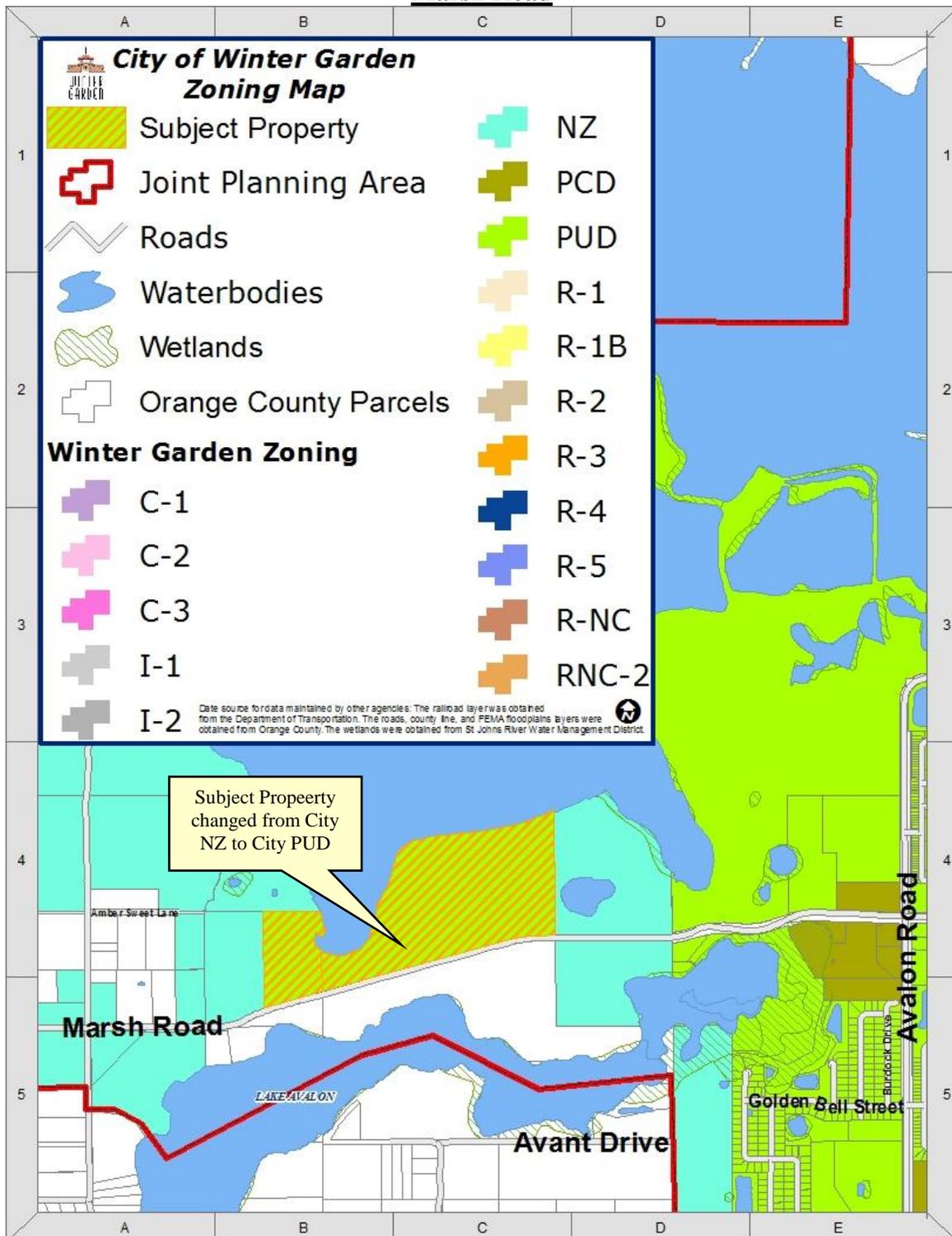
The proposed development of the subject property is consistent with the policies of the City's Comprehensive Plan and the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden which requires that rezoning applications or development plans for properties located within the JPA expansion area must be processed as Planned Unit Developments.

### MAPS

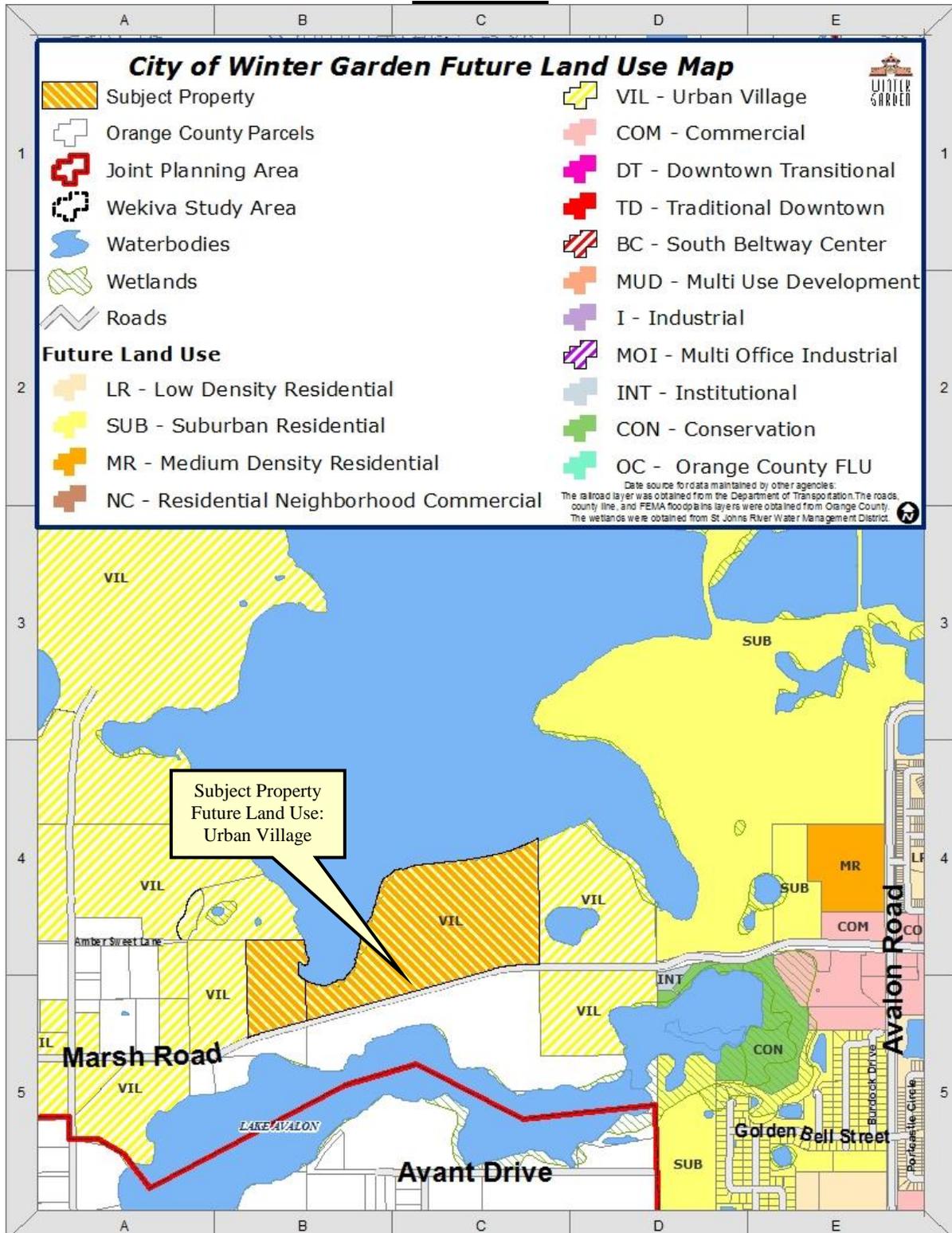
#### AERIAL PHOTO Marsh Road



**ZONING MAP**  
**Marsh Road**



**FUTURE LAND USE MAP**  
**Marsh Road**



**END OF STAFF REPORT**

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Ed Williams, Community Development Director

**Via:** City Manager Mike Bollhoefer

**Date:** **November 2, 2011**                      **Meeting Date: November 10, 2011**

**Subject:** Rezoning  
**720 Roper Road (7.497+/- ACRES)**  
**PARCEL ID # 35-22-27-0000-00-01**

**Issue:** Applicant is requesting to rezone 7.497± acres of land. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation R-1 (Single-Family Residential District) in the City of Winter Garden. The subject property is designated Low Density Residential on the Future Land Use Map of the Comprehensive Plan.

**Discussion:**

City Staff recommend approval of the proposed Ordinance. Rezoning the subject property from City R-1 to City PUD is not inconsistent with the Future Land Use Map of the City's Comprehensive Plan. Further, the adjacent property owners should not be negatively impacted as the surrounding properties are developed planned unit developments or agricultural uses. (See attached Staff Report)

**Recommended Action:**

Staff recommends approval of the first reading of Ordinance 11-36, (Rezoning of 7.497± acres located at 720 Roper Road from City R-1 to City PUD) with second reading and adoption on December 8, 2011.

**Attachments/References:**

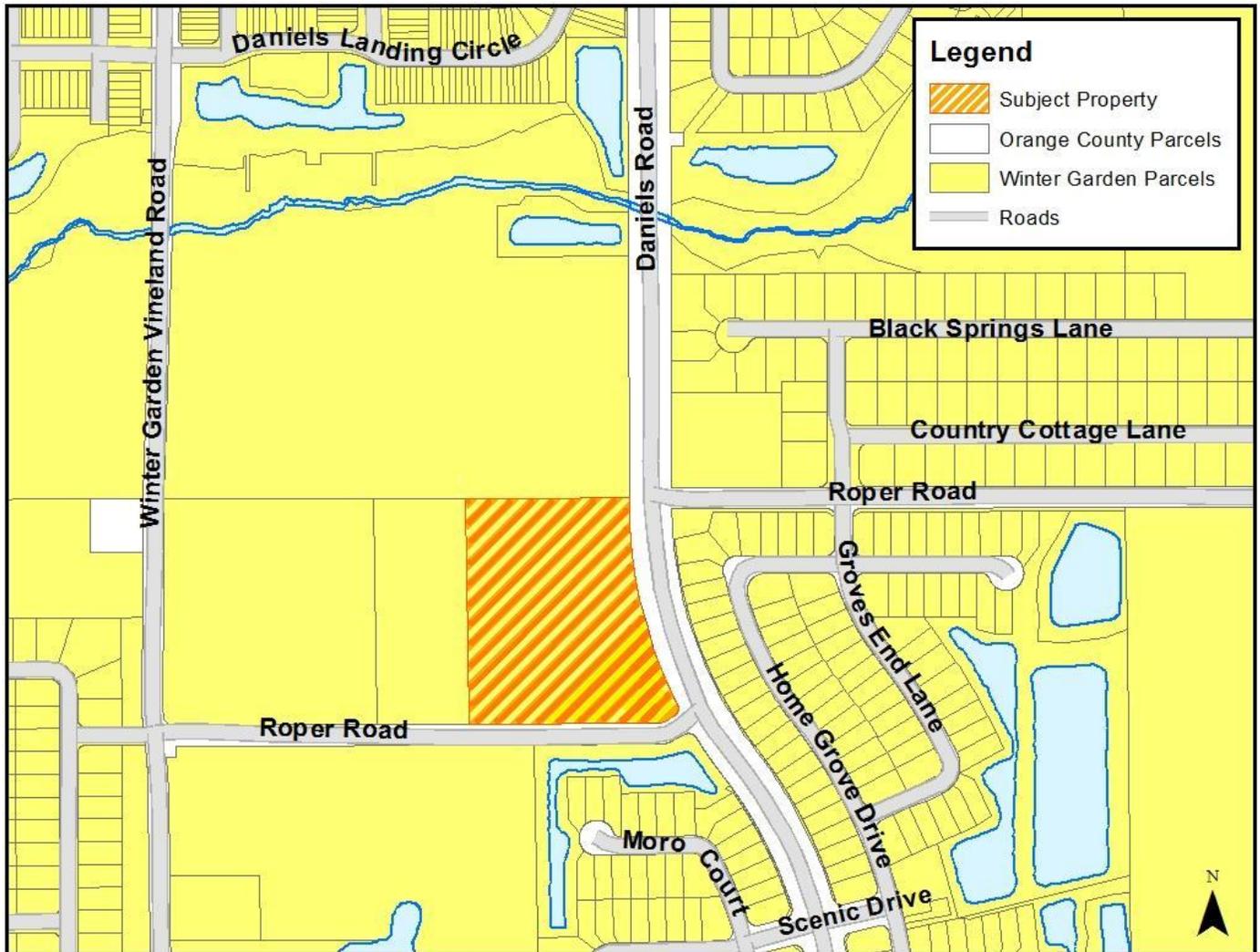
Location Map  
Ordinance 11-36  
Staff Report  
PUD Plan

# LOCATION MAP

Ordinance 11-36

720 Roper Road - 7.497 +/- Acres

Serenades by Sonata - PUD



ORDINANCE 11-36

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 7.497 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF ROPER ROAD AND DANIELS ROAD, FROM CITY R-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Serenades By Sonata PUD)

**WHEREAS**, the owner(s) of real property generally described as approximately 7.497 ± acres of certain real property generally located on the northwest corner of Roper Road and Daniels Road in Winter Garden, Florida, being more particularly described on Exhibit “A” attached hereto and incorporated herein by this reference (the “Property”), desire to rezone their property from City R-1 to City PUD, therefore;

**BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:**

**SECTION 1: Rezoning.** After due notice and public hearing, the zoning classification of the Property, as described in Exhibit “A” attached hereto, is hereby rezoned from City R-1 to City PUD in the City of Winter Garden, Florida subject to the following conditions, provisions and restrictions:

- a. **Conceptual Plan-** All development on the Property must substantially conform to the requirements identified in the Serenades by Sonata PUD Plan attached hereto as Exhibit “B.”
- b. **Zoning-** Due to the nature of the permitted uses set forth in this Ordinance, the following sections of Article V, Division 2 of the City Code of Ordinances regarding Residential Planned Unit Developments shall not apply to the Property: section 118-860, section 118-921, section 118-923, section 118-925, and section 118-927. Unless specifically noted elsewhere in Exhibit “B” attached hereto, or expressly provided for herein, all development on the Property must comply with the general zoning requirements of the Residential Planned Unit Development zoning district. These requirements include any approval procedure of the Residential Planned Unit Development zoning district.
- c. **Permitted Uses-** With respect to the Serenades PUD Area as identified in Exhibit “B” attached hereto, the only permitted use shall be a Memory Care/Nursing Home facility. The following uses shall be permitted in the Future PUD Area as identified in Exhibit “B” attached hereto:
  1. Memory Care/Nursing Home

2. Independent Living Facility
  3. Assisted Living Facility
  4. Hospice
  5. Medical Office
- d. **Prohibited Uses-** Unless specifically identified by this Ordinance as a permitted use, all other uses are prohibited.
- e. **Design Criteria/Architectural Standards-**
1. **Maximum Building Length-** Notwithstanding Section 118-925 of the City Code of Ordinances, the maximum length of the memory care building in the Serenades PUD Area as identified in Exhibit "B" attached hereto shall not exceed 250 feet.
  2. **Maximum Building Height-**

With respect to the Serenades PUD Area as identified in Exhibit "B" attached hereto, maximum building height shall not exceed 26 feet (one story), and the maximum height of the Serenades PUD Area tower element shall not exceed 35 feet.

With respect to the Future PUD Area as identified in Exhibit "B" attached hereto, maximum building height for medical office uses shall not exceed 30 feet (one story), and the maximum height for all other allowable uses shall not exceed 45 feet (two stories).
  3. **Signage-** All signage proposed for the Property shall conform to the requirements and regulations pertaining to specified commercial corridors within the City of Winter Garden as defined in Chapter 118, Article X, Division 2 of the City of Winter Garden Code of Ordinances. One single-tenant ground sign shall be permitted for the Serenades PUD Area as identified in Exhibit "B." Signage for the Future PUD Area as identified in Exhibit "B" shall be considered at such time as a development plan is submitted for the area identified in Exhibit "B" as Future PUD Area.
  4. **Impervious Surface Area Ratio-** The maximum impervious surface area ratio for the Property shall not exceed 65% and shall be consistent with the overall maximum impervious surface area ratio that the Planned Unit Development is designated and permitted for by Saint John's River Water Management District.
  5. **Common Open Space-** The minimum common open space provided for the Property shall be 20%. For the purposes of this Ordinance water areas shall be considered as contribution toward

fulfillment of open space requirements, specifically wetland areas and dry retention may contribute to the fulfillment of the common open space requirement, and wet bottom retention areas may partially contribute to fulfilling open space requirements. Additionally, pervious surfaces, unless specifically identified below, may be calculated as common open space for the Property, however the following will not be considered as contributing to the common open space requirement for the Property:

- Any impervious surface as defined in Chapter 106 of the City Code of Ordinances.
  - Parking Areas
  - Road rights-of-way
  - Required minimum yards & building spacing
  - Areas identified as “Future PUD Area” in Exhibit “B” attached hereto
- 6. Dark Skies-** all exterior lighting shall be designed to provide safe, convenient and efficient lighting for pedestrians and vehicles. Exterior lighting shall be designed as dark skies lighting in a consistent and coordinated manner for the entire project in compliance with the requirements of Chapter 118, Article X, Division 4 of the City Code of Ordinances.
- f. Delivery Hours-** No deliveries shall occur between the hours of 7:00pm and 7:00am.
- g. Staff Conditions-** All development on the Property must comply with the following staff conditions:
1. An engineered site plan meeting all requirements of the City Code of Ordinances shall be submitted for review and approval by City staff and City Commission prior to commencement of any construction.
  2. All utilities required for the project shall be extended at the developer’s expense. The proposed sanitary sewer system shall be designed to show a future connection from the “Future PUD site, including ensuring the lift station design accommodates the future flow. 100% of all water and sewer impact fees shall be paid prior to City execution of FDEP permits and issuance of site or building permits. Final plans shall provide utilities data from similar facilities to estimate flow requirements.
  3. All irrigation on the site shall be designed to be supplied by reclaimed water (located on Daniels Road and existing Roper Road).

4. All or at least a portion of this property drains to the north to a closed wetland that does not have an outfall. Retention of the 100 year, 24 hour storm event, or volumetric pre-post 25 year, 96 hour storm event may be required (site design needs to be coordinated with the development plans of the adjoining property, commonly known as "The Bradford Property" located on the north side of the Property).
5. Permits from SJRWMD and FDEP (water, wastewater and NPDES) are required prior to issuance of site or building permits.
6. Landscaping, fencing, signage, etc. shall not infringe on sight distance requirements at any intersection, including Daniels Road or Roper Road.
7. Based on the alternative impact fee study, the Road Impact Fee is seventy-one thousand, one hundred sixty one dollars and twenty cents (\$71,161.20). After two (2) years of operation of the "Serenades PUD Area" Memory Care Facility as identified on Exhibit "B" the City will review traffic count data for the Property to determine if a true-up of the Road Impact Fee is necessary and determine the amount of any additional Road Impact Fees.
8. The Owner is responsible for meeting all provisions of ADA and Florida Accessibility Code.
9. All work shall conform to City of Winter Garden standards and specifications.
10. The City of Winter Garden will inspect private site improvements only to the extent that they connect to City owned/maintained systems (roadways, drainage, utilities, etc.). It is the responsibility of the Owner and Design Engineer to ensure that privately owned and maintained systems are constructed to the intended specifications. The City is not responsible for the operation and maintenance of privately owned systems, to include, but not be limited to, roadways, parking lots, drainage, stormwater ponds or on-site utilities.
11. The Contractor is responsible for the notification, location and protection of all utilities that may exist within the project limits.
12. No fill or runoff will be allowed to discharge onto adjacent properties; existing drainage patterns shall not be altered. The applicant should note that if approval is granted, the City of Winter Garden is not granting rights or easements for drainage from, or onto, property owned by others. Obtaining permission, easements or other

approvals that may be required to drain onto private property is the Owner/Developer's responsibility. Should the flow of stormwater runoff from, or onto adjacent properties be unreasonable or cause problems, the City will not be responsible and any corrective measures required will be the responsibility of the Owner. Site construction shall adhere to the City of Winter Garden erosion and sediment control requirements as contained in Chapter 106 - Stormwater. If approval is granted by the City of Winter Garden, it does not waive any permits that may be required by federal, state, regional, county, municipal or other agencies that may have jurisdiction.

13. After final plan approval, a preconstruction meeting will be required prior to any commencement of construction. The applicant shall provide an erosion control and street lighting plan at the preconstruction meeting and shall pay all engineering review and inspection fees prior to construction. Inspection fees in the amount of **2.25%** of the cost of all site improvements shall be paid prior to issuance of the building permit.

## **SECTION 2: *General Requirements.***

- a. **Development Agreement-** A Development Agreement must be approved and recorded prior to approval of any site or building permits for the Property. The Development Agreement shall include, but is not limited to, project phasing, right-of-way, vehicular access to the site including possible connection to the proposed Roper Road Extension, restriction of additional curb-cuts on Daniels Road, provision for cross access, design standards, signage, impact fees, stormwater, drainage and utilities.
- b. **Stand Alone Clause-** Each phase of development of the Property must operate as an individual unit in that each particular phase will be able to stand-alone in the event that no other phase is developed.
- c. **Land Development Approvals and Permits-** This Ordinance does not require the City to issue any permit or approval for development, construction, building permit, or other matter by the City relating to the Property or the project or any portion thereof. These and any other required City development approvals and permits shall be processed and issued by the City in accordance with procedures set forth in the City's Code of Ordinances and subject to this Ordinance.
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**SECTION 5: Effective Date.** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** \_\_\_\_\_, 2011.

**SECOND READING AND PUBLIC HEARING:** \_\_\_\_\_, 2011.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

\_\_\_\_\_  
JOHN REES, Mayor/Commissioner

**ATTEST:**

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

### Exhibit "A"

A parcel of land being a portion of the Northwest 1/4 and Northeast 1/4 of Section 35, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of the Northwest 1/4 of Section 35, Township 22 South, Range 27 East, Orange County, Florida; thence South  $89^{\circ}52'01''$  West, along the North line of said Northwest 1/4, a distance of 60.00 feet to the POINT OF BEGINNING, said point being on the West right of way line of Daniels Road according to that certain Warranty Deed recorded in Official Records Book 6608, Page 2300, Public Records of Orange County, Florida; thence South  $00^{\circ}11'04''$  East, along said West right of way line, a distance of 24.69 feet to a point of curvature of a curve concave Northeasterly, having a radius of 1260.00 feet and a central angle of  $26^{\circ}37'30''$ ; thence 585.51 feet along the arc of said curve and said West right of way line to a point of reverse curvature with a curve, concave Northwesterly, having a radius of 25.00 feet and a central angle of  $87^{\circ}32'48''$ ; thence Southwesterly, along the arc of said curve and right of way line, a distance of 38.20 feet to the point of tangency; thence South  $60^{\circ}43'30''$  West, along the North right of way of Roper Road according to the subdivision plat of GROVE PARK AT STONE CREST recorded in Plat Book 66, Page 46, Public Records of Orange County, Florida, a distance of 34.70 feet to a point of curvature of a curve, concave Northerly, having a radius of 20.00 feet and a central angle of  $29^{\circ}02'44''$ ; thence, along the arc of said curve and Northerly right of way line of said Roper Road, a distance of 10.14 feet to the point of tangency; thence South  $89^{\circ}47'18''$  West, along the North right of way line according to that certain Warranty Deed recorded in Official Records Book 6852, Page 4525, Public Records of Orange County, Florida, a distance of 540.19 feet to a point on a line lying 523.67 feet West of and parallel to the East line of the Northeast 1/4 of said Section 35; thence North  $00^{\circ}48'20''$  West, along said line, a distance of 642.47 feet to the North line of the Northwest 1/4 of said Section 35; thence North  $89^{\circ}52'01''$  East, along said North line, a distance of 463.70 feet to the POINT OF BEGINNING.

Exhibit "B"

# **COVER PAGE**

**SERENADES BY SONATA PUD**

**NOVEMBER 2011**

**(8 PAGES - ATTACHED)**

# SERENADES BY SONATA PUD WINTER GARDEN, FLORIDA

NOVEMBER 2011

PARCEL ID: 35-22-27-0000-00-001

### SHEET INDEX:

C001	COVER SHEET
C100	DEVELOPMENT SITE & UTILITY PLAN
L4.101	LANDSCAPE PLANTING NOTES/ SCHEDULE
L4.201	LANDSCAPE PLAN-TREES
L4.202	LANDSCAPE PLAN-SHRUBS
L4.203	LANDSCAPE PLAN COURTYARD-SHRUBS
A2.101	EXTERIOR ELEVATIONS

### LEGAL DESCRIPTION:

A parcel of land being a portion of the Northwest 1/4 and Northeast 1/4 of Section 35, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of the Northwest 1/4 of Section 35, Township 22 South, Range 27 East, Orange County, Florida; thence South 89°52'01" West, along the North line of said Northwest 1/4, a distance of 60.00 feet to the POINT OF BEGINNING, said point being on the West right of way line of Daniels Road according to that certain Warranty Deed recorded in Official Records Book 6608, Page 2300, Public Records of Orange County, Florida; thence South 00°11'04" East, along said West right of way line, a distance of 24.69 feet to a point of curvature of a curve concave Northeasterly, having a radius of 1260.00 feet and a central angle of 26°37'30"; thence 585.51 feet along the arc of said curve and said West right of way line to a point of reverse curvature with a curve, concave Northwesterly, having a radius of 25.00 feet and a central angle of 87°32'48"; thence Southwesterly, along the arc of said curve and right of way line, a distance of 38.20 feet to the point of tangency; thence South 60°43'30" West, along the North right of way of Roper Road according to the subdivision plat of GROVE PARK AT STONE CREST recorded in Plat Book 66, Page 46, Public Records of Orange County, Florida, a distance of 34.70 feet to a point of curvature of a curve, concave Northerly, having a radius of 20.00 feet and a central angle of 28°02'44"; thence, along the arc of said curve and Northerly right of way line of said Roper Road, a distance of 10.14 feet to the point of tangency; thence South 89°47'18" West, along the North right of way line according to that certain Warranty Deed recorded in Official Records Book 6852, Page 4525, Public Records of Orange County, Florida, a distance of 540.19 feet to a point on a line lying 523.67 feet West of and parallel to the East line of the Northeast 1/4 of said Section 35; thence North 00°48'20" West, along said line, a distance of 642.47 feet to the North line of the Northwest 1/4 of said Section 35; thence North 89°52'01" East, along said North line, a distance of 463.70 feet to the POINT OF BEGINNING.

The subject property contains 7.497 acres, more or less and is currently vacant land.

### DRAINAGE STATEMENT:

- ON-SITE STORMWATER MANAGEMENT FACILITIES WILL BE PROVIDED TO MEET ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (SJRWMD) AND CITY OF WINTER GARDEN REQUIREMENTS.
- STORMWATER MANAGEMENT SYSTEM WILL COMPLY WITH SJRWMD LAKE APOPKA BASIN CRITERIA. WEKIVA RECHARGE PROTECTION BASIN RECHARGE STANDARD DOES NOT APPLY AS ON-SITE SOILS ARE NOT NRCS TYPE "A" SOILS PER THE SCS SOILS MAP.

### FLOOD ZONE:

THE PROPOSED PROPERTY IS IN ZONE X, PER THE FIRM MAP, PANEL No. 12095C0215 F, DATED SEPTEMBER 25, 2009

### ZONING INFORMATION:

SITE: R-1  
FRONT/EAST: DANIELS ROAD/PUD  
SIDE/NORTH: R-1  
SIDE/SOUTH: ROPER ROAD/R-1, PUD  
REAR/WEST: R-1

### ALLOWABLE USES:

PRIMARY RESIDENTIAL USES: ASSISTED LIVING FACILITY, INDEPENDENT LIVING FACILITY, MEMORY CARE/NURSING HOME  
NON-RESIDENTIAL USES: HOSPICE, MEDICAL OFFICE

### CONTACT INFORMATION:

**OWNER:**  
JOHN NABERS  
628 HIGHLAND AVENUE  
WINDERMERE, FL 34786-3538  
E-MAIL: JOHN\_NAB@MSN.COM

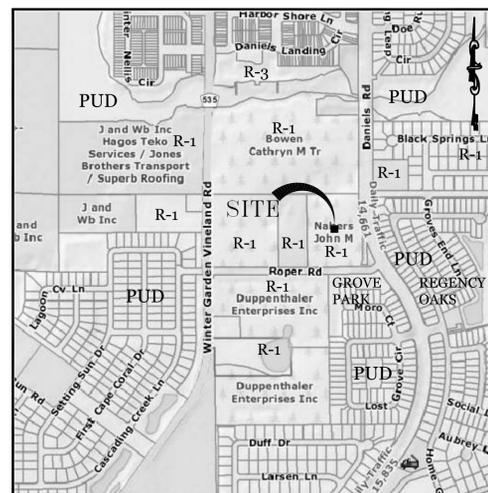
**DEVELOPER:**  
SONATA HEALTH CARE  
STEPHEN CARUSO  
301 E. PINE STREET, SUITE 730  
ORLANDO, FL 32801  
TEL: 407.286.6490  
FAX: 407.412.6155  
E-MAIL: SCARUSO@SONATAHC.COM

**SURVEYOR:**  
BENCHMARK SURVEYING & MAPPING, INC.  
BILLY JOE JENKINS, JR. PSM  
557 WEST PLANT STREET  
WINTER GARDEN, FL 34787  
TEL: 407.654.6183  
FAX: 407.654.6184  
E-MAIL: BENCHMARKSURVEYINGANDMAPPING.COM

**ENGINEER:**  
KLIMA WEEKS CIVIL ENGINEERING, INC.  
SELBY G. WEEKS, PE, LEED AP  
385 DOUGLAS AVE., STE. 2100  
ALTAMONTE SPRINGS, FLORIDA 32714  
TEL: 407.478.8750  
FAX: 407.478.8749  
E-MAIL: SWEEEKS@KLIMAWEEKS.COM

**ARCHITECT:**  
BAKER BARRIOS ARCHITECTS INC.  
DOUGLAS LEONARD, AIA, LEED AP  
189 SOUTH ORANGE AVE., SUITE 1700  
ORLANDO, FL 32801  
TEL: 407.926.3000  
FAX: 407.926.3390  
E-MAIL: DLEONARD@BAKERBARRIOS.COM

**LANDSCAPE ARCHITECT:**  
BAKER BARRIOS ARCHITECTS INC.  
CHUCK BELL, RLA  
189 SOUTH ORANGE AVE., SUITE 1700  
ORLANDO, FL 32801  
TEL: 407.926.3000  
FAX: 407.926.3390  
E-MAIL: CBELL@BAKERBARRIOS.COM



**VICINITY & EXISTING ZONING MAP**  
(NORTHWEST CORNER OF THE INTERSECTION OF DANIELS ROAD & ROPER ROAD, WINTER GARDEN, FLORIDA 34787)

**SERENADES BY SONATA**  
WINTER GARDEN, FLORIDA  
COVER SHEET

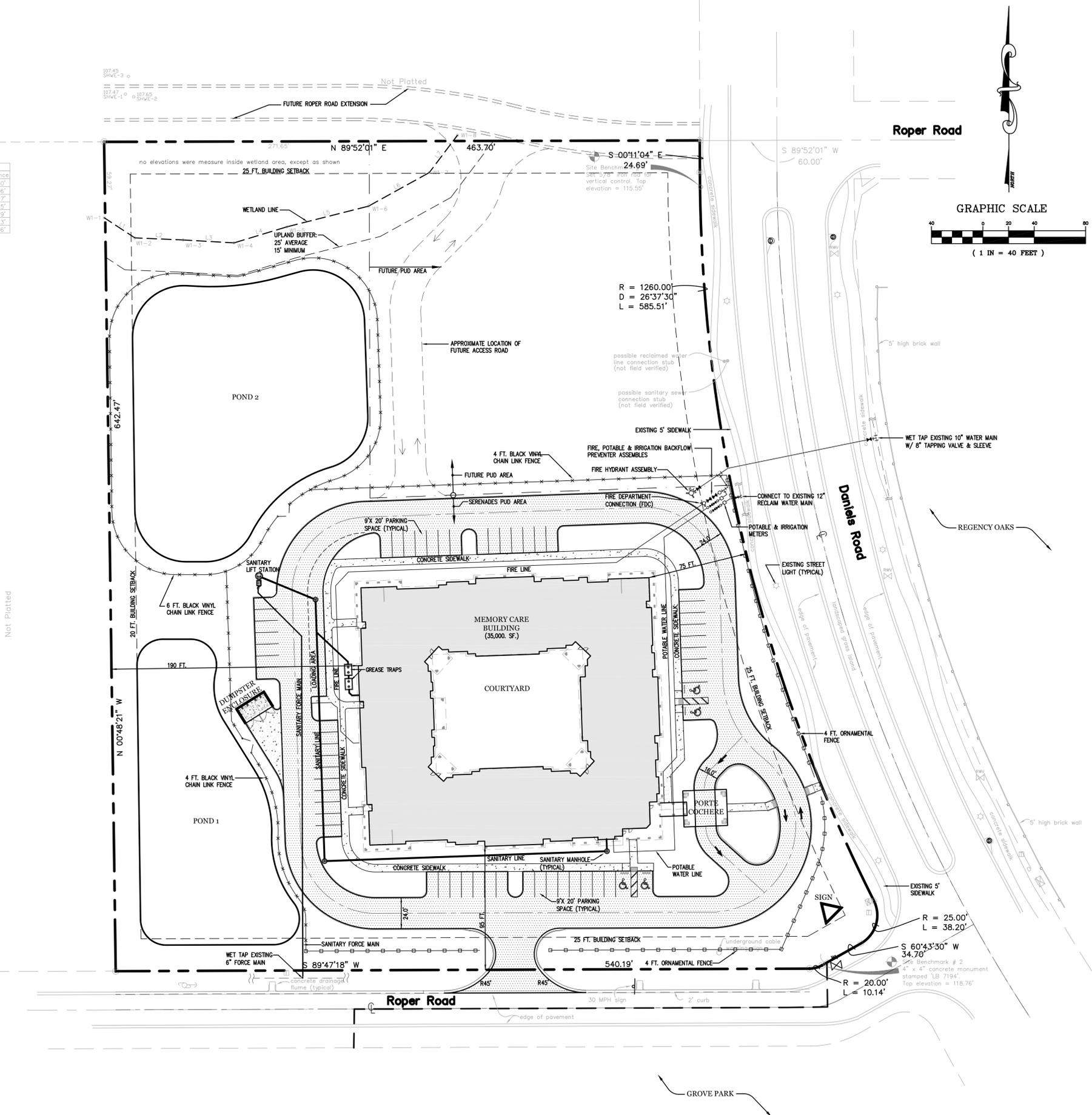
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drawn by: RVZ  
checked by: SGW  
date: 11/02/11  
plot scale: AS SHOWN  
project number: 11SONA002  
file name: C000 Cover Sheet - Sonata WG.dwg

**C000**

**SERENADES BY SONATA**  
WINTER GARDEN, FLORIDA  
DEVELOPMENT SITE & UTILITY PLAN

Distance
1" E 27.60'
2" E 37.66'
3" E 39.67'
4" E 42.85'
5" E 65.59'
6" E 54.03'
7" E 30.66'



**"FUTURE PUD AREA" DATA:**

**MAXIMUM DENSITIES (BASIS: PUD EQUIVALENCY MATRIX):**  
 ASSISTED LIVING - 139 BEDS  
 INDEPENDENT LIVING - 238 BEDS  
 MEMORY CARE/NURSING HOME - 184 BEDS  
 HOSPICE - 184 BEDS  
 MEDICAL OFFICE - 11,214 SF (FAR= 11,214/326,569= 0.03\*)  
 \*FAR based on total PUD area and does not include primary residential uses.

**MAXIMUM BUILDING HEIGHT:**  
 MEDICAL OFFICE - 30 FT. (ONE STORY)  
 ALL OTHERS USES - 45 FT. (TWO STORY)

**MINIMUM PARKING REQUIREMENTS:**  
 MEDICAL OFFICE - 3 SPACES/1,000 SF.  
 ALL OTHER USES - 1 SPACE/2 BEDS

**"SERENADES PUD AREA" DATA:**

**ESTIMATED SCHEDULE:**  
 START CONSTRUCTION - FEBRUARY 2012  
 COMPLETE CONSTRUCTION - OCTOBER 2012

**BUILDING INFORMATION:**  
 35,000 SF - 42 UNIT, 54 BED MEMORY CARE FACILITY\*  
 BUILDING HEIGHT - 26' (ONE STORY)  
 TOWER ELEMENT - 35'

**PARKING CALCULATIONS:**  
 BASIS: 1 SPACE/2 PATIENT BEDS  
 REQUIRED: 54 BED X 1 SPACE/2 BEDS= 27  
 PROVIDED: 54 STANDARD + 4 ACCESSIBLE= 58

**EXTERNAL SITE LIGHTING:**  
 SITE LIGHTING SHALL BE PROVIDED IN ACCORDANCE WITH CITY OF WINTER GARDEN CODE, SECTIONS 118:1536-1538.

**UTILITY STATEMENT:**  
 THE UTILITY DESIGN SHOWN HEREON IS PRELIMINARY FOR ILLUSTRATIVE PURPOSES AND IS SUBJECT TO CHANGE DURING FINAL DESIGN.

**DELIVERIES:**  
 NO DELIVERIES BETWEEN 7 PM AND 7 AM.

\* UP TO AN ADDITIONAL 3 UNITS/BEDS AND 3,600 SF MAY BE ADDED TO THE BUILDING. THESE CHANGES WILL NOT SUBSTANTIALLY AFFECT THE ELEVATIONS OR BUILDING MASSING INCLUDED IN THE APPROVED PLANS.

revision	description	date
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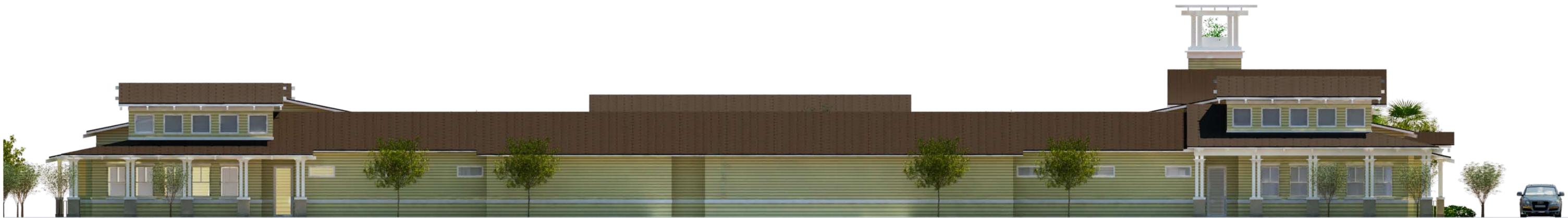
drawn by: RVZ  
 checked by: SGW  
 date: 11/02/11  
 plot scale: AS SHOWN  
 project number: 11SONA002  
 file name: C100 Site Plan - Sonata WG.dwg



EAST



SOUTH



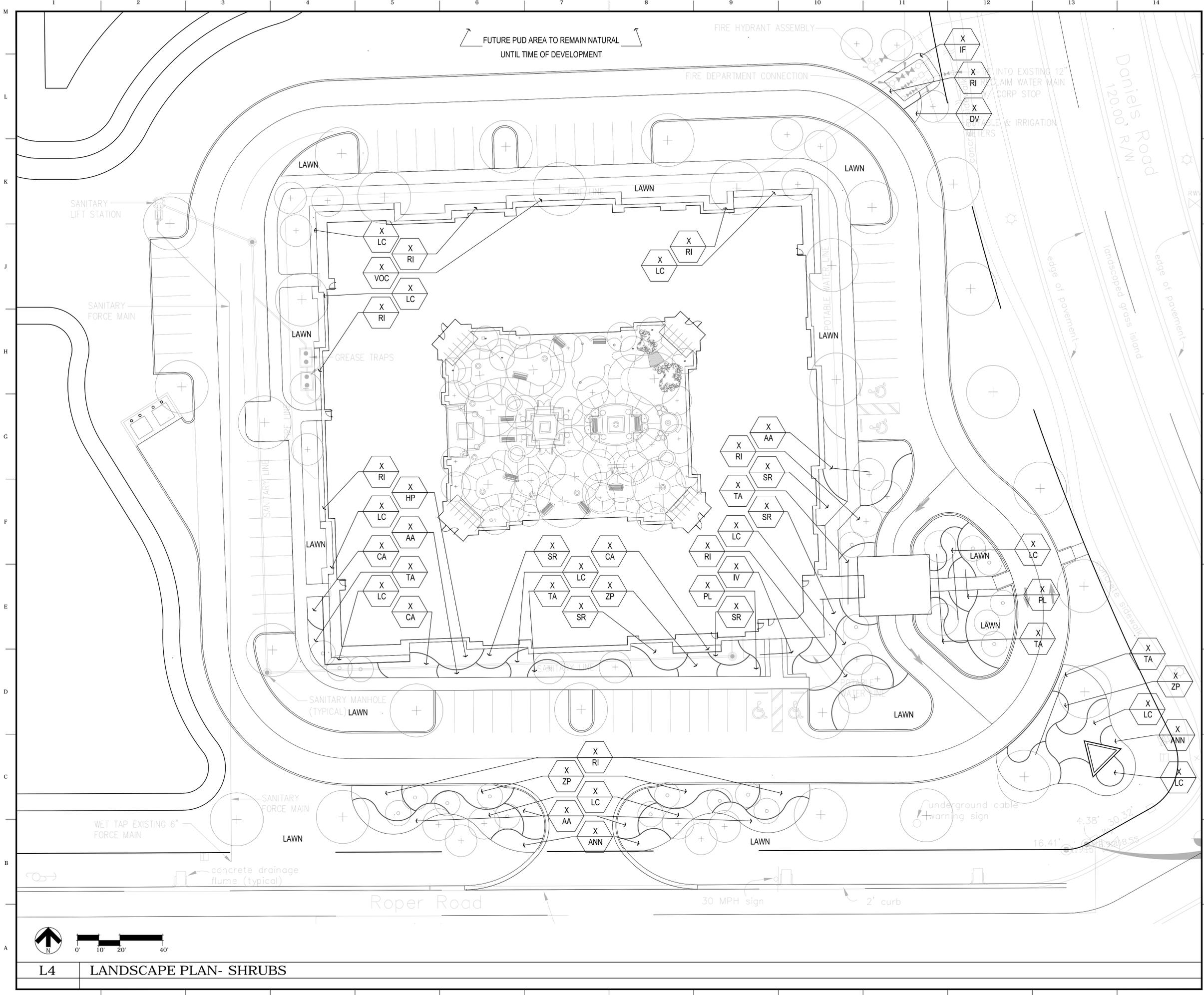
WEST



NORTH







FUTURE PUD AREA TO REMAIN NATURAL  
UNTIL TIME OF DEVELOPMENT

Daniels Road  
120.00' R/W

Roper Road



L4 LANDSCAPE PLAN- SHRUBS

ALL IDEAS, DESIGNS, ARRANGEMENTS AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY AND THE PROPERTY OF BAKER BARRIOS ARCHITECTS, INC. AND WERE CREATED, EVALUATED, AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF THE IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF BAKER BARRIOS ARCHITECTS, INC. WARNING: REPRODUCTION HEREOF IS A CRIMINAL OFFENSE UNDER 18 U.S.C. SEC. 506 UNAUTHORIZED ENCLOSURE MAY CONSTITUTE TRADE SECRET MISAPPROPRIATION IN VIOLATION OF 11 C.F.R. 2-21-1 ET. SEQ. AND OTHER LAWS. THE IDEAS, ARRANGEMENTS AND DESIGNS DISCLOSED HEREIN MAY BE PATENTED OR BE THE SUBJECT OF PENDING PATENT APPLICATION.

No.	Date	Revisions / Submissions	D.	CK.
	09.16.2011	RESPONSE TO COMMENTS		
	09.02.2011	PUD APPLICATION		

**Baker Barrios**  
Architects

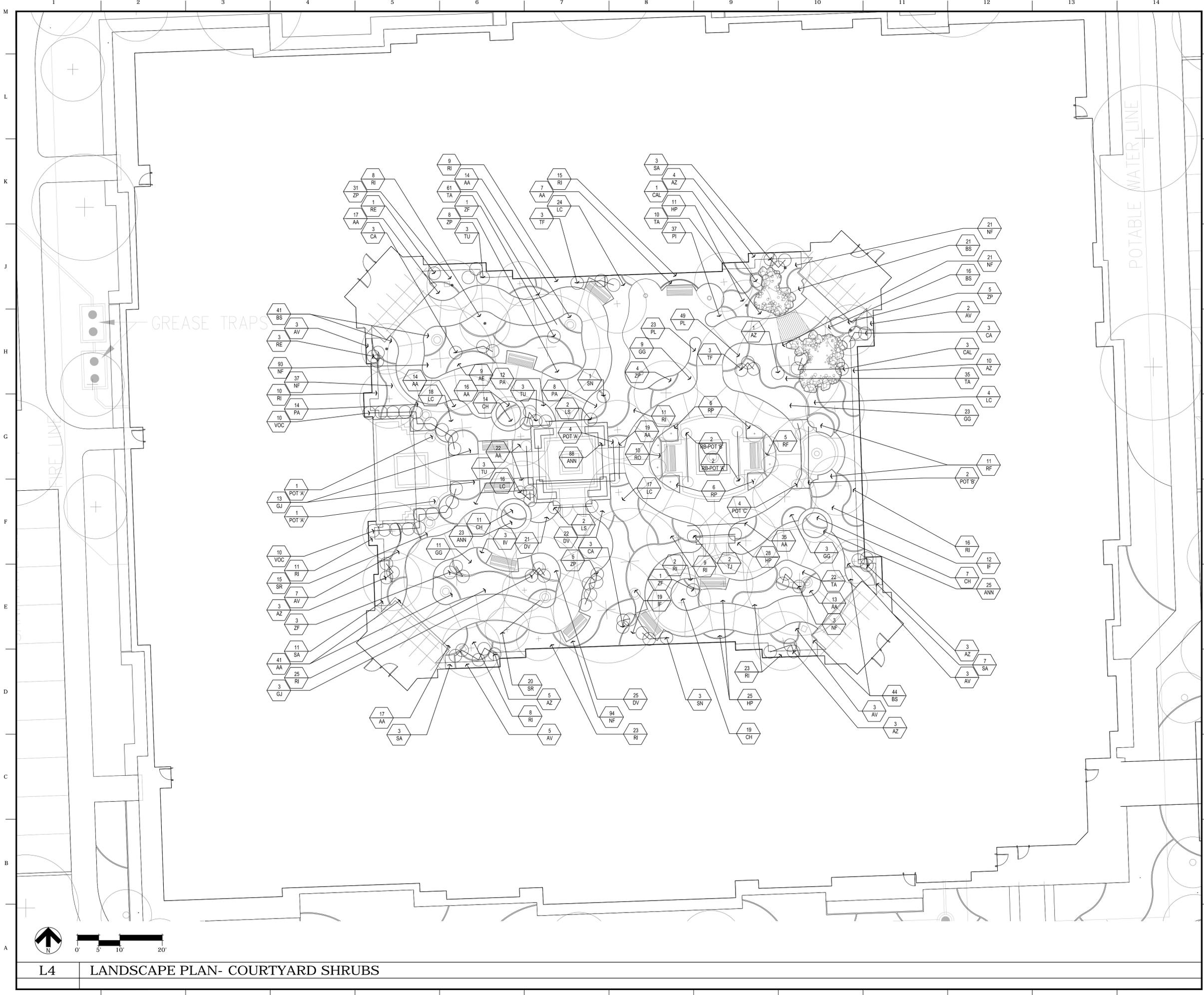
189 South Orange Avenue  
Suite 1700  
Orlando, Florida 32801  
407.926.3000 Tel  
407.926.3390 Fax  
info@bakerbarriosarchitects.com  
www.bakerbarriosarchitects.com  
AA0002981

**SERENADES BY SONATA**  
Winter Garden, Florida

**LANDSCAPE PLAN  
SHRUBS**

PROJECT NO.:  
110173.00

**L4.202**



ALL IDEAS, DESIGNS, ARRANGEMENTS AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY AND THE PROPERTY OF BAKER BARRIOS ARCHITECTS, INC. AND WERE CREATED, EVALUATED, AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF THE IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF BAKER BARRIOS ARCHITECTS, INC. WARNING: REPRODUCTION HEREOF IS A CRIMINAL OFFENSE UNDER 18 U.S.C. SEC. 506 UNAUTHORIZED DISCLOSURE MAY CONSTITUTE TRADE SECRET MISAPPROPRIATION IN VIOLATION OF 11 C.F.R. 2-31-1 ET. SEQ. AND OTHER LAWS. THE IDEAS, ARRANGEMENTS AND DESIGNS DISCLOSED HEREIN MAY BE PATENTED OR BE THE SUBJECT OF PENDING PATENT APPLICATION.

09.16.2011	RESPONSE TO COMMENTS		
09.02.2011	PUD APPLICATION		
No. Date	Revisions / Submissions	D.	CK.

**Baker Barrios**  
Architects

189 South Orange Avenue  
Suite 1700  
Orlando, Florida 32801  
407.926.3000 Tel  
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info@bakerbarriosarchitects.com  
www.bakerbarriosarchitects.com  
AA0002981

**SERENADES BY SONATA**

Winter Garden, Florida

**LANDSCAPE PLAN  
COURTYARD SHRUBS**

PROJECT NO.:  
110173.00

**L4.203**

L4 LANDSCAPE PLAN- COURTYARD SHRUBS

# CITY OF WINTER GARDEN

## PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

# STAFF REPORT

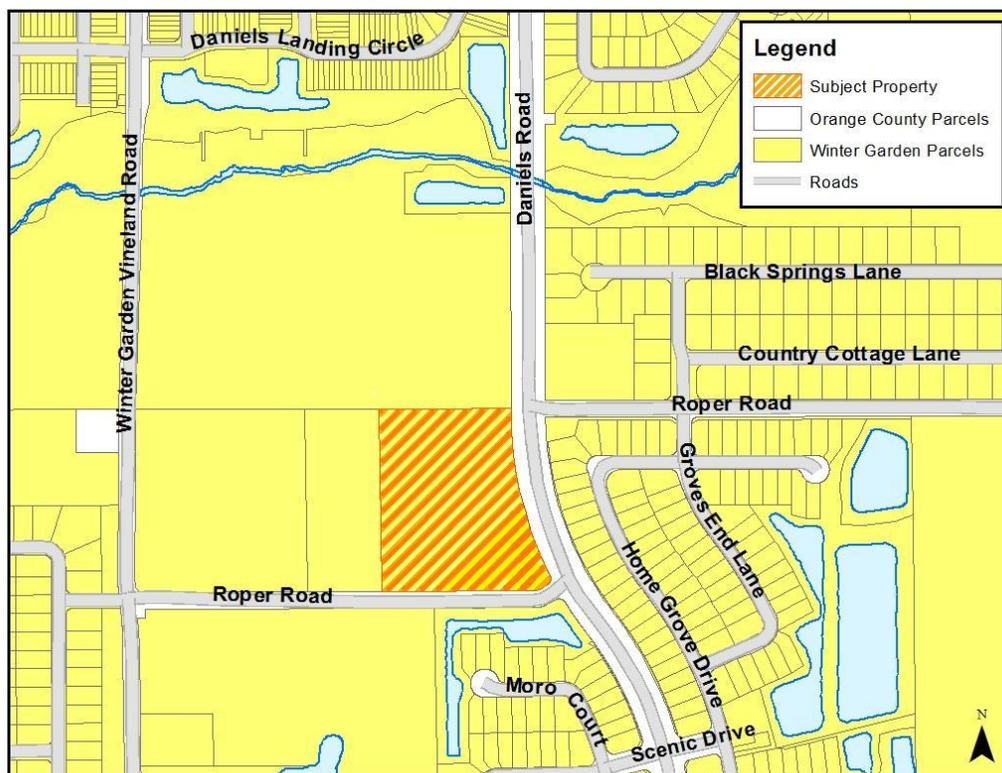
**TO:** PLANNING AND ZONING COMMITTEE  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** OCTOBER 31, 2011  
**SUBJECT:** REZONING  
**720 Roper Road (7.497+/- ACRES)**  
**PARCEL ID # 35-22-27-0000-00-01**

**APPLICANT:** JOHN M. NABERS

### INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property, located on the northwest corner of Roper Road and Daniels Road, is approximately 7.497± acres. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting to rezone 7.497± acres of land. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation R-1 (Single-Family Residential District) in the City of Winter Garden. The subject property is designated Low Density Residential on the Future Land Use Map of the Comprehensive Plan.

### **EXISTING USE**

The subject property does not presently contain any structures and is agricultural use (Timberland).

### **ADJACENT LAND USE AND ZONING**

The property located to the north does not contain any structures and is agricultural use (Timberland) zoned R-1 in the City, commonly known as “Bradford Property.” The property located to the east is the Regency Oaks at Stonecrest Residential Planned Unit Development and is zoned PUD in the City. The property to the west is unimproved vacant non-agricultural acreage zoned R-1 in the City. The property to the south is the Grove Park at Stonecrest Residential Planned Unit Development and is zoned PUD in the City.

### **PROPOSED USE**

The applicant proposes to develop the 7.497 ± acre site into a two (2) phase planned unit development: Phase 1 to be the construction of approximately a 35,000 square foot, 42 unit, 54 bed Memory Care/Nursing Home Facility; Phase 2 is proposed for future development as one of the following companion uses- Memory Care/Nursing Home, Independent Living Facility, Assisted Living Facility, Hospice, or Medical Office.

### **PUBLIC FACILITY ANALYSIS**

The property does not have a point of transportation access at this time because the property is used for agriculture. However, if the property is developed as proposed by the applicant then additional transportation access would be provided in the form of a driveway access point on Roper Road. However, at such time as Roper Road is realigned with the northern portion of Roper Road then the proposed access point would be closed and the cost to relocated the driveway access point to the realigned Roper Road shall be borne by the property owner.

The property is not currently a water or sewer customer of the City of Winter Garden; however water, sewer, and reclaimed utilities will be required for any new development of the property. At such time that the property is developed, all necessary utility lines will be extended and connections made, all extension and connection costs shall be borne by the property owner.

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

All concurrency requirements identified by the City of Winter Garden Code of Ordinances and Comprehensive Plan will be met by the proposed development.

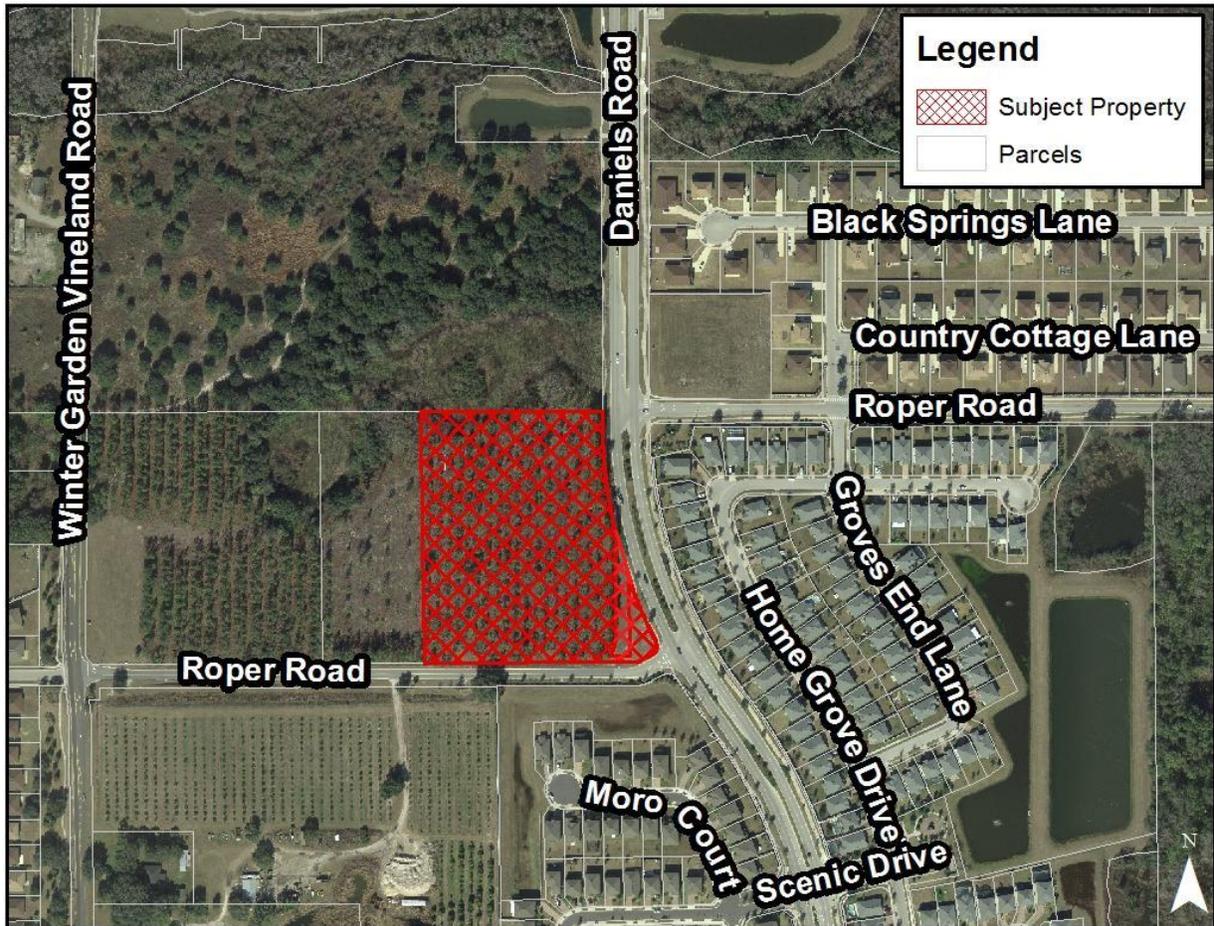
### **SUMMARY**

City Staff recommend approval of the proposed Ordinance. Rezoning the subject property from City R-1 to City PUD is consistent with the City's Comprehensive Plan and the City of Winter Garden Code of Ordinances. The proposed development is a reasonable and low intensity use of the land and would not generate a significant increase in traffic volume beyond that typically generated by single family residential uses, and represents a use that is compatible with the area.

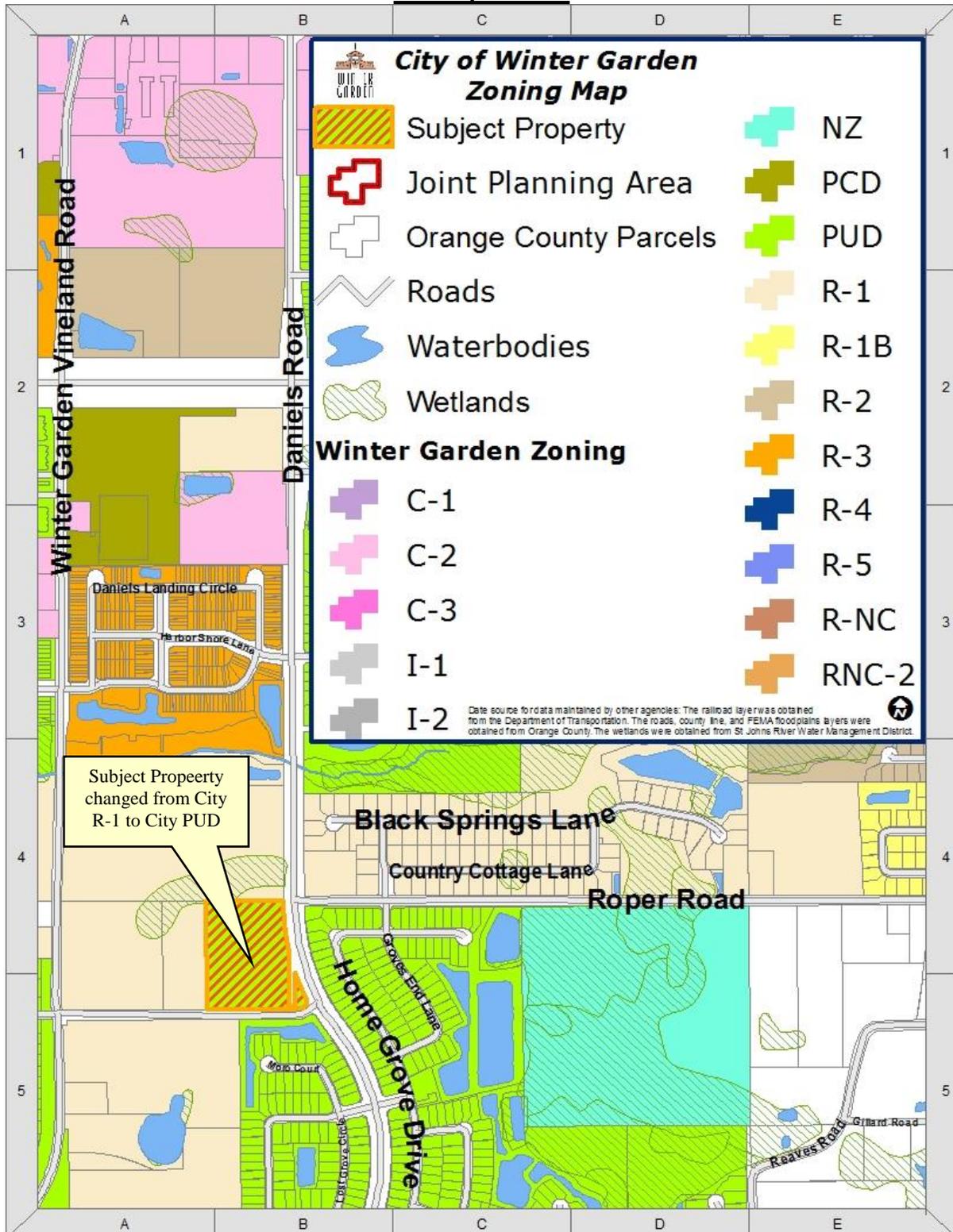
Further, the adjacent property owners should not be negatively impacted as the surrounding properties are developed planned unit developments or agricultural uses. A Community Meeting was held on July 20, 2011 at which time the applicant presented the proposal to develop a 35,000± square foot assisted living/memory care facility on a portion of the 7.497± acre property. The comments generated from the Community Meeting primarily focused on the building height, impact of site lighting on surrounding single-family residential communities, and allowable uses on the property in the event that the assisted living/memory care facility sells or vacates the building. These concerns have been addressed by the applicant and staff through the use of the PUD zoning designation and limiting the uses of the property within the PUD Ordinance and on the Serenades by Sonata Preliminary PUD Plan. Staff has coordinated with the applicant to ensure that the development of the property will be consistent with the surrounding residential communities both in the scale and size of the building as well as the open space standards and impervious surface ratio criteria.

MAPS

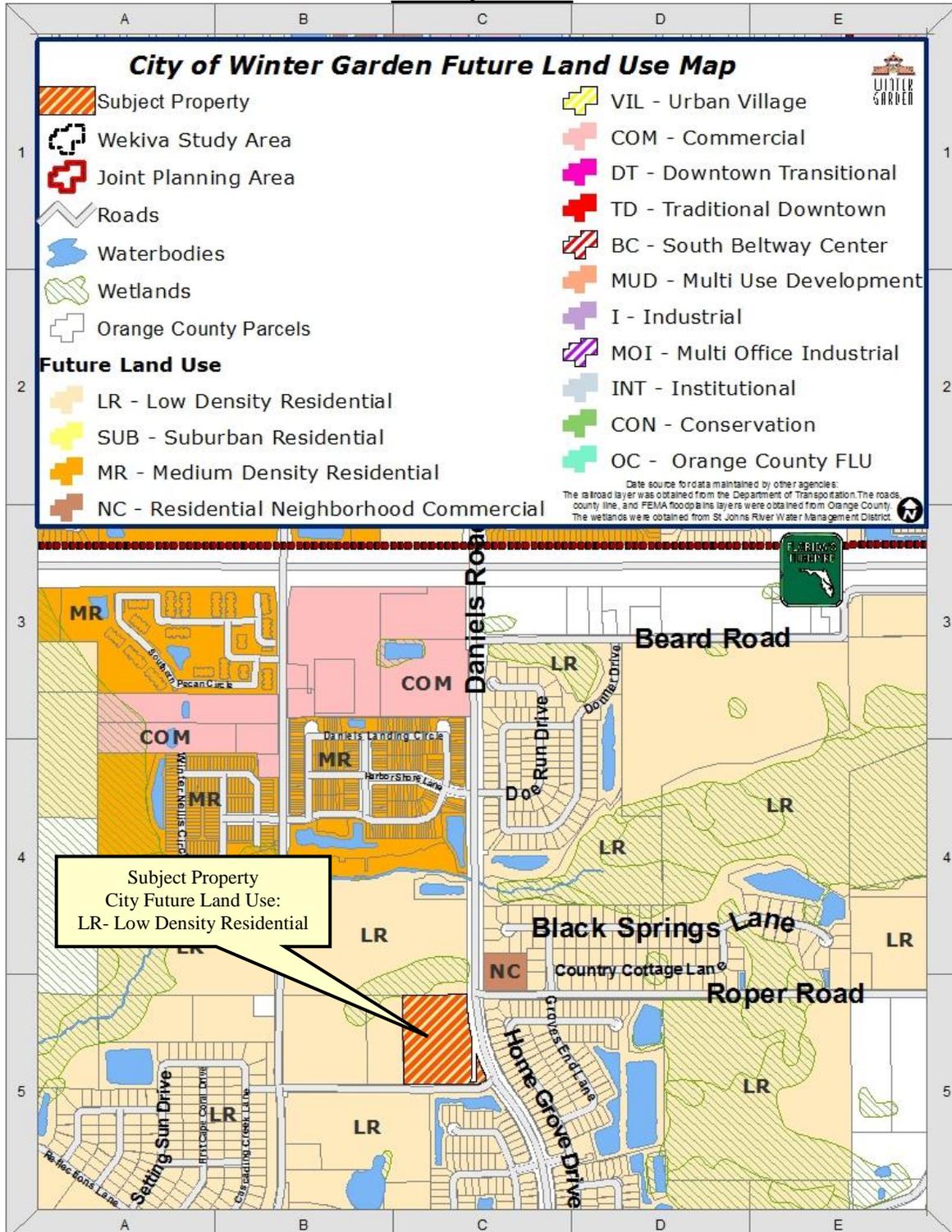
**AERIAL PHOTO**  
**720 Roper Road**



**ZONING MAP**  
**720 Roper Road**



**FUTURE LAND USE MAP  
 720 Roper Road**



**END OF STAFF REPORT**

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Don Cochran, Public Services

**Via:** City Manager Mike Bollhoefer

**Date:** October 24, 2011                      **Meeting Date:** November 10, 2011

**Subject:** **Ordinance 11-38**, Amending Article IV of Chapter 78 of the Code of Ordinances, City of Winter Garden, to Comply with the Requirements of the Clean Water Act and Rule 62-265, Florida Administrative Code.

**Issue:** In July 2011 The Florida Department of Environmental Protection required the City to amend the City's Sewer Use Ordinance by making some minor changes. The FDEP is again requesting that the City amend the Sewer Use Ordinance with minor changes to individual words in the language.

The Florida Constitution and the Legislature of the State of Florida have authorized and delegated in Article VIII of the Florida Constitution the authority of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. In order to better comply with this State salute the City desires to update Article IV, Chapter 78 of the Winter Garden Code of Ordinances to allow the city to better comply with and enforce the requirements of the Clean Water Act and Rule 62-265, Florida Administrative Code.

**Recommended action:**

Recommend adopting Exhibit "A" and updating Article IV, Chapter 78 of the Winter Garden Code of Ordinances to allow the City to better comply with the Florida Administrative Code Article VIII related to the Clean Water Act and Rule 62-265, with Public Hearing and 2<sup>nd</sup> reading scheduled for December 8, 2011.

**Attachments/References:**

Ordinance 11-38 with Exhibit "A" Update of Article IV, Chapter 78 of Code of Ordinances

**ORDINANCE NO. 11-38**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING AND REVISING CHAPTER 78, ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES PERTAINING TO UNIFORM REQUIREMENTS FOR PUBLICLY OWNED TREATMENT WORKS, INDUSTRIAL WASTE HANDLING, AND TREATMENT OF WASTEWATER IN ACCORDANCE WITH THE CLEAN WATER ACT AND RULE 62-625 OF THE FLORIDA ADMINISTRATIVE CODE AND OTHER APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS; PROVIDING FOR CONFLICT, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Constitution and the Legislature of the State of Florida have authorized and delegated in § 2(b), Article VIII of the Florida Constitution, and Chapter 166, Florida Statutes, the authority of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the City desires to update Article IV, Chapter 78 of the Winter Garden Code of Ordinances to allow the City to better comply with and enforce the requirements of the Clean Water Act and Rule 62-265, Florida Administrative Code;

**BE IT ENACTED BY THE CITY OF WINTER GARDEN:**

**SECTION I:** That Article IV of Chapter 78 of the Code of Ordinances, City of Winter Garden, Florida, is amended as depicted in **Exhibit “A,”** attached hereto and incorporated herein (underlined text indicates additions to while ~~struckout~~ text indicates deletions from Chapter 78, Article IV of the Winter Garden Code of Ordinances.

**SECTION II. CONFLICT.** If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent any such conflict exists.

**SECTION III. SEVERABILITY.** If any portion of this Ordinance is determined to void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

**SECTION IV. CODIFICATION.** That Section I of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the word “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other appropriate word.

**SECTION V. EFFECTIVE DATE.** This Ordinance shall become effective 60 days after approval by the City Commission at its second reading.

FIRST READING: \_\_\_\_\_, 2011.

SECOND READING AND PUBLIC HEARING HELD: \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
John Rees, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
Kathy Golden, City Clerk

ORDINANCE NO. 11-38  
EXHIBIT A

ARTICLE IV. INDUSTRIAL WASTE

Sec. 78-126. Purpose and Policy.

(a) *Purpose.* The purpose of this article is to set forth uniform requirements for users of the City's publicly owned treatment works (POTW) to enable the City to comply with the provisions of the Clean Water Act and Chapter 62-625, F.A.C. and other applicable federal and state law and regulations, as they may be from time to time promulgated or amended, and to provide for the public health and welfare by regulating the quality and quantity of wastewater discharged into the City's POTW.

(b) *Objectives.* The objectives of this article include but are not limited to:

- (1) Prevent introduction of pollutants into the POTW which will interfere with the operation of the POTW or contaminate the resulting sludge;
- (2) Prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving surface waters or groundwaters or the atmosphere or otherwise be incompatible with the POTW;
- (3) Provide for the general health, safety and welfare of both POTW employees and the general public.
- (4) Ensure that the opportunity for recycling and reclaiming of wastewaters and sludges from the POTW will be ever present;
- (5) Provide for equitable distribution of the cost of operation, maintenance and improvement of the POTW;
- (6) Enable the City's POTW to comply with NPDES permit conditions, effluent and sludge use and disposal requirements and any other federal or state permits or laws to which it is subject;
- (7) Provide uniform requirements for building sewers and connections to the City's wastewater system;
- (8) Provide uniform requirements for industrial wastewater discharge; and
- (9) Regulate private wastewater disposal systems.

(c) *Application.* This article shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the City's POTW. The article authorizes the issuance of Industrial wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. Except as otherwise provided in this article, the Assistant to the City Manager for Public Services shall administer, implement, and enforce this article. Any powers granted to or duties imposed upon the Assistant to the City Manager for Public Services may be delegated by the Assistant to the City Manager for Public Services to a duly authorized City employee.  
(Code 1988, § 22-76)

Sec. 78-127. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act or the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

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*Approval authority* means the State of Florida Department of Environmental Protection or its successor agencies.

*Assistant to the City Manager for Public Services* means the City administrative official who has overall responsibility for overseeing the administration of the City of Winter Garden's Industrial Pretreatment Program, or his designee, authorized deputy, agent, or representative.

*Authorized representatives of industrial user.* An authorized representative of an industrial user may be:

(a) If the User is a corporation:

- (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Industrial Waste Discharge Permit (IWDP) requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

*Best Management Practices or BMPs mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 78-132 (a) and (b) of this article. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, industrial sludge or waste disposal, or drainage from raw materials storage.*

*BOD (biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter. The BOD shall be determined in accordance with procedures set forth in Standard Methods, as defined in this section.

*Building drain* means that part of the lowest horizontal piping of the internal plumbing system which receives the wastewater discharge from other plumbing inside the walls of the building and conveys it to a point five feet outside the outer face of the building wall to the building sewer.

*Building sewer* means the service line from the public sewer or other place of disposal to a point five feet outside the building wall.

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*Bypass* means the intentional diversion of wastestreams from any portion of a User's treatment facility.

*Categorical Pretreatment Standard or Categorical standard* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

*Categorical Industrial User* means an ~~Industrial User~~industrial user subject to a categorical Pretreatment ~~Standard or categorical Standard~~Standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, hereby adopted and incorporated by reference.

*City* means the City of Winter Garden, Florida, a municipal corporation, or where appropriate the term may also be used as a designation for any duly authorized official or employee of the City.

*COD (chemical oxygen demand)* means the laboratory determination of the oxygen equivalent expressed in milligrams per liter of that portion of the sample that is susceptible to oxidation by the standard dichromate reflux method. The COD shall be determined in accordance with procedures set forth in Standard Methods.

*Combined wastestream formula (CWF)* means a procedure for calculating alternative discharge limits at industrial facilities where a regulated wastestream from a categorical industrial user is combined with other wastestreams prior to treatment or discharge as provided for in 40 CFR 403.6(e) and Rule 62-625.410(6), F.A.C.

*Compatible pollutant* means biochemical oxygen demand, chemical oxygen demand, fats, oils or grease, suspended solids, pH, ammonia, nitrogen, total Kjeldahl nitrogen and fecal coliform bacteria, plus any additional pollutants identified in the City's POTW NPDES permit, where the POTW is capable of treating such pollutants, does treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's NPDES permits.

*Control Authority* means the public utility (City of Winter Garden) that administers a pretreatment program that has been approved by the approval authority in accordance with the requirements of 62-625.510, F.A.C.

*Cooling water* means

(a) *Uncontaminated.* Water used for cooling purposes only which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the City's potable water except for heat.

(b) *Contaminated.* Water used for cooling purposes which may become contaminated either through the use of water treatment chemicals used as corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.

*Customer* means the actual user of the sewer.

*Daily Maximum.* The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

*Dilute wastestream*, for purposes of the combined wastestream formula, means the average daily flow (at least 30-day average) from;

(a) Boiler blowdown streams, noncontact cooling streams, and demineralized backwash streams (provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with the industrial users regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Assistant to the City Manager for Public Services, upon application of

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the industrial user may exercise discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Assistant to the City Manager for Public Services, the industrial user must provide engineering, production, sampling and analysis, and such other information so that the Assistant to the City Manager for Public Services can make a determination);

(b) Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or

(c) From any wastestreams in which:

- (1) The pollutants of concern are not detectable in the effluent from the industrial user.
- (2) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects.
- (3) The pollutants of concern are present in amounts too small to be effectively reduced by current technologies.
- (4) The wastestream contains only pollutants which are compatible with the POTW.

*Direct discharge* means the discharge of treated or untreated wastewater directly to any surface or underground waters.

*Domestic wastewater* means the wastes produced from noncommercial or nonindustrial activities and which result from normal human living processes, which are of substantially similar origin and strength to those typically produced in households.

*Environmental Protection Agency or EPA* means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

*Existing Source* means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

*Garbage* means animal and vegetable wastes resulting from the domestic and commercial preparation, cooking, dispensing, and consumption of food and from the handling, storage and sale of produce.

*Grab sample* means ~~a-an individual, discrete sample which is taken from a waste stream on a one-collected at a specific time-basis with no regard to. A grab sample includes all sub samples or aliquots (e.g. individual containers for specific analytes or analyte groups), sample fractions (e.g. total and filtered samples), and all applicable field quality control samples (e.g. field sample duplicates or split samples) collected at the flow in the waste stream and over a period of same locations within a time not to exceed~~exceeding fifteen (15) minutes.

*Gray water* means all residential waste other than that carried off by toilet and kitchen drains and sewers, including bath, lavatory, sink (other than a kitchen sink) and laundry wastes.

*Holding tank waste* means any waste from holding tanks such as but not limited to vessels, aircraft, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

*Incompatible pollutant* means all pollutants other than compatible pollutants, as defined in this section. More specifically, it shall mean any pollutant other than BOD, suspended solids, pH, and fecal coliform bacteria or additional pollutants identified in the publicly

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owned treatment facilities which the facilities were not designed to treat or do not remove to an acceptable degree.

*Indirect discharge or discharge* means the discharge or the introduction of pollutants from any nondomestic source into the POTW, including holding tank waste discharged into the system.

*Industrial user* means any user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (a) Division A, Agriculture, Forestry and Fishing;
- (b) Division B, Mining;
- (c) Division D, Manufacturing;
- (d) Division E, Transportation, Communication, Electric, Gas and Sanitary Services;
- (e) Division G, Retail Trade; and
- (f) Division I, Services.

A user in the divisions listed in this definition may be excluded if it is determined by the Assistant to the City Manager for Public Services that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences and is not a significant industrial user as defined in this section.

*Industrial wastes* mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from domestic wastewater.

*Industrial wastewater discharge permit or permit or IWDP* means a permit issued to an industrial user by the City which authorizes the discharge of industrial wastewater to the POTW. This permit may set certain conditions and restrictions to this discharge.

*Infiltration* means the water unintentionally entering the public sewer system, including water from sanitary building drains and sewers, from the ground through such means as but not limited to defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include and is distinguished from inflow.

*Infiltration/inflow* means the total quantity of water from both infiltration and inflow, without distinguishing the source.

*Inflow* means the water discharge into a sanitary sewer system, including building drains and sewers, from such sources as but not limited to roof gutters; cellar, yard, and area drains; foundation drains; unpolluted cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers or combined sewers; catch basins; stormwaters; surface runoff; street washwaters; or drainage. Inflow does not include, and is distinguished from, infiltration.

*Instantaneous maximum allowable discharge limit or Instantaneous Limit* means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources:

(a) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or

(b) Causes a violation of any requirement of any permit held by the POTW (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act, (33 USC 1345), the Solid Waste Disposal Act (SWDA), RCRA, and State regulations contained in any State sludge management plan prepared pursuant to title D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection,

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Research and Sanctuaries Act or any other applicable federal or State legislation or regulation.

*Local pollutant* means a pollutant, as identified in this section, which may be subject to regulation and restrictions for discharge to the public sewer system.

*Lower explosive limit (LEL)* means the minimum concentration of combustible gas or vapor in air that will ignite.

*Maximum allowable concentration* means the maximum permitted amount of a specified pollutant in a volume of water or wastewater.

*Medical Waste* means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

~~*National categorical pretreatment standard or pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act (33 USC 1317) which applies to a specific category of industrial users, or promulgated under 40 CFR 401-471, chapter I, subchapter N and adopted by reference in Chapter 62-660.400(1)(e), F.A.C.~~

~~*National categorical Pretreatment Standard: see Pretreatment Standard below.*~~

*National Pollution Discharge Elimination System permit or NPDES permit* means a permit issued to a publicly owned treatment works pursuant to section 402 of the act (33 USC 1342).

*National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of section 307(b) of the act and 40 CFR 403.5.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*New source* means;

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
- (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

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- (1) Begun, or caused to begin, as part of a continuous onsite construction program
  - a. any placement, assembly, or installation of facilities or equipment; or
  - b. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Noncontact cooling water* means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

*Pass through* means a discharge which exits the POTW into waters of the ~~United States~~State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of ~~the City's POTW's~~ NPDES permit, ~~(including an increase in the magnitude or duration of a violation).~~

*Person* means any individual partnership, co-partnership, firm, company, corporation, association, society, joint stock company, trust, estate, governmental entity or any other legal entity or combination thereof, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local governmental entities.

*pH* means a quantitative expression for acidity or alkalinity of an aqueous solution. Theoretically  $pH = -\log(\text{base } 10) \text{ cH}$ , where cH is the concentration of hydrogen ions in grams per liter. Scale ranges from 0 to 14, pH 7 being neutral, less than 7 acid, more than 7 alkaline.

*Pollutant* means any dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discharged equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Polluted water* means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to any person having jurisdiction thereof for disposal to storm or natural drains or directly to surface waters.

*Pollution* means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

*Pollution control facility.* See *Wastewater Treatment Plant*.

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by ~~Chapter~~Subsection 62-625.410(5), F.A.C.

*Pretreatment ~~requirements~~Requirement* means any substantive or procedural requirement related to pretreatment, other than a ~~national categorical pretreatment standard~~Pretreatment Standard imposed on an industrial user.

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*Pretreatment ~~standards or standards~~Standard* means, ~~for any specified regulation containing pollutant, discharge limits promulgated by the City's EPA under Sections 307(b) and (c) of the CWA or by the FDEP under Chapter 403, Florida Statutes, which applies to industrial users. This term includes prohibitive discharge standards as set forth~~ limits established in Rule 62-625.400, F.A.C., and Section 72-132(a), (b) and (e) of this article, the state's pretreatment standards, or the national categorical pretreatment standards, or the City's local limits, whichever standard is the most stringent.

*Private sewage collection system* means a sewer system installed, maintained, operated, and owned by persons other than the City and connected to the public sewer.

*Private sewage disposal system* means a sewage collecting, treating and disposal facility installed, maintained and owned by persons other than the City and not connected to the public sewer.

*Prohibited discharge standards or prohibited discharges* means absolute prohibitions against the discharge of certain substances. These prohibitions appear in section 78-132 of this article.

*Properly shredded garbage* means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.25 centimeters) in any dimension.

*Public Services Department* means the Public Services Department of the City including all of its bureaus.

*Public sewer* means a sanitary sewer, other than a building sewer, that is owned or controlled by the City.

*Publicly owned treatment works (POTW)* means the same as the definition of sewer system and is a treatment works as defined by section 212 of the act (33 USC 1292) which is owned or operated in this instance by the City. This definition includes any public sewers that convey wastewater to the POTW treatment plant. For the purposes of this article, POTW also includes any sewers that convey wastewater to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

*Reclaimed water* means water which, as a result of treatment of waste, is suitable for direct beneficial uses or a controlled use that would not occur otherwise.

*Sanitary sewer* means a pipe which carries wastewater and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Septic tank waste* means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage.* See Wastewater.

*Sewer* means a pipe or conduit for carrying wastewater.

*Sewer system* means any devices and systems used in the storage, treatment, recycling and reclamation of domestic sewage or industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and appurtenances; extensions, improvements, remodeling, additions and alteration thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; and including combined stormwater and sanitary sewer systems.

*Shall* is mandatory; *may* is permissive.

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*Significant industrial user or SIU* means;

Except as provided in paragraph (c) of this Section, a Significant Industrial User is:

(a) ~~An Categorical Industrial User subject to categorical Pretreatment Standards; or Users; and~~

(b) ~~An Industrial User~~ Any other industrial user that:

(1) Discharges an average of twenty-five thousand (25,000) GPD or more of process wastewater to the POTW (excluding ~~sanitary domestic wastewater~~, noncontact cooling and boiler blowdown wastewater);

(2) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is designated as such by the control authority on the basis that ~~the industrial user~~ the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any ~~pretreatment standard~~ Pretreatment Standard or ~~requirement~~ Requirement in accordance with Rule 62-625.500(2)(e), F.A.C.

(c) Upon a finding that a User meeting the criteria in ~~Subsection (2) of this part~~ (b) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the ~~Control Authority~~ control authority may at any time, on its own initiative or in response to a petition received from an ~~Industrial User~~ industrial user, and in accordance with Rule 62-625.500(2)(e), determine that such ~~industrial user should~~ Industrial User is not ~~be considered~~ a Significant Industrial User.

*Significant non-compliance or SNC* means an ~~SIU~~ industrial user shall be in significant noncompliance when any one or more of the following criteria are satisfied:

(a) Chronic violations of wastewater discharge limits ~~when 66, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six- (6) month period exceed (by any magnitude) the maximum limit a numeric Pretreatment Standard or average limit (if applicable) for the same pollutant parameter~~ Pretreatment Requirement including instantaneous limits ;

(b) Technical review criteria (TRC) violations ~~when 33, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six- (6) month period equal or exceed the product of the maximum limit numeric Pretreatment Standard or average limit (if applicable)~~ Pretreatment Requirement including instantaneous limits, multiplied by the applicable TRC:

~~(1) For conventional pollutants, (TRC = 1.4 or 40 percent over the limit;~~

~~(for BOD, TSS, total oil and grease, and 1.2) For for all other pollutants, TRC = 1.2 or 20 percent over the limit; except pH);~~

(c) When the SIU fails to respond within ten days of receipt of a notice of violation (NOV) issued by the Assistant to the City Manager for Public Services;

(d) When the SIU fails to accurately report noncompliance;

(e) Any other violation of a ~~pretreatment effluent limit~~ Pretreatment Standard or Pretreatment Requirement as defined above, (daily maximum ~~or longer, long-term average, instantaneous limit, or narrative standard~~) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, (including endangering the health of POTW personnel or the general public);

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(f) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under ~~Rule 62-625.500(2)(a)(5)(b)~~ Section 78-138(e) of this ~~section~~ article to halt or prevent such a discharge;

(g) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in ~~a local control mechanism~~ IWDP or enforcement order for starting construction, completing construction, or attaining final compliance;

(h) Failure to provide, within ~~30~~ forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(i) Any other violation or group of violations ~~that, including a violation of Best Management Practices, which~~ the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

*Significant violation* means a violation of this article which remains uncorrected 30 days after notification of noncompliance; or which is part of a pattern of noncompliance; or which involves failure to accurately report noncompliance; or which resulted or results in the City exercising its emergency authority under this article or any related chapter of this Code.

*Slug or slug load or slug discharge* means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

*Spill containment plan (SCP)* means detailed plans, on file at the Public Services Department, showing facilities and operating procedures to provide protection from accidental discharge. All industrial users whose wastewater includes or could include compatible or incompatible pollutants in amounts great enough to cause interference with the POTW shall be required to have such plans. Industrial users shall complete construction of such facilities and provide such operating procedures to the City within one year of notification. No user who begins contributing to or could contribute such pollutants to the POTW after the effective date of the ordinance from which this article derives and who has been so notified shall be permitted to introduce such pollutants into the POTW until accidental discharge facilities and procedures, as appropriate, have been approved by the City and installed by the industrial user. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility, as necessary, to meet each and every requirement of this article.

*Standard Industrial Classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as it may be amended or supplemented.

*Standard Methods* means the current edition of Standard Methods for the Examination of Water and Wastewater, as published jointly by the American Public Health Association, Water Environment Federation, and American Water Works Association.

*Storm drain or storm sewer* means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Suspended solids* means solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

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*Total metals* means the sum of metals (in mg/l) listed under subsection 78-132(d) or any metal considered a pollutant by the Public Services Department.

*Toxic pollutant* means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of section 307(s) of the act or other laws.

*Treatment works.* See *Sewer system*.

*Twenty-four hour, flow proportional composite sample* means a sample consisting of several effluent portions collected during a 24-hour period in which the portions of the sample are proportionate to the flow and combined to form a representative sample.

*Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*User* means any person who discharges, causes or allows the discharge of wastewater which makes its way to a public sewer.

*Wastewater* means the liquids or water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater, whether treated or untreated, which are contributed to the POTW.

*Wastewater constituents and characteristics* means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

*Wastewater Division* means the wastewater division of the City, including all of its bureaus.

*Wastewater treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Code 1988, § 22-77)

**Cross references:** Definitions generally, § 1-2.

Sec. 78-128. Abbreviations.

The abbreviations used in this article shall have the designated meaning as follows:

<u>BMP</u>	<u>Best Management Practice</u>
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
CBOD	Carbonaceous Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
<u>CWA</u>	<u>Clean Water Act</u>
EPA	U.S. Environmental Protection Agency
<u>FACF.A.C</u>	Florida Administrative Code
FDEP	Florida Department of Environmental Protection
IU	Industrial User
IWDP	Industrial Wastewater Discharge Permit
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
<u>NAICS</u>	<u>North American Industry Classification System</u>

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NOV	Notice of Violation
NOSNC	Notice of Significant Non-Compliance
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Non-Compliance
TSS	Total Suspended Solids
USC	United States Code

(Code 1988, § 22-78)

Sec. 78-129. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this article.

(c) Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the treatment or disposal of wastewater.

(d) The owner of every house, building or property used for human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is located or may be located a public sanitary sewer is required at his expense to install suitable toilet facilities therein and to connect such facilities with the proper public sewer in accordance with this article within 90 days after date of official notice to do so.

(e) In isolated hardship instances, the Assistant to the City Manager for Public Services, with the concurrence of the City Commission, may exempt owners of property from the mandatory sewer connection requirements of this section upon a finding that the connection to the public sewer is not feasible. The determination of non-feasibility may be based upon financial considerations or physical obstructions which restrict connection to the sewer system. Every request from an owner of property for an exemption from the mandatory sewer connection shall be submitted in writing to the Assistant to the City Manager for Public Services and shall contain the name of the owner, the address and legal description of the property, the present use of the property and the justification for the requested exemption. The Assistant to the City Manager for Public Services shall review the request and shall grant or deny the request in writing, citing the specific reasons for the denial thereof, within 30 days following receipt of the completed application for any exemption. Failure of the Assistant to the City Manager for Public Services to make a determination within the 30-day period shall be deemed to constitute a denial of the request for an exemption. All denials of request for an exemption are subject to an administrative review by the City Commission.

(f) No person shall discharge any substance directly into a manhole or other opening in a public sewer other than through an approved building sewer or other approved connection, unless he shall have been issued a temporary permit by the Assistant to the City Manager for Public Services. The Assistant to the City Manager for Public Services shall incorporate in such temporary permit such conditions as he deems reasonably necessary to ensure compliance with this article, and the user shall be required to pay applicable charges and fees therefore.

(Code 1988, § 22-79)

Sec. 78-130. Private Sewage Collection System Connected to POTW.

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(a) Before commencement of construction, reconstruction, enlargement, modification or improvement of a private sewage collection system connected to a POTW, the owner shall first obtain a written permit signed by the City manager. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the City manager. A permit and inspection fee shall be paid to the City at the time the application is filed.

(b) The type, capacities, location and layout of a private sewage collection system connected to a POTW shall comply with all requirements of the City Public Services Department and the Department of engineering.

(c) A permit for a private sewage collection system connected to a POTW system shall not become effective until the private sewage collection system is completed and has been inspected and approved by the Assistant to the City Manager for Public Services, or designee. The Assistant to the City Manager for Public Services shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Assistant to the City Manager for Public Services when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within two days, excluding Saturday, Sunday and holidays, of the receipt of notice by the Assistant to the City Manager for Public Services.

(d) All costs and expenses incident to the installation and connection of the private sewage collection system shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or connection of the private sewage collection system.

(e) The owner shall operate and maintain the private sewage collection system in a sanitary and effective manner at all times, at no expense to the City. Private sewers shall be maintained so as to preclude the entrance of excessive amounts of infiltration and inflow. If it is determined by the Assistant to the City Manager for Public Services that excessive amounts of infiltration/inflow are entering the public sewer from a private sewage collection system, the owner shall be responsible for determining the cause and for making all necessary repairs to the system, to the Assistant to the City Manager for Public Services' satisfaction. All work shall be done by a contractor experienced in sewer rehabilitation work and acceptable to the Assistant to the City Manager for Public Services. Televising of the private sewer lines and submission of TV logs shall be required if determined necessary by the Assistant to the City Manager for Public Services. All operation, maintenance, and repair of private lift stations and pumping facilities shall be done by a reputable person experienced in the operation, maintenance and repair of such facilities, and upon demand the owner shall furnish such proof as the Assistant to the City Manager for Public Services deems necessary. The City shall have the right to inspect all private sewage collection systems and appurtenances and to cause discontinuance of sewer service if the private sewage collection is not maintained in a sanitary and effective operating condition or if the public sewer facilities may be harmed thereby.

(f) The City shall be responsible for the maintenance of the public sewer and for providing service to receive the approved sewer discharge from the private sewage collection system.

(Code 1988, § 22-80; Ord. No. 06-12, § 4, 3-9-06)

Sec. 78-131. Building Sewers and Connections.

(a) No authorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Assistant to the City Manager for Public Services or code enforcement official.

(b) There shall be two classes of building sewer permits as follows:

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- (1) Residential service; and
- (2) Nonresidential service.

(c) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Assistant to the City Manager for Public Services, to meet all requirements of this article.

(e) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials and in the Manual of Practice No. 9 published by the Water Environment Federation shall apply.

(f) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface water runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(h) The connection of the building sewer into the public sewer or private sewage collection system shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the American Society for Testing Materials and in the Water Environment Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Assistant to the City Manager for Public Services or the building inspector before installation.

(i) The applicant for the building sewer permit shall notify the Assistant to the City Manager for Public Services or building inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the building inspector.

(j) All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(k) The customer shall be responsible for the maintenance of the building sewer: specifically all plumbing from the public sewer into and including the house plumbing. The City shall have the right to inspect the building sewer and to cause discontinuance of sewer service to any property where the plumbing is not maintained in a sanitary and effective operating condition or if the public sewer facilities may be harmed thereby.

(l) Garages and other establishments where gasoline is used or where wastes containing grease in excessive amounts or where any flammable wastes, sand, or other harmful ingredients can be discharged and which are connected with municipal sewers shall be provided with a suitable trap or separator. All traps or separators shall be of a

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type and capacity approved by the Assistant to the City Manager for Public Services and shall be located so as to be readily and easily accessible for cleaning and inspection.

(m) Where pretreatment or flow-equalizing facilities or traps or separators are provided for any waters or wastes, they shall be maintained continuously and in satisfactory and effective operation by the owner or the user, and at his sole expense.

(n) The City shall be responsible for the maintenance of the public sewer and for providing service to receive the approved sewage discharge from the building sewers.

(o) No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the public sewer system.

(Code 1988, § 22-81; Ord. No. 06-12, § 5, 3-9-06)

Sec. 78-132. Prohibitions and Limitations on Discharge into the POTW.

(a) *General Prohibitions.* No User shall introduce, or cause to be introduced, into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

(b) *Specific Prohibitions.* No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Any liquids, solids or gases which because of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F. (60 degrees C.) using the test methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than five percent or any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, kerosene, fuel oil, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides or any other substances which the City, the state or any federal agency has determined or may determine to be a fire hazard or a hazard to the systems.
- (2) Any wastewaters or waste having a pH less than 5.0 (or more than 9.5), or any liquids, solids, or gases having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the POTW.
- (3) Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the treatment works such as but not limited to grease, ashes, cinders, grass clippings, sand, mud, straw, shavings, metal, glass, rags, wastepaper, feathers, tar, asphalt residues, gas, fuel or lubricating oil, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, bones, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW; or any materials that may exert or cause:
  - a. Inert suspended solids, such as but not limited to Fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate.

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- b. BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
  - c. Volumes of flow or concentration of wastes constituting slug discharges, as defined in this article.
- (5) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, as defined in this article, but in no case may heated wastewater be discharged in such quantities that the temperature at the treatment works influent exceeds 40 degrees Celsius (104 degrees Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 65.5 degrees Celsius (150 degrees Fahrenheit).
  - (6) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in excess of 100 mg/l or parts per million.
  - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (8) Any trucked or hauled pollutants except those lawfully discharged at specific points designated by the Assistant to the City Manager for Public Services.
  - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
  - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit.
  - (11) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Assistant to the City Manager for Public Services in compliance with applicable State or Federal regulations.
  - (12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, uncontaminated cooling water, swimming pool backwash or drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial process wastewater, unless specifically authorized by the Assistant to the City Manager for Public Services.
  - (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes.
  - (14) Medical Wastes, ~~except in concentrations that will violate any of the objectives of this SUO, or~~ as specifically authorized by the Assistant to the City Manager for Public Services in an ~~Industrial wastewater discharge permit~~IWDP.
  - (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail any toxicity test or to violate its NPDES or FDEP waste discharge permit or the receiving water quality standards.
  - (16) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.
  - (17) Any water or waste containing fats, wax, grease or oils of animal or vegetable origin, whether emulsified or not, in excess of 100 mg/l or containing

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substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius).

- (18) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.
- (19) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Assistant to the City Manager for Public Services or building inspector.
- (20) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Assistant to the City Manager for Public Services, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (21) Any discharges containing compounds that are labeled for the control of pest species of any type, such as, but not limited to, acaricides, bactericides, fungicides, herbicides, insecticides, molluscicides, nematicides and rodenticides.

(c) *Processing and storage of prohibited pollutants.* Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(d) *Stormwater.* Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Assistant to the City Manager for Public Services of public works. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Assistant to the City Manager for Public Services, to a storm sewer or natural outlet.

(e) *Local Limits.* No person shall discharge wastewater containing pollutants in excess of the local limits for those pollutants which have been established for the City of Winter Garden's POTW using standard procedures, calculations and methods acceptable to FDEP to protect against pass through, interference, protection of POTW employees, and adverse affects on wastewater residuals disposal. No industrial user shall discharge process waste streams, unregulated waste streams, or dilute waste streams in excess of the concentrations set forth by the Assistant to the City Manager for Public Services. Local limits shall be included as permit conditions and attached to each SIU wastewater permit issued.

The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards, POTW operation, performance and processes, the industrial user base, potable water quality and domestic wastewater characteristics. Modifications to the established local limits must be reviewed and approved by FDEP prior to implementation. Implementation shall be effective 30 days from notice of acceptance of the modified limits by FDEP. Permitted SIUs shall also be issued an addendum to their wastewater discharge permit containing the new local limits.

The established local limits apply at the point where the wastewater is discharged from the SIU's lateral sewer into the City's sewer (End of Pipe). All concentrations for metallic substances are for total metal unless indicated otherwise. At his or her

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discretion, the Assistant to the City Manager for Public Services may impose mass limitations in addition to or in place of the concentration-based limitations.

A copy of the approved local limits is adopted by reference in this ordinance and is available upon request at the following location.

City of Winter Garden  
Assistant to the City Manager for Public Services  
~~8 N. Highland Avenue~~  
300 W Plant Street  
Winter Garden, FL 34787.

The Assistant to the City Manager for Public Services may develop Best Management Practices (BMPs), by ordinance or in IWDPs to implement local limits and the requirements of Section 78-132 of this ordinance. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this ordinance.

(f) *Dilution.* Unless expressly authorized by an applicable pretreatment standard or requirement, no user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Assistant to the City Manager for Public Services may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate pursuant to 40 CFR 403.6(c) or Rule 62-625.410(4), F.A.C.

(g) *Duty to comply.* Industrial users shall observe and comply with any and all federal, regional, state and local laws, rules, regulations, requirements, ordinances, orders, mandatory guidelines and procedures which apply or pertain to the collection, treatment and disposal of wastewater.

(h) *National categorical ~~pretreatment standards~~Pretreatment Standards.* The national categorical ~~pretreatment standards~~Pretreatment Standards found at 40 CFR chapter I, subchapter N, parts 405-471 and Chapter 62-660, F.A.C., are incorporated by reference herein. Certain industrial users are or shall become (as determined by the State pursuant to Rule 62-625.410(2)(d), F.A.C.) subject to national categorical standards promulgated by the Environmental Protection Agency. The national categorical standards specify quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard, which includes any monitoring or reporting requirements, and shall also comply with any additional or more stringent limitations contained in this article. Compliance with national pretreatment standards for existing sources subject to such standards or for existing sources which become subject to such standards shall be within three years following promulgation of the standards unless a shorter compliance time is specified in the standard or required by the City. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard. Except where expressly authorized by an applicable national pretreatment standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard and other pretreatment standards and requirements, including but not limited to more stringent local limits developed under 40 CFR 403.5(c), as it may be amended.

(i) *State Pretreatment Standards.* State requirements and limitations on discharges shall apply when they are more stringent than federal requirements and limitations or those in this article.

(j) *City's Right of Revisions.* The City reserves the right to establish by ordinance, ordinance revision, or through permit conditions more stringent local limitations, requirements, or time periods on discharges to the wastewater disposal system if deemed necessary to comply with the objectives stated for this article. The revision to discharge limitations in this article or in individual permits will be initiated by the Assistant to the

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City Manager for Public Services when necessary. Affected parties will be duly notified and will have the opportunity to comment on the revisions prior to their adoption or incorporation. However, all affected parties are assumed to know and to comply with all state and federal rules, requirements, and guidelines including but not limited to the development, promulgation, and application of local limits; the appropriate use or inapplicability of combined waste stream formulas; and all industrial user and POTW monitoring and reporting requirements.

(Code 1988, § 22-82)

Sec. 78-133. Administration

(a) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 78-132 and which may have a deleterious effect on the public sewer system, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City, via the Assistant to the City Manager for Public Services, may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition prior to discharge to the public sewers.
- (3) Require control over the quantities and rates of discharges.
- (4) Require payment pursuant to this section and subsection, to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. The class descriptions and permitting fee shall be as follows:
  - a. Class 1 - Significant Industrial Users - shall apply for and obtain an IWDP prior to discharge, and periodic site visits will be performed by the City prior to any IWDP renewal. Class 1 users shall also submit a spill containment plan to the City. All class 1 users shall be assessed a permit fee of \$250.00 and a renewal fee of \$250.00. The permit fee shall be submitted together with the completed permit application. There shall be no fee assessed for the random sampling and compliance monitoring expenses incurred by the City; provided, however, that the sampling fees assessment as outlined in section 78-136(m) of this article shall be in full force and effect at all times.
  - b. Class 2 - Grease Dischargers - may have inspections by the City, and a permit may be required for these users.
  - c. Class 3 - Dischargers requiring a spill containment plan - are not required to have a permit, although their permit applications shall be kept on file pending a status change or reclassification.
  - d. Class 4 - Non-Industrial dischargers - are not required to have a permit, although their permit applications shall be kept on file pending a status change or reclassification.
  - e. Class 5 - Waste haulers - are regulated according to the following provisions:
    1. Septic tank waste may be introduced into the POTW only at locations designated by the Assistant to the City Manager for Public Services, and at such times as are established by the Assistant to the City Manager for Public Services. Such waste shall not violate Section 78-132 of this ordinance or any other requirements established by the

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City. The Assistant to the City Manager for Public Services may require septic tank waste haulers to obtain industrial wastewater discharge permits.

2. The Assistant to the City Manager for Public Services may require haulers of industrial waste to obtain industrial wastewater discharge permits. The Assistant to the City Manager for Public Services may require generators of hauled industrial waste to obtain industrial wastewater discharge permits. The Assistant to the City Manager for Public Services also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
  3. Industrial waste haulers may discharge loads only at locations designated by the Assistant to the City Manager for Public Services. No load may be discharged without prior consent of the Assistant to the City Manager for Public Services. The Assistant to the City Manager for Public Services may collect samples of each hauled load to ensure compliance with applicable Standards. The Assistant to the City Manager for Public Services may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
  4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- f. Any user or industry storing hazardous or toxic chemicals on site shall submit a spill containment plan to the City.
- g. If the Assistant to the City Manager for Public Services permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Assistant to the City Manager for Public Services, and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the permit holder at his expense as required by this section.

(b) *Interceptors.* Grease, oil and sand interceptors shall be provided when, in the opinion of the Assistant to the City Manager for Public Services, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Assistant to the City Manager for Public Services and shall be located as to be readily and easily accessible for cleaning and inspection.

(c) *Wastewater survey.* When requested by the Control Authority, any new or existing industrial user and any zero process discharge industrial facility must submit information on the nature and characteristics of its wastewater, including production and disposal procedures, by completing a wastewater survey questionnaire. The Control Authority may prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be a violation of this division.

(Code 1988, § 22-82)

Sec. 78-134. Industrial Wastewater Discharge Permits

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(a) Requirements for industrial wastewater discharge permits (IWDPs) shall be as follows:

- (1) *Permit required.* An IWDP shall be required of every industry who is designated as a significant industrial user (SIU) as defined by this division or whose discharge might contain the substances or possess the characteristics enumerated in section 78-132 or whose discharge might have an adverse impact or deleterious effect on any portion of the POTW.
- (2) *Existing industrial wastewater dischargers.* Dischargers of industrial wastewater into the City's sewer system prior to the effective date of the ordinance from which this article derives are granted temporary authority to continue to discharge industrial wastewaters in compliance with the City's codes, regulations, and policies. This temporary authority shall expire 90 days after the date of notification by the Assistant to the City Manager for Public Services of the requirement for a discharger to make application for an IWDP. In no case shall this temporary authority extend beyond 90 days after the effective date of the ordinance from which this article derives. If, prior to the expiration date, the discharger has filed for an IWDP pursuant to subsections (a)(1) and (a)(5) of this section, its temporary authority to discharge will continue. In such case, this temporary authority shall expire on the date the IWDP is issued or denied. Any person discharging pursuant to the temporary authority provided in this subsection is subject to all sections of this article, and such authority may be suspended or revoked in accordance with the terms and procedures set forth in section 78-136(j).
- (3) *New industrial wastewater dischargers.* Any User required to obtain an industrial wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this industrial wastewater discharge permit in accordance with section 78-134(a)(5) of this ordinance must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
- (4) *Compliance required.* No IWDP holder shall discharge industrial wastewater in excess of the quantity, rate of discharge, or quality conditions specified in the IWDP. Any person desiring to modify his discharge which would violate conditions of his IWDP shall apply for an amended permit.
- (5) *IWDP applications.* Existing and proposed new industrial users required under the terms of this division to obtain a permit shall complete and file with the City an application in the form prescribed by the City. Proposed new industrial users shall file their applications at least 90 days prior to their discharging to the POTW. The applicant shall submit, where appropriate, the following:
  - a. The name, address, telephone number, and location if different from the address of the applicant, the owner of the premises from which industrial wastes are intended to be discharged, and the name of a local representative duly authorized to act on behalf of the company.
  - ~~b. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987, as may be amended.~~
  - b. NAICS code or SIC number.
  - c. Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
  - d. A brief description of all industrial process waste flows produced before and after pretreatment, if any, at the premises, including the daily volume and wastewater constituents and characteristics as determined by representative samples and analyses. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis for all

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pollutants concerned and in accordance with 40 CFR Part 136. The description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

- e. Estimated time and duration of discharge within a 20 percent tolerance.
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.
- g. Each product produced by type, amount, process or processes and rate of production.
- h. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW. Type and amount of raw materials processed (average and maximum per day).
- i. Number and type of employees, and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.
- j. The location for monitoring all wastes covered by the IWDP.
- k. A list of any environmental control permits held by or for the facility.
- l. Permit fees as determined by the Assistant to the City Manager for Public Services, and pursuant to this section.
- m. A compliance schedule for meeting categorical pretreatment standards, the following conditions of which shall apply:
  - 1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
  - 2. No increment referred to in this section shall exceed nine months.
  - 3. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the City.
- n. A statement signed by an authorized representative of the industrial user as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant

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penalties for submitting false information, including the possibility of fines and imprisonment for knowing violation."

- o. Any other information as may be deemed by the City to be necessary to evaluate the IWDP application.

Sec. 78-135. Processing and Issuance of IWDPs.

(a) The Assistant to the City Manager for Public Services will act only on an application which contains all of the information required in Section 78-134 (a)(5). A person who has filed an incomplete or inaccurate application will be notified by the Assistant to the City Manager for Public Services that the application is deficient and the nature of such deficiency and will be given 30 days to correct the deficiency. Upon receipt of a complete application, the Assistant to the City Manager for Public Services shall review and evaluate all data furnished by the SIU and may require additional data. The Assistant to the City Manager for Public Services shall review and evaluate the application and shall propose such special permit conditions as he deems advisable. All IWDPs shall be expressly subject to all sections of this article and all other applicable ordinances, laws, and regulations.

(b) Upon completion of his evaluation, the Assistant to the City Manager for Public Services shall notify the applicant of any special conditions which he proposes be included in the IWDP. The applicant shall have 30 days from and after the date of the Assistant to the City Manager for Public Services' recommendations for special permit conditions to review such and file written objections with the Assistant to the City Manager for Public Services regarding any such special permit conditions. The Assistant to the City Manager for Public Services may, but shall not be required to, schedule a meeting with applicant's authorized representative within 15 days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning special permit conditions. If the applicant files no objections to special permit conditions proposed by the Assistant to the City Manager for Public Services or if a subsequent agreement is reached concerning such, the Assistant to the City Manager for Public Services shall issue an IWDP to the applicant with such special conditions incorporated therein.

(c) Issuance of an IWDP shall not relieve the discharger from complying with all applicable laws, regulations, and ordinances promulgated by other government authority, nor shall the issuance of an IWDP be construed as a representation by the City that the discharge permitted therein complies with all of such laws, regulations and ordinances. IWDPs are issued solely to govern the discharge of wastewater into the public sewer system and the applicable receiving waters, as between the discharger and the City, and shall not be construed to benefit any third party.

Sec. 78-136. Permit Requirements and Restrictions.

(a) *Requirements.* The requirements and restrictions in permits shall be uniformly enforced by the City and may include, but shall not be limited to, the following:

- (1) Industrial wastewater discharge permits (IWDPs) must contain:
  - a. A statement that indicates the ~~wastewater discharge permit~~IWDP issuance date, expiration date and effective date.
  - b. A statement that the ~~wastewater discharge permit~~IWDP is nontransferable without prior notification to the City in accordance with this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing ~~wastewater discharge permit~~IWDP.
  - c. Effluent limits, including BMPs, based on applicable ~~pretreatment standards and general Pretreatment Standards in this article, categorical Pretreatment Standards~~, local limits, and State and local law.

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- d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
  - e. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
  - f. Requirements to control slug or accidental discharge, if determined by the control authority to be necessary.
- (2) Industrial wastewater discharge permits may contain, but need not be limited to, the following conditions:
- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
  - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
  - e. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW.
  - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.
  - g. A statement that compliance with the industrial wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the industrial wastewater discharge permit; and
  - h. Compliance schedules.
  - i. Prohibition of discharge of certain wastewater constituents.
  - j. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto; any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples.
    - 1. The date, exact place, method, and time of sampling and the names of the person taking the samples.
    - 2. The dates analyses were performed.
    - 3. The person that performed the analyses.
    - 4. The analytical techniques/methods used; and

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5. The results of such analyses.

- k. Requirements for notification of the City for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- l. Other conditions as deemed appropriate by the City to ensure compliance with this article. The City shall require that any or all of the pretreatment requirements or restrictions be provided by the user at his expense.

(b) *Costs of compliance.* The permittee shall be responsible for all costs associated with satisfying IWDP conditions, requirements and restrictions.

(c) *Pretreatment requirements.* If pretreatment is required through the issuance of an IWDP, the permittee shall, at its own expense, design, construct, operate, and maintain such wastewater pretreatment facilities whenever necessary to reduce, modify, or eliminate the user's wastewater discharge to achieve compliance with the limitations in wastewater strength set forth in section 78-132, to meet applicable national pretreatment standards or to meet any other wastewater condition or limitation contained in the user's IWDP. If required by the City, plans, specifications, and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered professional engineer and shall be submitted to the Assistant to the City Manager for Public Services for review. Prior to beginning construction of such pretreatment facilities, the user shall submit a set of final construction plans and specifications to the Assistant to the City Manager for Public Services. Prior to beginning construction, the user shall also secure such building, plumbing, or other permits that may be required by the City. The user shall construct the pretreatment facility within the time provided in the user's IWDP. Following completion of construction, the user shall provide the Assistant to the City Manager for Public Services with as-built drawings. Neither filing of the plans nor the issuance of a permit shall be construed to indicate that the City in any way vouches for or warrants the performance capabilities of any facilities constructed pursuant to such plans, specifications, or data. Subsequent alterations or additions to such pretreatment of flow-control facilities shall not be made without prior notice to the City.

(d) *Duration.* IWDPs shall be issued for any specified period of time, not to exceed five years.

(e) *Applicant's right to object.* Upon receipt of the IWDP, the applicant shall have 45 days to file in writing objections to any term or condition of the IWDP and:

- (1) If the applicant files no objections within this time, the IWDP is deemed to be accepted.
- (2) If the applicant files a timely objection and agreement cannot be reached, the Assistant to the City Manager for Public Services may submit to the City Commission the proposed IWDP conditions and the applicant's written objections thereto at a meeting of the Commission.
- (3) The City Commission shall schedule a public hearing within 90 days following the submission by the Assistant to the City Manager for Public Services of the proposed IWDP and written objections, unless such time be extended for just cause shown to resolve any disputed matters relevant to such IWDP. The Assistant to the City Manager for Public Services shall notify the applicant of the date, time, place and purpose of the hearing scheduled before the City Commission. The Commission shall establish such special permit conditions as it deems advisable to ensure the applicant's compliance with this division or applicable law or regulation and direct the Assistant to the City Manager for Public Services to issue an IWDP to the applicant accordingly.

(f) *Modification.* The terms and conditions of any IWDP may be subject to modification and change by the City during the life of the IWDP to accommodate

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changed conditions and as local, state, regional, and federal laws, rules and regulations and case decisions are modified or amended or for a variation in reported data as provided in Section 78-137. Modifications may also be made to correct technical mistakes, erroneous interpretations of federal, State or local law, or typographical errors. IWDP holders shall be informed of any proposed changes in their respective permits at least 60 days prior to the effective date of change and shall be allowed to comment relating to any of the proposed changes in their permits within the first 30 days after issuance of such proposed change by the City. The City shall allow a discharger a reasonable period of time to comply with any changes in the permit required by the City, unless otherwise required by emergency or governmental regulations. The IWDP holder may petition the City for modification of the permit based on changed conditions. The Assistant to the City Manager for Public Services shall review such petitions with such supporting data as he deems necessary and shall take appropriate action.

(g) *Transferability.* A separate permit shall be required for each wastewater connection discharging, directly or indirectly, into the sewer system. For each discharger having multiple connections at a single plan or facility, a single permit shall be required which may set forth specific effluent limitations and conditions for discharge from each separate connection. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned or transferred or sold to a new owner, new user, or for different premises, unless approved by the Assistant to the City Manager for Public Services, and any such attempted assignment, transfer, or sale shall be void and of no effect.

(h) *IWDP re-issuance.* The SIU shall submit a completed reissuance application form as prescribed by the City together with a reissuance fee to the Assistant to the City Manager for Public Services at least 90 days prior to the expiration of the current IWDP. Conditions governing the re-issuance of an IWDP shall be the same as those governing the issuance of a new IWDP.

(i) *Continuation of expired IWDPs.* An expired IWDP will continue to be effective and enforceable until the IWDP is reissued provided:

- (1) The SIU has submitted a completed IWDP application at least 90 days but not more than 120 days prior to the expiration date of the user's existing IWDP; and
- (2) The failure to reissue the IWDP, prior to expiration of the previous IWDP, is not due to any act or omission on the part of the SIU.

(j) *Revocation of IWDP.* Any IWDP issued under the provisions of this division is subject to be modified, suspended or revoked in whole or in part during its term for cause shown including, but not limited to any one of the following:

- (1) Violation of any terms or conditions of the IWDP or other applicable law or regulation.
- (2) Obtaining an IWDP by misrepresentation or failure to disclose fully all relevant facts.
- (3) Falsifying periodic compliance reports and certification statements.
- (4) Tampering with monitoring equipment.
- (5) Failure to pay any required charges.
- (6) Failure or refusal to accept notices of violation or compliance schedules or other enforcement procedures.
- (7) Failure to provide notification to the City of any change in any permitted user's operating condition that either alters the nature, quality or volume of its wastewater discharge or requires either a temporary or permanent reduction or elimination of the permitted discharge.

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- (8) When necessary to protect the public health, safety and welfare.

(k) *Regulation of waste received from other jurisdictions.* If another municipality, or user located within another municipality, contributes wastewater to the City of Winter Garden's POTW, the Control Authority shall enter into an inter-jurisdictional agreement with the contributing entity concerning the delegation of responsibility for the administration of the industrial pretreatment program in the specified area or user. An inter-jurisdictional agreement shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits.
- (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis.
- (3) A provision specifying which pretreatment implementation activities, including industrial wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority.
- (4) A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of its pretreatment activities.
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW.
- (6) Requirements for monitoring the contributing municipality's discharge.
- (7) A provision ensuring the control authority access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and
- (8) A provision specifying remedies available for breach of the terms of the inter-jurisdictional agreement.

(1) *Accidental Discharge.* ~~Each industrial user~~The Assistant to the City Manager for Public Services shall be required to evaluate whether each SIU needs an accidental discharge—/slug discharge control plan or other action to control Slug Discharges within a year from the date that each facility was first determined to be a SIU and required to apply for and be issued with an IWDP. The plan shall contain the following elements:

- (1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. The Assistant to the City Manager for Public Services may require any industrial user to develop and implement an accidental discharge/slug control plan at its own expense. All industrial users shall provide facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this section from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds

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of any waste regulated by this division. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. All existing users shall complete such a plan by the date as specified by the IWDP. No new user who begins discharge to the POTW after the effective date of the ordinance from which this article derives shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved. All SIUs who store chemicals, or whose wastewater includes or could include pollutants in amounts sufficient to cause interference at a POTW treatment plant shall be required to develop an accidental discharge/slug control plan which shall be approved by the Assistant to the City Manager for Public Services and reevaluated at least once every two years. A copy of this plan shall be submitted to the Assistant to the City Manager for Public Services as part of the IWDP requirements. Accidental discharge/slug control plans should address, at a minimum, the following:

- a. Description of discharge practices, including non-routine batch discharges.
  - b. Description of stored chemicals.
  - c. Procedures for immediately notifying the POTW of any accidental or slug discharge.
  - d. Procedures to prevent adverse impact from any accidental or slug discharges. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- (2) SIUs who have a history of serious leaks, spills or other accidental slug discharges of waste regulated by this division shall be subject on a case-by-case basis to a special IWDP condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharge.
- (3) Any person causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, or which is likely to cause interference with the POTW shall notify the Assistant to the City Manager for Public Services immediately by telephone. In the absence or unavailability of the Assistant to the City Manager for Public Services, notification shall be given to the City employee then in charge of the treatment works.
- (4) Within five days following such occurrence, the user shall provide the Assistant to the City Manager for Public Services with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law. Furthermore, the industrial user shall control its production or all its discharges to the extent necessary to maintain compliance with all applicable City, state and federal regulations upon reduction, loss, or failure of its treatment facility, and until the facility is completely restored or an alternative and equally effective method of pretreatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

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(5) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call if a dangerous discharge occurs. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.-

(6) Significant Industrial Users are required to notify the Assistant to the City Manager for Public Services immediately of any changes at its facility affecting the potential for a Slug Discharge.

(m) *City Costs.* Annual operation costs of the City's POTW for activities required under this section shall be recovered, at the City's option, through fees charged to the industries and users. Each user may be individually billed for the costs of any scheduled or unscheduled wastewater sampling, analysis and monitoring performed by the City. Each user shall be individually billed for the total costs of wastewater sampling and analysis for all demand monitoring and any other enforcement activities performed by the City. The billing may include direct costs incurred by the City or its authorized agent in sampling, inspecting, and laboratory analyses, adjusted to reflect administrative, legal and other indirect costs incurred by activities that may be required under this section. All self-monitoring costs incurred by any user, these self-monitoring costs including but not limited to the cost of sampling, analysis, and reporting, shall be borne by the user.

(n) *Sampling Station.* When required by the Assistant to the City Manager for Public Services, the IWDP owner of any property serviced by a building sewer carrying industrial wastes shall install at his expense an industrial sampling station according to the design as approved by the Assistant to the City Manager for Public Services together with such necessary approved meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such industrial sampling station, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Assistant to the City Manager for Public Services.

(o) *Entry.* The Assistant to the City Manager for Public Services and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties at reasonable times for the purposes of inspection to determine compliance, observations, measurement, installation of monitoring equipment, independent sampling and testing in accordance with this article. The Assistant to the City Manager for Public Services shall also be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept, to ensure compliance with pretreatment standards. The Assistant to the City Manager for Public Services or duly authorized employees shall also have the right to inspect and copy records pursuant to the IWDP.

(p) *Search Warrants* - If control authority personnel have been refused access to a building, structure or property or any part thereof, and if the control authority personnel have demonstrated probable cause to believe that there maybe a violation of pretreatment regulations and requirements or that there is a need to inspect as part of a routine inspection program of the control authority designed to verify compliance with the SUO or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City Attorney may appear before any magistrate empowered to issue warrants in criminal cases and provide an affidavit and apply for the issuance of a warrant in the manner provided by law.

(q) *Safety.* While performing the necessary work on private properties referred to in this section or other sections of this article, the Assistant to the City Manager for Public Services or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company. The company, to the extent allowed by law, shall be held harmless from injury or death to the City employees for intentional or negligent acts solely caused by the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company

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and growing out of the gauging and sampling operation, for intentional or negligent acts solely caused by the City employees.

(r) *Special Agreements.* No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to special payment therefore, by the industrial concern; provided, however, that at no time will the City be asked to accept such discharges that, in the City's sole judgment, would violate any local, state, or federal pretreatment standard.

(Code 1988, § 22-83; Ord. No. 06-12, § 6, 3-9-06)

Sec. 78-137. Reporting requirements and retention of records for IWDP holders and other industrial users.

(a) *Baseline Monitoring Report (BMR).* A completed application for an IWDP shall contain more information than is required from an SIU for a BMR as defined in 40 CFR 403.12(b)(1) through (7) and Rule 62-625.600(1)(a) through (g), F.A.C. The completed application shall be used by the City as the equivalent of a BMR.

(b) *Compliance schedule progress report.* If the application for an IWDP (or BMR) contains a compliance schedule as provided for in ~~section~~Section 78-~~133(d)~~(4)134(a)(5)m, within 90 days following the date for final compliance with applicable pretreatment standards, or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any SIU subject to pretreatment standards and requirements shall submit to the Assistant to the City Manager for Public Services a compliance schedule progress report.

(c) *Report on compliance with categorical pretreatment standards.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in section 78-~~133~~134(a)(5)~~c, d, and n~~, of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 62-625.410(4), F.A.C., this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate period.

(d) *Periodic compliance reports.* All permitted SIUs shall submit periodic compliance reports to the Assistant to the City Manager for Public Services in accordance with the terms of their IWDP. All compliance reports shall be in accordance with the following:

- (1) Copies of all approved periodic compliance forms attached to the IWDP (or alternative forms approved by the Assistant to the City Manager for Public Services) shall be completed and submitted to the Assistant to the City Manager for Public Services. In addition, a copy of the analytical results and chain of custody forms received from the contracting laboratory shall be attached to the report.
- (2) The specific months in which periodic compliance reporting is required shall be included in the IWDP of each SIU. This frequency shall equal or exceed the twice per year State requirements of Rule 62-625.600(4)(a) & (7)(a), F.A.C. At the discretion of the Assistant to the City Manager for Public Services, as applicable, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Assistant to the City Manager for Public Services may agree in writing to alter the months during which the above reports are to be submitted.

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- (3) The due date for submission of periodic compliance reports to the Assistant to the City Manager for Public Services shall be the thirtieth day following the end of the month in which they are required by the significant industrial user's IWDP. Reports submitted after the due date may result in initiation of demand monitoring or other enforcement action by the City at the IWDP holder's expense. Reports submitted ~~30~~<sup>45</sup> days or more after the due date shall result in the SIU being declared to be in significant noncompliance with reporting requirements as required by part ~~8h~~ of the definition of SNC contained herein.
- (4) ~~Industrial users~~All SIUs shall complete each periodic compliance report utilizing data obtained through appropriate sampling and analysis performed during the period covered by the report, which is representative of conditions occurring during the reporting period. The City shall include in the IWDP a required frequency of monitoring necessary to assess and assure compliance by SIUs with applicable Pretreatment Standards and Requirements. The results of all discharge monitoring, whether or not required by the IWDP, shall be included in the report provided that test procedures approved by the Approval Authority are used. In cases where the Pretreatment Standard or local limit requires compliance with a BMP or pollution prevention alternative, the SIU shall submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance status of the SIU.
- (5) The Assistant to the City Manager for Public Services shall approve and include in the IWDP the locations at which the industrial user shall collect samples required for periodic compliance reports. Monitoring locations may be changed only after prior written permission by the Assistant to the City Manager for Public Services.
- (6) Sampling and analytical requirements for periodic compliance reports shall be performed in accordance with section (o) of this section. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis.
- (7) Together with every periodic compliance report, the permittee shall submit the following certification statement, signed by an authorized representative of the industrial user or designee. The exact wording of this statement shall be as follows:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violation."

(e) *Report of changed conditions.* All industrial users are required to notify the Assistant to the City Manager for Public Services of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

- (1) The Assistant to the City Manager for Public Services may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWDP application.
- (2) The Assistant to the City Manager for Public Services may issue a new IWDP or modify an existing IWDP as required.

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- (3) No industrial user shall implement the planned changed condition until and unless the Assistant to the City Manager for Public Services has responded to the industrial user's report.
- (4) For purposes of this requirement flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants shall be deemed significant.

(f) *Reports of potential problems.* All industrial users shall submit reports of potential problems and accidental spills/slug loads to the Assistant to the City Manager for Public Services as detailed in section 78-136(l) of this division. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this division.

(g) *Reports from unpermitted users.* Any industrial user who is not required to obtain an IWDP, shall, if required, submit a report to the Assistant to the City Manager for Public Services containing specified analyses of its wastewater discharge.

(h) *Notice of violation/repeat sampling and reporting.* If sampling performed by an SIU for a periodic compliance report indicates any violation as defined herein, the SIU shall submit the report and shall notify the Assistant to the City Manager for Public Services within 24 hours after becoming aware of the violation. The permittee shall repeat the sampling and analysis and submit the results of the repeat analysis to the Assistant to the City Manager for Public Services within 30 days after becoming aware of the violation. Where the City has performed the sampling and analysis in lieu of the SIU, the City must perform the repeat sampling and analysis unless it notifies the SIU of the violation and requires the SIU to perform the repeat analysis. Resampling by the SIU is not required if the City performs sampling at the user's facility at least once a month, or if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, ~~or if the City has performed the sampling and analysis in lieu of the SIU.~~

(i) *Notification of the discharge of hazardous waste.* This subsection refers to all industrial users:

- (1) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous waste constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (e) above. The notification requirement in this section does not apply to pollutants already reported under the reporting requirements of subsections (a), (b) and (c) above.
- (2) Dischargers are exempt from the requirements of subsection (i)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR Part 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR Part 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial

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user discharges more than such quantities of any hazardous waste do not require additional notification.

- (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing and additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (4) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(j) *Change of authorized representative of an industrial use.* Should the permittee's authorized representative change during the permit period because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the user, a completed copy of the approved authorization form (attached to the IWDP) for the new representative or position must be submitted to the Assistant to the City Manager for Public Services.

(k) *Maintenance of records.* Any SIUs subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with BMPs. Such records shall include for all samples:

- (1) The date, exact location, method and time of sampling, the names of the persons taking the samples, and chain of custody of the samples.
- (2) The dates analyses were performed.
- (3) The person that performed the analyses.
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(l) *Retention of records.* Any SIU subject to the reporting requirements established in this section, including documentation associated with BMPs, shall be required to retain for a minimum of three years records of all submitted periodic compliance reports and any other such monitoring activities and/or analytical data pertaining to these reports (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Assistant to the City Manager for Public Services, State or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the Assistant to the City Manager for Public Services, the State or EPA upon reasonable notice to the permittee.

(m) *Confidentiality.* Information and data on a user obtained from reports, questionnaires, IWDP applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user stamps the words "confidential business information" on each page containing such information at the time of submission, and is able to demonstrate to the satisfaction of the Assistant to the City Manager for Public Services that the release of this specific material, would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. Those portions of any document identified in writing by the permittee as disclosing trade secrets or secret processes shall not be made available to the public pursuant to section 308(b) of the Act unless determined by a court of competent jurisdiction to be subject to disclosure. These documents shall, however, be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in

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enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(n) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern. Faxed copies of the report will only be accepted if the complete original report is received by the City within five working days of the fax copy.

(o) *Sampling and analytical requirements.* The following regulations apply to all wastewater sampling and analytical methods and techniques required by this division:

- (1) Except as indicated in section (2) below, wherever wastewater sampling is required by the terms of this division or IWDP, such sampling shall be performed using flow proportional composite collection techniques in order to collect a representative wastewater sample throughout the total daily period of effluent discharge by the user. ~~In the event flow proportional sampling is deemed to be technically infeasible by the control authority, it~~ Alternatively, the City, may authorize the use of time proportional sampling or a minimum of eight (8) grab aliquots composited into a single sample where the ~~user~~ SIU demonstrates that this will provide a representative sample of the effluent being discharged. ~~In addition, Where time-proportional composite sampling or aliquot grab samples may~~ sampling is authorized by the City, the decision to allow the alternative sampling must be required to show compliance with instantaneous maximum discharge limits documented in the industrial user file for that facility.
- (2) Samples for oil and grease, temperature, specific conductance, pH, cyanide, total phenols, sulfides and volatile organic compounds shall be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in Chapter 62-160, F.A.C., and DEP-SOP-001/01, multiple grabs collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- ~~(3)~~ (3) Oil and grease samples shall be collected in accordance with paragraph (2) above unless the sampling location or point cannot be physically accessed to perform a direct collection of a grab sample. In these instances, the sample shall be pumped from the sampling location or point into the sample container using a peristaltic-type pump. All pump tubing used for sample collection must be new or pre-cleaned and must be changed between sample containers and sample points. The pump tubing shall not be pre-rinsed or flushed with sample prior to collecting the sample. The report of analysis shall indicate that a peristaltic pump was used to collect the oil and grease sample.
- (4) All sample preservation procedures, container materials, maximum allowable holding times and analytical techniques to be submitted as part of any application or report required by this division shall be performed in accordance with the procedures and techniques specified in "The Department of Environmental Protection Standard Operating Procedures for Field Activities"(DEP-SOP-001/01) February 2004 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If DEP-SOP-001/01 does not contain sampling or analytical techniques for the pollutant

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in question, sampling and analyses must be performed in accordance with Rule 62-625.600(1)(e)6b & 6c or procedures approved by the EPA.

- (45) All pollutant analyses, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority or other parties approved by EPA. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis for all pollutants concerned.
- (56) An SIU may request the control authority to perform all sampling and analysis of its wastewater in lieu of self monitoring by the SIU. This sampling and analysis shall be performed by the control authority according to part (3) above following the control authority's FDEP approved written comprehensive quality assurance plan.
- (67) Where an SIU performs its own sampling, the SIU shall develop a written procedure for the sampling based on ~~part (3) paragraph (4)~~ above and shall submit this to the control authority for approval. The SIU shall be required to demonstrate the complete field sampling procedure at its facility to the satisfaction of the control authority prior to the issuance of approval.
- (78) Where a private contractor is selected by a SIU to perform the necessary sampling and/or laboratory analysis, the SIU shall submit and maintain current copies of the following private contractor's documents to the control authority prior to any sampling or analysis data being accepted by the control authority.
- a. FDOH Environmental Water Certification Analytes List.
  - b. Environmental Water Certificate as issued by the Office of Laboratory Services, Jacksonville, Florida.
  - c. The latest FDEP approval correspondence containing the FDEP assigned Comprehensive Quality Assurance Plan number.
  - d. The sampling protocols contained in the Comprehensive Quality Assurance Plan.

The contractor may be required, at the control authority's request, to demonstrate the complete field sampling procedure at the SIU's facility. Analytical results will not be accepted from the SIU or its selected private laboratory until the sampling procedure has been approved by the City.

(Code 1988, § 22-84)

Sec. 78-138. Enforcement Procedures.

(a) *Notice of Violation (NOV) and Compliance Meeting.* When the Assistant to the City Manager for Public Services finds that a User has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Assistant to the City Manager for Public Services may serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Assistant to the City Manager for Public Services. Submission of such a plan in no way relieves the User of liability for any

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violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Assistant to the City Manager for Public Services to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. The user may also be directed to attend a compliance meeting with representatives of the City. The purpose of the compliance meeting shall be for the industrial user to present and establish such procedures, investigations, studies, and compliance measures as are necessary to control and prevent future violations of this article. The user shall be bound by such procedures, etc., and during the compliance meeting the user shall agree to a date certain beyond which no further violations shall occur. Failure to comply with the compliance meeting procedures, etc., or the date shall be deemed a violation of this article and may be grounds for revocation of the user's wastewater discharge permit and grounds for such other actions, penalties or enforcement or all or any combination of these things as may be authorized for violation of this article.

(b) *Notice of Significant Noncompliance (NOSNC)*. Whenever an SIU has violated the IWDP or any provision of 40 CFR Part 403 or 62-625 F.A.C., a Notice of Significant Noncompliance shall be issued if the City determines the violation to constitute Significant Noncompliance as defined in Section 78-127. The NOSNC shall clearly state the noncompliance and require the SIU, within ten (10) working days of the receipt date of this Notice, to respond in writing to the violation and submit a written plan outlining what steps will be taken to gain compliance and prevent reoccurrence of the violation. In addition to the NOSNC the City shall insert an annual public notification of all SIUs in SNC in the daily newspaper with the largest circulation in the immediate area servd by the POTW.

(c) *Consent Orders*. The Assistant to the City Manager for Public Services may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the compliance or cease and desist orders issued pursuant to subsections (d) and (g) of this ordinance and shall be judicially enforceable.

(d) *Compliance Orders*. When the Assistant to the City Manager for Public Services finds that a User has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Assistant to the City Manager for Public Services may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(e) *Emergency Suspensions and Termination of Service*. The City may suspend the wastewater treatment service and an industrial wastewater discharge permit when such suspension is necessary, in the opinion of the Assistant to the City Manager for Public Services, in order to stop an actual or threatened discharge which represents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, which causes interference to the POTW or which causes or may cause the City to violate any conditions of its NPDES permit.

- (1) Any person notified of a suspension of the wastewater treatment service or the IWDP or either of these things shall immediately stop or eliminate the discharge. Methods of notice shall include but shall not be limited to personal conversation between the user or his representative and the Assistant to the City Manager for Public Services; telephone calls of this same nature; letters, either

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mailed or hand-delivered; hand-delivered messages; or notices posted at the user's premises or the point of discharge into the City's wastewater system.

- (2) If the person fails to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including but not limited to immediate severance of the sewer connection or water connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.
- (3) The City may reinstate the IWDP and the wastewater treatment service upon proof of the elimination of the non-complying discharge and demonstration of measures to prevent future occurrences.
- (4) A detailed written statement submitted by the user describing the cause of the discharge and the measures taken to prevent any future occurrence shall be submitted to the City within 15 days of the date of the occurrence.

(f) *IWDP Revocation.* Any industrial user who violates the conditions outlined in Section 78-136(j) of this ordinance or other applicable local, regional, state, or federal laws, regulations and case decisions is subject to having the IWDP revoked by the Assistant to the City Manager for Public Services:

(g) *Cease and Desist Order.* When the Assistant to the City Manager for Public Services finds that a User has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Assistant to the City Manager for Public Services may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(h) *Show Cause Hearing.* The City may order any user who causes or allows an unauthorized discharge or who otherwise violates this article in any way to show cause before the code enforcement board why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation or on the local representative as identified in the permit application. The code enforcement board may itself conduct the hearing and take evidence or may designate any of its members or any officer or employee of the City to:

- (1) Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.
- (2) Take evidence.
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the code enforcement board for action thereon. After the code enforcement board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or unless existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. The industrial user shall have the

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opportunity to appear before the code enforcement board prior to its final decision and present oral and written arguments. Nothing in this subsection may prevent the City from taking immediate, appropriate, or emergency actions or all of these things to prevent a violation or a further violation of this article when, in the City's sole discretion, circumstances warrant an immediate response to any such violation.

(i) *Injunctive Relief.* The City may, immediately upon discovering an ongoing or potential discharge of pollutants into the City's POTW which reasonably appears to exceed the requirements or conditions described in this article, petition the circuit court of the county or the federal district court for a temporary restraining order or preliminary injunction to halt or prohibit such discharge. Prior to the filing of such a petition, the Assistant to the City Manager for Public Services shall attempt to notify the user of the City's intention to file such action. Notice may be of the type outlined in this section, but shall not be a condition precedent to the City's petitioning for and obtaining such an order or injunction.

(j) *Recovery of Costs to City.* In addition to remedies available to the City as set forth elsewhere in this article, if the City is fined by the state or the EPA or any other governmental agency for a violation of water quality standards as the result of a discharge of pollutants, the fine and all City legal, sampling, analytical testing and any other related costs shall be charged to the responsible user. Such charges shall be in addition to and not in lieu of any other remedies the City may have under this article or under any statutes or regulations, at law or in equity.

(k) *Obstructions.* If the discharge from any user causes a deposit, obstruction, or damage to any of the City's wastewater facilities, the Assistant to the City Manager for Public Services shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired, at the sole cost of the person or user causing such deposit, obstruction, or damages.

(l) *Remedies Non-exclusive.* The remedies provided for in this ordinance are not exclusive. The Assistant to the City Manager for Public Services may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Assistant to the City Manager for Public Services may take other action against any User when the circumstances warrant. Further, the Assistant to the City Manager for Public Services is empowered to take more than one enforcement action against any noncompliant User.

(m) *Affirmative Relief.* In addition to any fine levied under this article, the City may, where the circumstances of the particular case so dictate, but in the sole discretion of the Assistant to the City Manager for Public Services, seek injunctive relief to prohibit the user from discharging any wastewater into the City's sanitary sewer system or to provide such other affirmative relief as may be appropriate.

(n) *Excess Flow.* A person or user whose discharge flow exceeds 50,000 gallons per day on the day of the violation or 50,000 gallons as an average during the month that the violation occurs may be assessed up to and including twice the amounts described in this section.

(o) *Administrative fines.* Any industrial user who violates any section of this article shall be subject to a penalty not exceeding \$1,000.00 per day per violation for each day that the user is in violation of this article. Administrative fines shall be issued in accordance with the City of Winter Garden Enforcement Response Plan as approved by the Florida Department of Environmental Protection. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User. The City may provide for larger penalties where appropriate (e.g., where the industrial user has a history of violations, etc.). This minimum penalty shall in no way limit the City's

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ability to seek larger penalties in appropriate cases or to allow the City to mitigate the penalty depending upon the circumstances of each case or violation.

(p) *City Analyses*. If there is a difference in understanding between the City and the user as to the characteristics in the wastewater, the City reserves the right to use the City analyses and results to thereafter compute any fees that may be assessed.

(q) *Penalties owing*. The City also reserves the right to revoke a discharge permit or disconnect wastewater service to, or both of these things, any user whenever penalties or fees are due and owing for a period of more than 14 days following the date of notification to the user that a chargeable violation has occurred.

(r) *Falsification*. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article or pursuant to any wastewater discharge permit or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sampling or analysis or information-gathering method required under this article shall be subject to the penalties and costs provided in this section and any other penalty that may be provided under this Code or any other applicable local, state, or federal law or regulation.

(s) *Civil Penalties*. A User who has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a ~~maximum~~-civil penalty of not less than \$1,000 per day for each violation, ~~per day~~. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- (1) The Assistant to the City Manager for Public Services may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (2) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(t) *Criminal Prosecution*. Any SIU who willfully or negligently violates any provision of the City's Sewer Use Ordinance (SUO), permit, or order issued hereunder, or any other ~~pretreatment requirement~~ Pretreatment Standard or Requirement shall, upon conviction, be punished by a fine of ~~not more than \$1,000 per violation per day or the maximum civil penalty permitted under State law per violation per day or imprisonment or both~~ at least one thousand dollars (\$1,000 per) a day for each violation per day or the maximum civil penalty permitted under State law per violation per day or imprisonment or both. Any SIU who knowingly makes false statements, representations, or certifications in any application, record report, plan or other documentation filed, or required to be maintained, pursuant to the SUO, Permit, or order, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the SUO, shall, upon conviction, be punished by a fine of ~~not more than \$1,000 per violation per day or the maximum civil penalty permitted under State law per violation per day or imprisonment or both~~ at least one thousand dollars (\$1,000) a day for each violation.

Sec. 78-139. Appeal of Enforcement Action.

(a) *Appeal procedure*. The following appeal procedure is designed to allow any person or user the right to appeal the requirements of this article if he thinks they are incorrect and to have the right to a hearing regarding his appeal before the City Commission:

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- (1) Complaints requiring inspection or personnel approval shall be dealt with on a case-by-case basis. If necessary, documentation required to substantiate the user's complaint shall be filed with the City. After review of the information presented, a determination by the Assistant to the City Manager for Public Services will be made known to the complainant. All documentation, review notes, and written resolution of the complaint shall be filed and retained by the City clerk for a period of not less than three years.
- (2) The user shall also have the right to an administrative review of the Assistant to the City Manager for Public Services' determination by the City Commission. In order to exercise this right, the user shall comply with all applicable requirements of this ordinance, as it may be from time to time amended.
- (3) The City Commission shall schedule a hearing thereon at its next regularly scheduled meeting at which this matter can reasonably become part of the agenda, but no later than 30 days following receipt of such notice. The user shall be notified of the date and time of the hearing, and shall be permitted to present evidence and argument at the hearing. The City Commission shall make a determination on the matter at that time, and this determination shall be binding upon the user and the City and shall constitute the official position of the City with respect to the matter.
- (4) If the City Commission upholds the Assistant to the City Manager for Public Services' decision, all penalties previously assessed against the user shall be paid immediately, but no later than five days following the City Commission's determination. If the City Commission overrules the Assistant to the City Manager for Public Services' decision in part or in full, the City Commission may, at its discretion, waive part or all of the penalties charged to the complainant.
- (5) All decisions rendered by the City Commission shall be considered final and binding on all parties involved.

(b) *Immediate Action.* Nothing in this section or in this article as a whole is intended to preclude the City from taking immediate action to temporarily modify a permit or to sever service of an industry completely when there is imminent risk of injury to the public sewer system or to the health and welfare of the public or to the environment.

Sec. 78-140. Affirmative Defenses to Discharge Violations.

- (a) *Upset.* An upset is defined in Section 78-127 above.
  - (1) An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical Pretreatment Standards if the requirements of paragraph (2), below, are met.
  - (2) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
    - a. An upset occurred and the User can identify the cause(s) of the upset.
    - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
    - c. The User has submitted the following information to the Assistant to the City Manager for Public Services within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
      1. A description of the indirect discharge and cause of noncompliance.

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2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (3) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
  - (4) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
  - (5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) *Prohibited Discharge Standards.* A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 78-132(a). of this ordinance or the specific prohibitions in Sections 78-132(b)(3) through (7) and (9) through (21) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- (1) Local limits exist for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- (2) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.* Bypass is defined in Section 78-127 above. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c)(1) and (c)(2) of this Section.

- (1) Bypass notifications are required if;
  - a. If a User knows in advance of the need for a bypass, it shall submit prior notice to the Assistant to the City Manager for Public Services, at least ten (10) days before the date of the bypass, if possible.
  - b. A User shall submit oral notice to the Assistant to the City Manager for Public Services of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent

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reoccurrence of the bypass. The Assistant to the City Manager for Public Services may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (2) Bypass is prohibited, and the Assistant to the City Manager for Public Services may take an enforcement action against a User for a bypass, unless;
- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The User submitted notices as required under paragraph (c)(1) of this section.

(3) The Assistant to the City Manager for Public Services may approve an anticipated bypass, after considering its adverse effects, if the Assistant to the City Manager for Public Services determines that it will meet the three conditions listed in paragraph (c)(2) of this Section.

Section 78-141. Effective Date.

| This ~~ordinance~~article shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.  
(Code 1988, § 22-85)

Secs. 78-142--78-165. Reserved.

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Don Cochran, Public Services

**Via:** City Manager Mike Bollhoefer

**Date:** October 31, 2011                      **Meeting Date:** November 10, 2011

**Subject:** Approval of Request-for-Qualifications Rankings for Professional Engineering Services, and Authorization to Negotiate a Contract for the Wastewater Treatment Plant #2 Retrofits (Louis Dreyfus Citrus WWTP)

**Issue:** Staff has completed the Request-for-Qualifications process for a Professional Engineering Services contract to retrofit the old Louis Dreyfus Citrus WWTP into Wastewater Treatment Plant #2. There were three engineering firms short listed for this project and requested to make presentations to staff related to their approach for the retrofit. Of the firms that submitted CPH was selected as the team with the best approach to retrofit this facility to meet the City's long-term needs related to wastewater treatment capacity and reuse water capacity.

CPH's approach includes converting the existing tanks at the LDC facility for reuse water storage (with a total storage capacity of 3.2 million gallons) and converting the existing lime reactor into a citrus waste flow equalization basin. The project also includes extending a pipeline to the west to connect to the existing Trunk Line "C" reuse water line, and constructing an equalization basin at the WWTP on Crest Ave.

This approach will eliminate the need to purchase property and construct a reuse water tank to serve the northwest section of the City. It will also extend the life of our existing WWTP on Crest Ave to the year 2027, enabling it to serve approximately 45,000 people.

This contract will be for engineering design only. The actual construction of these facilities has been included in the City's 5-year CIP and will be constructed as per the existing schedule. The estimated construction cost for all items is \$5,827,000. Original estimated construction for this infrastructure, which included a WWTP expansion in 2014, totaled \$8,130,000.

**Recommended Action:**

Move to approve the Request-for-Qualifications rankings for Professional Engineering Services and authorize Staff to negotiate a contract for engineering design services with CPH Engineering.

**Attachments/References:**

- Ranking sheets
- Power Point slides from CPH's RFQ presentation



**REQUEST FOR QUALIFICATIONS #11-05  
WASTEWATER TREATMENT PLANT #2 RETROFITS  
PRESENTATION RANKINGS**

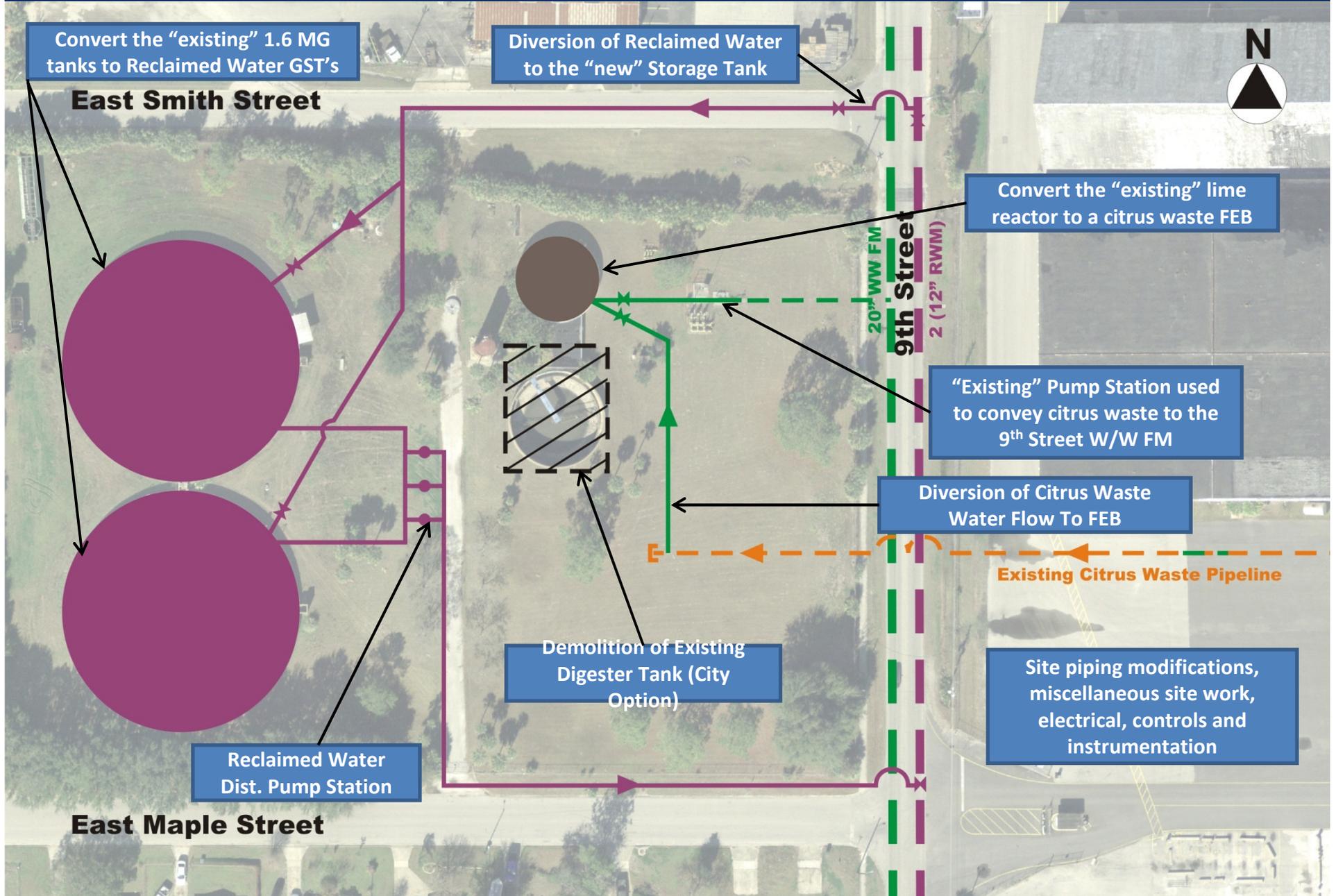
	<i>Don Cochran</i>	<i>Mike Kelley</i>	<i>Art Miller</i>	<i>Gary Skipper</i>	<i>Nicolle Van Valkenberg</i>
<i>CDM</i>	2	2	2	2	2
<i>CPH</i>	1	1	1	1	1
<i>Tetra Tech</i>	3	3	3	3	3



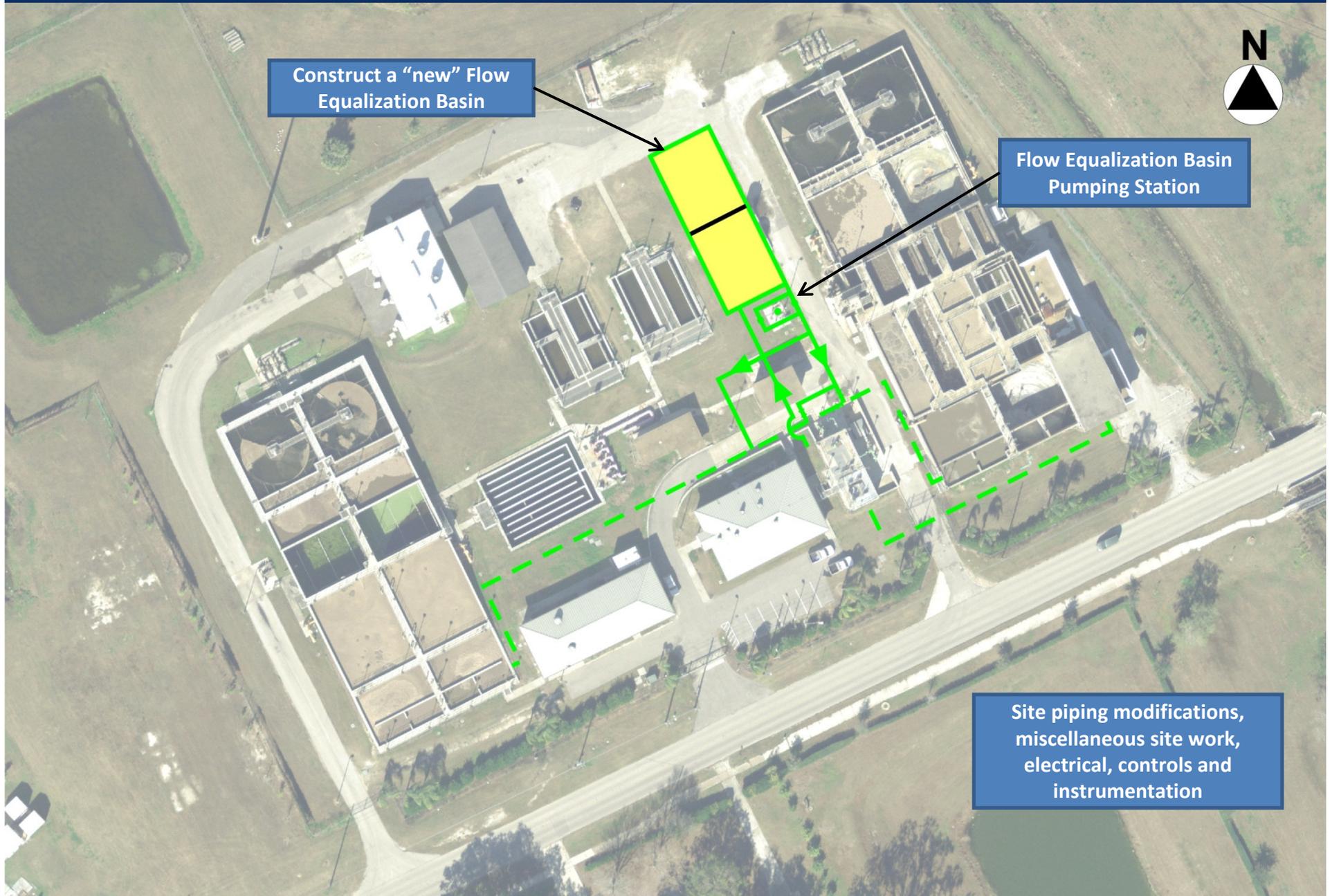
**CITY OF WINTER GARDEN  
REQUEST FOR QUALIFICATIONS #11-05  
WASTEWATER TREATMENT PLANT #2 RETROFITS**

<b>TOTALS</b>	<b>SELECTION CRITERIA</b>							<b>TOTAL POINTS</b>
	<b>REFERENCES</b>	<b>EXPERIENCE WITH SIMILAR PROJECTS</b>	<b>QUALIFICATIONS OF PROJECT TEAM AND PAST PERFORMANCE</b>	<b>ABILITY TO MEET SCHEDULE AND BUDGET REQUIREMENTS</b>	<b>PROJECT WORKLOAD OF THE FIRM</b>	<b>LOCATION OF THE OFFICE AND PROXIMITY TO THE CITY</b>		
<b>Engineering Firms</b>								
CDM	105	91	93	95	44	24		452
Tetra-Tech	104	94	82	92	47	24		443
CPH	107	80	86	95	45	24		437
Reiss Engineering	107	73	83	90	44	24		421
Hazen-Sawyer	108	78	74	90	44	22		416
Chastain-Skillman	106	70	71	90	43	20		400

# CPH Alternative "B"



# CPH Alternative "B"



# CPH Alternative "B" - Opinion of Construction Costs

Item No.	Description	Opinion of Probable Construction Cost
<b>Rehabilitation, retrofitting and conversion of both of the 1.6 MG WWTP's to Reclaimed Water GST's</b>		
1	Rehabilitation and conversion of both of the 1.6 MG WWTP's to Reclaimed Water Ground Storage Tanks	\$600,000
2	Reclaimed Water Ground Storage Tank Covers / Domes	\$700,000
3	Reclaimed Water Distribution Pump Station	\$245,000
4	Connection to the existing 12-inch reclaimed water main along 9 <sup>th</sup> Street and off-site piping modifications (2 total)	\$100,000
5	Site Piping Modifications – Piping and Appurtenances to redirect the Citrus wastewater to the "on-site" lift station	\$110,000
6	Electrical, Instrumentation and Controls	\$150,000
7	Conversion of Lime Reactor to Flow Equalization Basin including rehabilitation of tank, aeration system and blowers, tank cover/dome and piping modifications	\$250,000
<b>Reclaimed Water GST System Capital Cost - Subtotal</b>		<b>\$2,155,000</b>

# CPH Alternative “B” - Opinion of Construction Costs

Item No.	Description	Opinion of Probable Construction Cost
<b>Construction of a “new” Flow Equalization Basin at the Crest Avenue WRF</b>		
8	0.5 MG Flow Equalization Basin (2 – 0.25 MG Cells)	\$325,000
9	Aeration System and Blowers for Flow Equalization Basin	\$150,000
10	Site Piping Modifications	\$95,000
11	Flow Equalization Basin Effluent Pumping System	\$65,000
12	Electrical, Instrumentation and Controls	\$250,000
13	Miscellaneous Site Modifications (roadways, etc.)	\$20,000
<b>Flow Equalization Basin Capital Cost – Subtotal</b>		<b>\$905,000</b>
14	Planning Level Contingency (20%)	\$612,000
<b>Alternative “B” Opinion of Probable Construction Cost</b>		<b>\$3,672,000</b>

## Notes

Alternative “B” Optional Components at the Crest Avenue WRF include the following:

1. Flow Equalization Basin Covers: \$250,000
2. Flow Equalization Basin Odor Control System: \$125,000



**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

---

**From:** Kathy Golden, City Clerk/Elections Official

**Date:** November 3, 2011                      **Meeting Date:** November 10, 2011

**Subject:** Election agreement for the 2012 General Election and Runoff Election

**Issue:** The City's next general election is scheduled to be held on March 13, 2012 for Districts 2, 3, and 4.

Attached, for your consideration, is an agreement with the Orange County Supervisor of Elections for the use of their voting equipment, opening of voter registration books, and staff assistance throughout the election process. This agreement is identical to the 2011 election agreement.

**Recommendation:**

Authorize the City Manager to enter into an election contract with the Orange County Supervisor of Elections office for the 2012 Winter Garden General Election and any Runoff Election.



**2012  
VOTE PROCESSING EQUIPMENT  
USE AGREEMENT AND  
ELECTIONS SERVICES CONTRACT  
FOR MUNICIPAL ELECTIONS**

This Vote Processing Equipment Use Agreement and Elections Services Contract (hereinafter referred to as the "Agreement") is hereby entered into by and between the **Orange County Supervisor of Elections Office**, (hereinafter referred to as "SOE") and the **City of Winter Garden, Orange County, Florida**, (hereinafter referred to as "MUNICIPALITY").

**RECITALS:**

**WHEREAS**, pursuant to Section 101.34, Florida Statutes, SOE is the legal custodian of certified vote processing equipment owned by Orange County, Florida and is hereby charged with the responsibility for custody and maintenance of said equipment; and,

**WHEREAS**, MUNICIPALITY desires, or is otherwise statutorily obligated, to conduct an election that requires the use of vote processing equipment to count ballots; and,

**WHEREAS**, All vote processing equipment requires specially trained and knowledgeable individuals to program, operate and maintain said equipment; and,

**WHEREAS**, The Orange County Board of County Commissioners has authorized SOE to provide any necessary terms and conditions for the use of such voting equipment; and,

**WHEREAS**, SOE can provide the necessary personnel to program, operate and maintain said equipment; and,

**WHEREAS**, MUNICIPALITY hereby acknowledges full responsibility for any and all applicable requirements under the Florida Election Code and any provisions of the city charter or municipal ordinances which may not be addressed or included in this agreement.

**NOW, THEREFORE**, in consideration of the premises and of the mutual promises, terms and conditions stated herein SOE and MUNICIPALITY agree as follows:

**SECTION 1.**     Recitals. The above recitals are true and correct and incorporated herein.

**SECTION 2.**     Agreement. SOE shall provide to MUNICIPALITY such necessary vote processing equipment and services according to the terms and conditions stated in this Agreement, for the purposes of conducting a General Election to be held on Tuesday, March 13, 2012 and, if necessary, a Run-off Election to be held on Tuesday, April 10, 2012, along with the necessary equipment and services to facilitate any early voting sites and polling places as may be necessary and agreed upon by the parties.

SECTION 3. Operation and Programming Services.

DS200 For each election, MUNICIPALITY shall pay SOE One Hundred Fifty Dollars (\$150.00) for the program and maintenance of any DS200 tabulator and Seventy-five Dollars (\$75.00) for each additional tabulator that is identically programmed. For early voting, MUNICIPALITY shall pay SOE Seventy-five Dollars (\$75.00) for the program, maintenance and operation of each DS200 tabulator that is identically programmed and operated as the DS200 tabulators that are programmed for Election Day.

iVotronic Touchscreen Machine For each election, MUNICIPALITY shall pay SOE One Hundred Fifty Dollars (\$150.00) for the program and maintenance of any iVotronic Touchscreen machine and Seventy-five Dollars (\$75.00) for each additional Touchscreen machine that is identically programmed. For early voting, MUNICIPALITY shall pay SOE Seventy-five Dollars (\$75.00) for the program, maintenance and operation of each iVotronic Touchscreen machine that is identically programmed and operated as the Touchscreen machines that are programmed for Election Day.

M650 For each election, MUNICIPALITY shall pay SOE Two Hundred Dollars (\$200.00) for the program, maintenance and operation of any M650 Absentee Ballot Counting equipment. Such fee shall include up to four (4) hours of processing time, election set-up and coordination, programming of high speed ballot counting equipment and processing of envelopes through the automatic envelope openers. For each additional hour needed to provide the services described in this paragraph, MUNICIPALITY shall pay SOE Fifty Dollars (\$50.00) per hour.

Epoll Books For each election, MUNICIPALITY shall pay SOE Twenty Five Dollars (\$25.00) for data base set-up and maintenance of each Epoll Book (minimum two per polling place).

Repairs For any election, all maintenance, repairs or other troubleshooting services for vote processing equipment, including any processors or laptops, will be performed exclusively by SOE and such services are included in all stated charges. However, SOE does reserve the right to seek reimbursement from MUNICIPALITY for any repairs or maintenance caused by any negligent or unauthorized acts by any employee or representative of MUNICIPALITY.

SECTION 4. Additional Early Voting Services for Off-Site Locations For Non-Ballot-on-Demand Method

Laptops For each early voting site other than the Office of the SOE, MUNICIPALITY shall pay SOE Three Hundred and Seventy-Five Dollars (\$375.00) for the program and operation of each laptop computer employed per site. Such service fee includes the downloading or uploading of any necessary data. These charges are per election.

Printers For each early voting site other than the Office of the SOE, MUNICIPALITY shall pay SOE One Hundred and Seventy-Five Dollars (\$175.00) for the programming, configuration and set-up of any connected printer. These charges are per election.

Delivery For each early voting site other than the Office of the SOE, MUNICIPALITY shall pay SOE Two Hundred Dollars (\$200.00) for the delivery, set-up and/or pick-up of any early voting equipment. These charges are per election.

SECTION 5. Other Election Charges.

Supplies For each election, MUNICIPALITY shall pay SOE for consumable precinct supplies at a rate of One Hundred Fifty Dollars (\$150.00) for each precinct and each Early Voting site. MUNICIPALITY shall return precinct supplies to Office of SOE no later than the day after the election. MUNICIPALITY shall also identify and provide a secure place for precinct clerk(s) to return supplies and voted and unvoted ballots on election night.

PAPER PL/PR For each election, MUNICIPALITY shall pay SOE the actual costs incurred to produce, print and bind Poll Lists/Precinct Registers ("PL/PR"), including any paper or delivery costs. SOE shall have sole discretion in selecting a third party vendor to perform the requisite printing and binding services.

Telephone For each election, MUNICIPALITY shall pay SOE for any actual costs incurred by SOE from a third party telecommunications provider for the set-up, activation, use and deactivation of any telephone lines which in the SOE's sole discretion are necessitated at any voting site. Selection of the third party telecommunications provider shall be at the sole discretion of SOE.

Indexes For any Street Indexes ordered or required, MUNICIPALITY shall pay SOE Nine Dollars (\$9.00) as a set-up services fee plus Twenty-five Cents (\$.25) for each printed page.

Absentees For each election, MUNICIPALITY shall pay SOE One Dollar with Seventy-five Cents (\$1.75) for each absentee ballot request processed plus actual postage costs. MUNICIPALITY shall also pay SOE Ten Cents (\$.10) for each absentee ballot signature verified.

Early Voting MUNICIPALITY shall reimburse SOE for any overtime hours by SOE staff due to weekend hours for Early Voting locations including any hours accrued by SOE staff at the Offices of SOE. SOE may elect to evenly apportion the costs for early voting overtime hours among various municipalities, if appropriate, but in no event shall SOE be obligated to apportion such costs. SOE shall insure that experienced SOE personnel staff each Early Voting site, in accordance with Florida law.

Notices For each election, MUNICIPALITY shall pay SOE Twenty-five Cents (\$.25) for each Notice of Election that is mailed to each eligible voter plus actual postage costs.

Fee Schedule For each election, MUNICIPALITY shall pay SOE for any other goods or services not specifically provided for in this Agreement but that may be described or listed in the latest Municipal Fee Schedule as distributed to MUNICIPALITY. MUNICIPALITY agrees that the Municipal Fee Schedule and the prices contained therein are subject to change.

Other For each election and upon proper notice to MUNICIPALITY, MUNICIPALITY shall pay SOE for any other election services not contemplated herein which may be needed to conduct an orderly election.

SECTION 6. Term. For each election, the terms of this Agreement begins with ballot layout and concludes when ballots have been processed, election results have been certified, all vote processing equipment has been returned to the SOE's warehouse and an audit, if applicable, has been completed. In the event of an election contest or challenge, SOE agrees to cooperate in providing any public records which the SOE maintains or otherwise controls.

SECTION 7. Applicable Requirements of Florida's Election Code. MUNICIPALITY shall properly call the election in accordance with any Florida Statutes, applicable charter provisions or city ordinances. MUNICIPALITY agrees that the Municipal Clerk is responsible for the conduct of the city's elections and for insuring compliance with all applicable Florida Statutes, including the Florida Election Code and any municipal charter provisions and ordinances. Any obligations or duties not set forth in this Agreement shall be the sole responsibility of MUNICIPALITY.

SECTION 8. Notice and Advertisement of Elections. MUNICIPALITY shall prepare and arrange for publication of all legal advertising required by state and federal statutes, city charter & city ordinances. MUNICIPALITY agrees that all advertisements of elections conducted in Orange County shall be published in both English and Spanish and that MUNICIPALITY shall be responsible for the accurate and complete translation of any such notices. SOE shall, if available, provide samples of required advertising upon request.

SECTION 9. Qualifying of Candidates. MUNICIPALITY may provide qualifying packets to candidates. MUNICIPALITY shall accept and process all qualifying papers and fees. For audio ballots, MUNICIPALITY shall collect pronunciation guides from candidates at the time of qualifying and shall submit them to SOE at the close of qualifying.

If petitions are part of qualifying process, MUNICIPALITY shall pay to SOE ten (10) cents per name checked to verify any signatures on qualifying petitions. SOE agrees to verify any signatures for any qualifying petitions submitted by MUNICIPALITY.

In no event shall SOE issue any recommendations or make any legal determinations as to the qualifications or eligibility of any candidate for municipal office.

SECTION 10. Printing of Ballots and Ballot Services. MUNICIPALITY shall place an order for a sufficient quantity of ballots to include early voting, absentees, provisional ballots and precincts, with a third party printer as selected exclusively by SOE. MUNICIPALITY shall provide prompt payment to the third party printer for the cost of any printed ballots or election materials.

MUNICIPALITY shall furnish, immediately upon the conclusion of the qualifying period, all ballot information in English and Spanish including the name the name of the candidates as they are to appear on the ballot; the name of the Municipality; the name of the election; the title of office and/or referendum title; explanation; and questions.

SOE agrees to provide the layout of the ballot(s) based on the information furnished by MUNICIPALITY and deliver ballot layout to the approved printer. MUNICIPALITY will place ballot order with printer. Both SOE and MUNICIPALITY must sign off on ballot proof(s) and replication of screen displays for the iVotronic Touchscreens. SOE shall contract to have ADA required audio files produced for audio portion of the Touchscreen ballots and MUNICIPALITY shall reimburse SOE for any costs incurred to produce such audio files.

Once test ballots are received from the printer, SOE will test all vote processing equipment in accordance with the standards established by the Florida Division of Elections and any applicable Florida Statutes. Upon receipt of the printed ballots from the printer SOE shall receive, securely store and account for all ballots until disbursed to Early Voting locations or to poll clerks. SOE shall also control and limit all access to unvoted ballots while in the possession of SOE.

SECTION 11. Poll Workers. SOE will select poll workers from a group of experienced poll workers. SOE will assign back-up poll workers to be available on Election morning. SOE will train all poll workers in accordance with the Florida Election Code and other guidelines, procedures or regulations as followed or adopted for the conduct of elections in Orange County. Clerk for MUNICIPALITY, or a representative, shall be in attendance for poll worker training sessions. SOE shall distribute all necessary supplies and ballots at poll worker training sessions. MUNICIPALITY shall pay poll workers directly for their services at pay rates previously established by SOE.

SOE will select and train early voting staff. SOE will pay early voting staff directly for their services. MUNICIPALITY will be billed for any overtime charges incurred due to Early Voting.

SECTION 12. Selection of Polling Places and Early Voting Sites. SOE shall approve any Polling Place(s) and Early Voting site(s) intended for use of as a voting location. Each location shall meet necessary ADA requirements. MUNICIPALITY shall conduct an onsite inspection of all polling places, including any early voting locations used other than the Office of SOE, and confirm that such locations are accessible to disabled and elderly voters. SOE reserves the right to select a suitable alternative if any proposed site fails to meet with SOE approval. MUNICIPALITY shall provide a list of proposed polling places and early voting sites no later than thirty-five (35) days prior to the date of the election. MUNICIPALITY shall pay any rental fees or usage fees directly to the polling place.

MUNICIPALITY shall notify SOE in writing if any tables or chairs will be required. Note that each polling place must, as determined by SOE, provide a minimum number of tables and chairs. MUNICIPALITY shall pay any rental fees incurred by SOE for tables and chairs.

SECTION 13. Sample Ballots. SOE shall layout, check and deliver sample ballot layout to a third party vendor for distribution to registered voters. MUNICIPALITY shall review the sample ballots and confirm the accuracy of the election date, office, candidate names, polling place and all other information contained therein. SOE shall coordinate the mailing of the sample ballots to all registered voters in the municipality prior to the election including accurate polling place information. MUNICIPALITY shall reimburse SOE for all costs incurred in producing and mailing sample ballots.

SECTION 14. Absentee Ballots. MUNICIPALITY shall refer all requests for absentee ballots to SOE. Unless MUNICIPALITY or the Clerk for MUNICIPALITY provides written directions to the contrary, SOE agrees to accept all requests for absentee ballots by telephone, mail, or in person. SOE also agrees to mail absentee & overseas ballots as requested by registered voters, receive and securely store any voted absentee ballots, verify the signatures on any returned voted absentee ballot certificates and to account for all absentee ballots.

MUNICIPALITY shall provide adequate staff assistance for the opening and handling of absentee ballots during the counting process and shall coordinate a date for the opening and counting of such absentee ballots with SOE.

SECTION 15. Transportation of Elections Equipment and Supplies. SOE will be responsible for delivery and pick up of any voting equipment. One day prior to Election Day, voting equipment will be delivered by SOE, or a third party representative of SOE. One day after Election Day, voting equipment will be picked up by SOE, or a third party representative of SOE. MUNICIPALITY shall reimburse SOE, for any and all costs incurred for equipment delivery and pickup. SOE shall have full discretion and authority to hire and employ any outside third parties to assist with or perform delivery and pick-up of voting equipment. **MUNICIPALITY IS NOT PERMITTED TO DELIVER ANY ELECTIONS EQUIPMENT.**

SECTION 16. Location and Storage of Voting Equipment. All voting equipment shall be stored, maintained and located in a well-protected, secure, temperature-controlled and indoor room or facility. Once the voting equipment is delivered to a voting site or early voting site, no equipment shall be relocated without the prior written approval of SOE.

SECTION 17. Canvassing of Election Results. MUNICIPALITY shall schedule and coordinate the date on which the municipal canvassing board is to assemble to canvass the results of the election. If applicable, MUNICIPALITY shall coordinate for the use of SOE facilities to conduct the canvassing board activities. MUNICIPALITY shall notice and advertise, as needed, the dates of any canvassing board meetings. MUNICIPALITY shall convene the canvassing board to determine which voted absentee ballots are to be tabulated. MUNICIPALITY shall provide for collection of results from each precinct(s).

SECTION 18. Audits. MUNICIPALITY may adopt Ordinances or Amendments to its Charter to opt out of the audit provisions as provided for in Florida Statutes. If MUNICIPALITY has not opted out of the audit provisions, MUNICIPALITY shall provide necessary personnel to conduct the audit as prescribed by law. MUNICIPALITY agrees to pay SOE for any additional costs as may be necessary, including overtime expenses, for conducting the audit.

- SECTION 19. Post-Election Records Retention. SOE shall process affirmation forms and sort, inventory and pack all election materials for pick up by the Municipal Clerk for retention and disposition. MUNICIPALITY shall store or cause to be stored all necessary election records and ballots until expiration of retention period as prescribed by applicable Florida Statutes and rules.
- SECTION 20. Voter History. MUNICIPALITY and SOE will make mutually acceptable arrangements for recording voter history. The date selected for undertaking this activity may occur subsequent to the conclusion of all election dates and outside of the terms of this agreement but both parties agree to work toward recording voter history in a timely manner.
- SECTION 21. Other Necessary Costs. Any additional costs or fees that may be incurred by SOE in compliance with the Florida Election Code and as a direct result of either any Election, if necessary, that are not specified in this contract shall be paid for by MUNICIPALITY at rates and fees as established by SOE. Examples of such additional costs or reimbursements include, but are not limited to, the following:
- A. Recounts – Any expenditure for conducting a recount, including any overtime expenses for reprogramming voting equipment, and other expenses as may be necessary to conduct a recount; and,
  - B. Attorney's Fees and Costs - Actual attorney's fees and costs incurred by SOE for research on any election related matter shall be invoiced by SOE for reimbursement by MUNICIPALITY.
- SECTION 22. Hold Harmless Covenant. MUNICIPALITY shall at all times hereafter indemnify, hold harmless and, at SOE's option, defend or pay for an attorney selected by SOE to defend SOE, its officers, agents, and employees against any and all claims, damages, injuries, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, arising out of or resulting from any or all acts of omission or commission of or by the MUNICIPALITY, its officers, agents, or employees, with respect to any election conducted pursuant to this Agreement. MUNICIPALITY also agrees to indemnify SOE against any administrative challenges, civil suits, or other legal challenges or appeals that may arise, including all attorney's fees and costs, from the contest of election results or the validation of any candidate qualifications.

Parties recognize that SOE is a state agency or subdivision as defined in Section 768.28, Florida Statutes and that nothing herein is intended to serve as a waiver of sovereign immunity by SOE for acts or omissions to which sovereign immunity applies. Furthermore, nothing herein shall be construed as consent by SOE, as a state agency or subdivision of the State of Florida, to be sued by third parties in any matter arising out of any contract.

SECTION 23. Entirety and Amendments. The Agreement embodies the entire agreement between SOE and MUNICIPALITY and supersedes all prior agreements and understandings relating to the conduct of elections. No modification, amendment or alteration to this Agreement shall be effective or binding unless submitted in writing and executed by duly authorized representatives of both SOE and MUNICIPALITY.

SECTION 24. Effective Date. The Effective Date of this Agreement shall be the latest date of execution by duly authorized representatives of SOE and MUNICIPALITY as shown on the signature page hereto.

**(SIGNATURE PAGE TO FOLLOW)**

**IN WITNESS WHEREOF**, we, the undersigned, do hereby state that we have the authority to bind and obligate as promised herein, SOE and MUNICIPALITY for purposes of executing this Agreement on the dates set forth below.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Bill Cowles  
Name (Printed or Typed)

\_\_\_\_\_  
Name (Printed or Typed)

Orange County Supervisor of Elections  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name (Printed or Typed)

\_\_\_\_\_  
Witness Name (Printed or Typed)

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

---

**From:** City Clerk Golden

**Date:** November 3, 2011                      **Meeting Date:** November 10, 2011

**Subject:** Appointments to fill vacant seats on the election Canvassing Board

**Issue:** Since running a display ad in the West Orange Times on June 30<sup>th</sup> and July 7<sup>th</sup>, 2011 for board members, we have received the attached two interest applications for your appointment consideration.

The vacancies to be filed are for one regular and one alternate member.

**Reference:**

Charter Sec. 48. Canvassing board.

(1) A city canvassing board shall be established for the purposes of canvassing ballots and election results. The canvassing board shall be composed of the city clerk and two (2) citizens who shall be selected by majority vote of the city commission. A third and fourth citizen shall also be selected by majority vote of the city commission to serve as a first and second alternate canvassing board member.

**Attached:** Interest forms on file



CITY OF WINTER GARDEN  
CITY CLERK'S OFFICE  
300 WEST PLANT STREET  
WINTER GARDEN, FL 34787

P: 407.656.4111  
WWW.WINTERGARDEN-FL.GOV

### BOARD APPOINTMENT INTEREST FORM

THANK YOU FOR YOUR INTEREST IN SERVING ON ONE OF THE CITY'S BOARDS/COMMITTEES. VOLUNTEERS LIKE YOU ARE ESSENTIAL TO ENSURING THAT YOUR CITY GOVERNMENT IS RESPONSIVE TO THE NEEDS OF THE COMMUNITY. PLEASE HELP US PLACE YOU ON THE MOST APPROPRIATE COMMITTEE BY COMPLETING THIS QUESTIONNAIRE. FEEL FREE TO ATTACH A RESUME.

DATE: November 2, 2011 VERIFIED INTEREST ON: \_\_\_\_\_

LAST NAME: CARRIS FIRST: JERRY MIDDLE: \_\_\_\_\_

HOME ADDRESS: 347 Bayside Ave., Winter Garden, FL

OFFICE ADDRESS: \_\_\_\_\_

HOME PHONE: 407-656-1882 CELL PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX #: \_\_\_\_\_

CURRENT EMPLOYER: Retired LENGTH: \_\_\_\_\_

POSITION: \_\_\_\_\_

EDUCATION: HIGH SCHOOL GRADUATE  YES  NO UNDERGRADUATE COLLEGE DEGREE IN: \_\_\_\_\_

ADVANCED COLLEGE DEGREE IN: Bachelor of Science & Master in Education OTHER: \_\_\_\_\_

PLEASE STATE YOUR EXPERIENCE, INTERESTS OR ELEMENTS OF YOUR HISTORY THAT YOU THINK QUALIFY YOU FOR APPOINTMENT:

COMMUNITY INVOLVEMENT: Community Garden and Master Gardner

INTERESTS/ACTIVITIES: Gardening, carving, and music

WHY DO YOU DESIRE TO SERVE ON THIS/THESE BOARDS? To keep elections fair & honest

NAME ANY BUSINESS, PROFESSIONAL, CIVIC OR FRATERNAL ORGANIZATIONS OF WHICH YOU ARE A MEMBER AND THE DATES OF MEMBERSHIP.

ARE YOU A RESIDENT OF WINTER GARDEN?  YES  NO IF YES, CONTINUOUS RESIDENT SINCE? 1962

ARE YOU A REGISTERED VOTER OF ORANGE COUNTY?  YES  NO WHICH CITY DISTRICT? 2

ARE YOU CURRENTLY SERVING ON ANY OTHER BOARDS?  YES  NO IF YES, PLEASE STATE NAME OF BOARD:

HAVE YOU EVER SERVED ON A GOVERNMENT BOARD?  YES  NO IF YES, PLEASE STATE NAME OF BOARD:

Planning & Zoning and Code Enforcement

REFERENCES:

**WHICH BOARD(S) ARE YOU INTERESTED?**

- \*CODE ENFORCEMENT BOARD
- \*PLANNING & ZONING BOARD
- \*COMMUNITY REDEVELOPMENT AGENCY
- \*COMMUNITY REDEVELOPMENT ADVISORY BOARD - CIRCLE ALL THAT APPLY TO YOU WITHIN THE CRA: RESIDE / OWN / OPERATE A BUSINESS / OTHER
- \*GENERAL EMPLOYEES PENSION BOARD
- \*FIRE/POLICE PENSION BOARD
- \*ARCHITECTURAL REVIEW AND HISTORIC PRESERVATION BOARD
- CIRCLE ALL THAT APPLY TO YOU: ARCHITECT / LICENSED GENERAL CONTRACTOR / WG HERITAGE FOUNDATION BOARD MEMBER / OWN COMMERCIAL PROPERTY IN THE HISTORIC DISTRICT / OWN COMMERCIAL PROPERTY IN THE HISTORIC DISTRICT & RESIDE IN THE CITY / RESIDE IN THE CITY
- ELECTION CANVASSING BOARD

**PLEASE NOTE:** MEMBERS SERVING ON BOARDS WITH AN ASTERISK (\*) ARE REQUIRED TO FILE AN ANNUAL FINANCIAL DISCLOSURE FORM WITH THE ORANGE COUNTY SUPERVISOR OF ELECTIONS OFFICE ON OR BEFORE JULY 1ST OF EACH YEAR. APPLICANTS FOR BOARD APPOINTMENT ARE REMINDED OF THE PROVISIONS OF THE FLORIDA STATUTES AS APPLICABLE TO CONFLICTS OF INTEREST. ALL BOARD APPLICATIONS ARE KEPT ON FILE FOR ONE YEAR AND ARE SUBMITTED TO THE CITY COMMISSION WHENEVER A VACANCY OCCURS. UPDATED INFORMATION SHOULD BE SUBMITTED AND MAY BE REQUESTED AT ANY TIME.

DIRECT INTEREST FORM AND QUESTIONS TO THE CITY CLERK'S OFFICE AT 407-656-4111 EXT. 2254

THANK YOU FOR YOUR INTEREST IN SERVING YOUR COMMUNITY.

Board Appointment Interest Form 06-10



CITY OF WINTER GARDEN  
CITY CLERK'S OFFICE  
300 WEST PLANT STREET  
WINTER GARDEN, FL 34787

P: 407.656.4111  
WWW.WINTERGARDEN-FL.GOV

### BOARD APPOINTMENT INTEREST FORM

THANK YOU FOR YOUR INTEREST IN SERVING ON ONE OF THE CITY'S BOARDS/COMMITTEES. VOLUNTEERS LIKE YOU ARE ESSENTIAL TO ENSURING THAT YOUR CITY GOVERNMENT IS RESPONSIVE TO THE NEEDS OF THE COMMUNITY. PLEASE HELP US PLACE YOU ON THE MOST APPROPRIATE COMMITTEE BY COMPLETING THIS QUESTIONNAIRE.  
FEEL FREE TO ATTACH A RESUME.

DATE: 7-11-11 VERIFIED INTEREST ON: \_\_\_\_\_

LAST NAME: Ortiz FIRST: Moraima MIDDLE: \_\_\_\_\_

HOME ADDRESS: 1651 Lindzlu St Winter Garden, FL 34787

OFFICE ADDRESS: \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ CELL PHONE: 407-625-6905 WORK PHONE: \_\_\_\_\_

EMAIL: Moraima16@aol.com FAX #: \_\_\_\_\_

CURRENT EMPLOYER: Homemaker LENGTH: \_\_\_\_\_

POSITION: \_\_\_\_\_

EDUCATION: HIGH SCHOOL GRADUATE  Yes  No UNDERGRADUATE COLLEGE DEGREE IN: \_\_\_\_\_

ADVANCED COLLEGE DEGREE IN: \_\_\_\_\_ OTHER: \_\_\_\_\_

PLEASE STATE YOUR EXPERIENCE, INTERESTS OR ELEMENTS OF YOUR HISTORY THAT YOU THINK QUALIFY YOU FOR APPOINTMENT:

COMMUNITY INVOLVEMENT: \_\_\_\_\_

INTERESTS/ACTIVITIES: \_\_\_\_\_

WHY DO YOU DESIRE TO SERVE ON THIS/THESE BOARDS? want to be part of Community Service

NAME ANY BUSINESS, PROFESSIONAL, CIVIC OR FRATERNAL ORGANIZATIONS OF WHICH YOU ARE A MEMBER AND THE DATES OF MEMBERSHIP.

\_\_\_\_\_

ARE YOU A RESIDENT OF WINTER GARDEN?  YES  NO IF YES, CONTINUOUS RESIDENT SINCE? 2000

ARE YOU A REGISTERED VOTER OF ORANGE COUNTY?  YES  NO WHICH CITY DISTRICT? District # 1

ARE YOU CURRENTLY SERVING ON ANY OTHER BOARDS?  YES  NO IF YES, PLEASE STATE NAME OF BOARD:

\_\_\_\_\_

HAVE YOU EVER SERVED ON A GOVERNMENT BOARD?  YES  NO IF YES, PLEASE STATE NAME OF BOARD:

\_\_\_\_\_

REFERENCES:

\_\_\_\_\_

**WHICH BOARD(S) ARE YOU INTERESTED?**

- \*CODE ENFORCEMENT BOARD
- \*PLANNING & ZONING BOARD
- \*COMMUNITY REDEVELOPMENT AGENCY
- \*COMMUNITY REDEVELOPMENT ADVISORY BOARD - CIRCLE ALL THAT APPLY TO YOU WITHIN THE CRA: RESIDE / OWN / OPERATE A BUSINESS / OTHER
- \*GENERAL EMPLOYEES PENSION BOARD
- \*FIRE/POLICE PENSION BOARD
- \*ARCHITECTURAL REVIEW AND HISTORIC PRESERVATION BOARD
- \*ARCHITECT / LICENSED GENERAL CONTRACTOR / WG HERITAGE FOUNDATION BOARD MEMBER / OWN COMMERCIAL PROPERTY IN THE HISTORIC DISTRICT / OWN COMMERCIAL PROPERTY IN THE HISTORIC DISTRICT & RESIDE IN THE CITY / RESIDE IN THE CITY
- ELECTION CANVASSING BOARD

**PLEASE NOTE:** MEMBERS SERVING ON BOARDS WITH AN ASTERISK (\*) ARE REQUIRED TO FILE AN ANNUAL FINANCIAL DISCLOSURE FORM WITH THE ORANGE COUNTY SUPERVISOR OF ELECTIONS OFFICE ON OR BEFORE JULY 1ST OF EACH YEAR. APPLICANTS FOR BOARD APPOINTMENT ARE REMINDED OF THE PROVISIONS OF THE FLORIDA STATUTES AS APPLICABLE TO CONFLICTS OF INTEREST. ALL BOARD APPLICATIONS ARE KEPT ON FILE FOR ONE YEAR AND ARE SUBMITTED TO THE CITY COMMISSION WHENEVER A VACANCY OCCURS. UPDATED INFORMATION SHOULD BE SUBMITTED AND MAY BE REQUESTED AT ANY TIME.

DIRECT INTEREST FORM AND QUESTIONS TO THE CITY CLERK'S OFFICE AT 407-656-4111 EXT. 2254

THANK YOU FOR YOUR INTEREST IN SERVING YOUR COMMUNITY.

Board Appointment Interest Form 06-10