



**A REGULAR MEETING MINUTES  
PLANNING AND ZONING BOARD  
SEPTEMBER 10, 2012**

**1. CALL TO ORDER/INVOCATION/PLEDGE OF ALLEGIANCE**

Chairman James Gentry called the meeting of the City of Winter Garden Planning and Zoning Board to order at 6:31 p.m. in the City Hall Commission Chambers. The invocation was given followed by the Pledge of Allegiance.

**2. ROLL CALL AND DETERMINATION OF QUORUM**

The roll was called and a quorum was declared present.

**MEMBERS PRESENT:**

Chairman James Gentry, Board Members: James Dunn, Kent Horsley, Mark Maciel, Mac McKinney, and Eric Weiss.

**MEMBERS ABSENT/ARRIVED LATE:**

Board Member – Kent Horsley Arrived Late (6:35 pm)

Board Member – Rohan Ramlackhan (excused)

**STAFF PRESENT:**

City Attorney Kurt Ardaman, Community Development Director Ed Williams, Senior Planner Laura Smith, and Administrative Specialist Corrina Williams.

**3. APPROVAL OF MINUTES**

Approval of minutes from the regular meeting held August 6, 2012.

*Motion by James Dunn to approve the August 6, 2012 minutes, seconded by James Gentry, the motion carried unanimously 5-0.*

Board Member – Kent Horsley Arrived Late (6:35 pm)

**ANNOUNCEMENT:** Community Development Director advised the Board and all those present that Item #6 – 1297 Winter Garden Vineland Road – (United Cerebral Palsy) Charter School Special Exception Permit will be continued for one month to resolve issues

outstanding. City Staff will be asking for this item to be tabled until the next Planning and Zoning Board meeting.

## **ANNEXATION, REZONING AND FUTURE LAND USE AMENDMENTS, PLATS (Public Hearing)**

### **4. Marsh Road (Waterside on Johns Lake Phase II)- UVPUD Rezoning**

Community Development Director Ed Williams presented Ordinance 12-44 Marsh Road Rezoning in the name of Waterside on Johns Lake Phase II Urban Village PUD. Applicant is requesting to rezone 105.68 acres from NZ (Not Zoned – since annexation into the City in 2007) to Urban Village Planned Unit Development. Comprehensive plan designation for the property is Urban Village the request is consist to the City’s Comprehensive plan. The property is an extension, Phase II, of the Waterside on Johns Lake project that was presented to the Board previously located to the east on the north side of Marsh Road. The road network and utilities will be shared between the two projects. The Planned Unit Development concept plan that has been submitted provides a variety of housing types and uses on the property and the project meets the comprehensive plan, future land use designation and is consist with the City policies. The property is going to be developed in three phases, with this portion totaling 313 units along with the 172 units from Phase I.

Staff has reviewed the project traffic study and the biggest concern is Marsh Road traffic for which the City is requiring the development of round-a-bouts to slow down traffic and control the flow of traffic along Marsh Road. In addition this property will adjoin Williams Road and is required to connect and make improvements to Williams Road both on the north and south side abutting the project. The section south of Marsh Road and east of Williams will have single family residential lots and proposes to have an access on Williams Road. Traffic reports indicate 20 – 50 cars maximum from this portion of the project onto Williams Road. The north section of the property anticipates additional traffic since more property and more units will have access to Williams Road on the north.

The property meets all the requirements of the Wekiva Protection Act and the agreement the City has regarding its regulations for the protection of Johns Lake and Lake Avalon. Lake Avalon will not have a community boat ramp and dock. The project and individuals on the Johns Lake frontage may make application for boat dock and ramps, and will be required to meet all the ordinances and regulations of the City, Water Management District, and DEP in order to obtain those uses.

The property will connect to the sewer and water and reclaimed water systems of the City and the City is requiring a Developers Agreement to address the sizing and location of these uses and the Developer has agreed to pay for the extension of those services. The City will be paying for some over sizing for other undeveloped properties in the area. Two large water and reclaimed water storage facilities will be located on the project and as a condition of this phase before development can occur in this section the location and sizing of the two storage facilities has to be determined.

In relationship of this property to the Joint Planning Area (JPA) agreement with Orange County the portion of the project to the south abuts the Rural Settlement area and are required to have a one-hundred foot buffer and density restrictions on the property. The Developer has provided this on the drawings and will comply with the buffer restrictions.

Staff recommends the approval of the rezoning finding it to be consistent with the comprehensive plan, future land use map, consistent with the policies of the comprehensive plan, consistent with the City's zoning review criteria, and that it be found to be compatible with what the City has planned for that area.

Tom Sullivan, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N. Eola Drive, Orlando, FL 32801, on behalf of Centerline Homes, the Applicant. Introduced the project team and shared a summary of the project supporting Director William's recommendation for approval.

Mike Holbrook, Bowyer-Singleton & Associates, Engineer on the project made a statement to the Board summarizing the range of the single family lots, parks and green space to be developed in this project and the transition from phase I into phase II by extending the main entrance and adding a new entrance off Williams Road. Mr. Holbrook advised that no homes would be fronting the Lake Avalon shoreline and they will be providing pedestrian access. A summary of the seventeen live-work lots established within this project was also provided.

Citizen, Jane Ferguson, 17701 Davenport Road, Winter Garden, FL 34787 – made a statement with regard to the Rural Settlement, docks on Lake Avalon, and traffic conditions of this project. In favor of the project with traffic conditions to be addressed in the development of the project.

Director Williams responded to Ms. Ferguson's concerns summarizing the conditions of the project that will be addressing traffic concerns and impacts to Williams Road and Marsh Road.

Citizen, Bill Sheerin, 2450 Williams Road, Winter Garden, FL 34787 – made a statement in favor of the project but due to the animals on the adjacent properties as part of the Rural Settlement he wanted assurances that residents in the development would be aware of the uses and the animal sounds and he would not be made to remove his animals.

Director Williams responded to Mr. Sheerin's concerns advising that the City would require that the developer maintain a disclaimer to potential buyers that they are abutted to agricultural, rural settlement properties and would be subject to the noises of animals and prescribed burns or other activities typical of this type of property.

Citizen, Jeff Graft, 2813 Williams Road, Winter Garden, FL 34787 – made a statement in favor of the project with concerns to maintain Lake Avalon and the native plant and animal species that are in and around the project area.

Citizen, Richard Pugh, 17549 Seidner Road, Winter Garden, FL 34787 – made a statement in favor of the project with concerns to the traffic issues at 545 and Marsh Road.

Director Williams responded to Mr. Pugh's concerns advising that the City is making upgrades to the 545 / Marsh Road intersection, inclusive of four lanes and turning movements from all approaches, along with the upgrades of the entire 545 road within the City.

Citizen, John Deam, 17569 Seidner Road, Winter Garden, FL 34787 – made a statement in favor of the project with concerns of the traffic and the water quality of Lake Avalon and the use of berms.

Citizen, Carol Johnson, 16605 Sandhill Road, Winter Garden, FL 34787 – Representative of the Avalon Home and Property Owners Association made a statement in favor of the project with repeated concerns of the traffic issues and the awareness of the agriculture uses of the property to potential home buyers.

Director Williams responded to Mr. Deam's and Mrs. Johnson's concerns with regard to the maintenance and upkeep of Lake Avalon, and suggested a protection district for Lake Avalon which would allocate a small portion of city and county residents' taxes to go to the actual cleanup and maintenance of the Lake. Citizen Johnson advised that have looked into this but did not get enough support.

The Board had general discussion of all the issues brought forth by the citizens with City Staff.

Board member Kent Horsley requested Director Williams to initiate a meeting with Commissioner Scott Boyd and the citizens of this area to talk on behalf of the City for this area and request assistance from the County for the current traffic issues along Marsh Road and Williams Road.

Citizen, Carol Johnson, also made a statement requesting clarification of how the City would handle a "blind sighted" area coming off of Williams Road onto Marsh Road due to a curve in the Road.

Mr. Scott Sterns, Bowyer-Singleton & Associates, Engineer advised that signage and temporary flashers have been studied and have taken this curve into consideration when engineering the round-a-bouts and signals on Marsh Road.

Citizen, John Deam, 17569 Seidner Road, Winter Garden, FL 34787 – spoke with regard to a round-a-bout location at the Marsh Road and Williams Road intersection.

Mr. Sterns responded to Mr. Deam's comment advising that there were sight distance issues and a signal would be a better control mechanism for that location.

*Motion by Mark Maciel to approve Ordinance 12-44 for the rezoning of 105.68 +/- acres on Marsh Road (Waterside on Johns Lake Phase II) from City Not Zoned to City Urban Village Planned Unit Development subject to Staff recommendations (Attached Exhibit "A") to be read and adopted by the City Commission on September 27, 2012. Seconded by James Gentry, the motion carried unanimously 6-0.*

**5. 17001 Marsh Road (Waterside on Johns Lake Phase I ) – Preliminary Plat**

Senior Planner Laura Smith presented a preliminary plat proposal for the Waterside on Johns Lake Phase I moving forward on the development plans and final plat for this phase of the project. The plat application is for a 160 single family residential unit Urban Village Planned Unit Development (UVPUD). The subject property is located on Marsh Road and was rezoned to UVPUD earlier this year. A Developers Agreement was recently approved by the City Commission. Staff has reviewed this proposed preliminary plat and find it to be consistent with the City code for preliminary platting and would recommend conditional approval of the proposed preliminary plat subject to the conditions outline in the UVPUD rezoning Ordinance 12-29 and the Developers Agreement approved by the City Commission on August 23, 2012.

Senior Planner Smith advised the Board that one change for the project since the rezoning which was the connection to the eastern property. The connection was originally shown to be on the south side of the property more in line with where Marsh Road is located and has been moved up to the north portion of the property closer to Johns Lake for the purpose of tying into future development to the east. The property located immediately to the east known as the CRAMAR property has submitted an application for rezoning to the UVPUD designation and have agreed to this location as a tie-in so we have cross connection across all these projects.

Tom Sullivan, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N. Eola Drive, Orlando, FL 32801, on behalf of Centerline Homes, the Applicant. Made a statement that they were in agreement with the City staff report and comments and are available for comments or questions from the Board.

General discussion by the Board with staff. Board member Horsley requested clarification from City Staff on how the City will ensure that the buffers along Johns Lake are maintained or will remain in place. Senior Planner Smith advised for this particular project the Developer is proposing a tree preservation area for property that it adjoins onto the lake, along with a berm and the housing setbacks. Community Development Director advised Board member Horsley that this is a previous condition established at the rezoning of the property and would be enforced through our Code Compliance Division.

*Motion by Mac McKinney to approve the Preliminary Plat for the Waterside on Johns Lake Phase I – UVPUD project to allow platting for 160 single family residential lots subject to Staff recommendations (Attached Exhibit "B"). Seconded by James Gentry, the motion carried unanimously 6-0.*

**SPECIAL EXCEPTION PERMIT(Public Hearing)**

**6. 1297 Winter Garden Vineland Road – (United Cerebral Palsy) Charter School**

Senior Planner Laura Smith requested the Board to table this item until the next Planning and Zoning Board meeting.

*Motion by James Dunn to table the Special Exception for 1297 Winter Garden Vineland Road – United Cerebral Palsy Charter School to the next Planning and Zoning Board meeting on October 1, 2012 at 6:30 pm. Seconded by Mac McKinney, the motion carried unanimously 6-0.*

**7. 482 Charlotte Street – (Tewari, Sunildatt) Daycare**

Senior Planner Laura Smith presented a Special Exception Permit application to allow for a child daycare center in an R-2 zoning district. Child daycare centers may only be permitted in the R-2 zoning district by special exception permit. The applicant has proposed to convert a 1,649 square foot residential structure to accommodate the daycare center which would be for enrollment of up to five children at a time for a total enrollment of ten children. The applicant is proposing to do this in two sessions where they would operate a child daycare center for half of the day for five children and the other half of the day for five children for a total enrollment of ten but no more than five at any one time and one employee. The applicant proposes to construct four parking spaces in front of the existing structure and a playground area behind the existing structure. The original proposal was for thirty-five children, this site could not accommodate this many. Staff has worked with the applicant and they have agreed to bring the number down to the total enrollment of ten children split into two session a day or not more than five on site at any given time until such time as they can work more with their site and make more improvements. Staff recommends approval of this special exception for a maximum occupancy of up to five children and one employee and subject to the conditions in the staff report.

Citizen, Phillip Pritchard, 3627 Grice Street, Apopka, FL – west side adjacent property owner, made a statement in opposition with concerns that if allowed it would bring the value of his property down and his current tenants do not want the use there.

Owner/Applicant, Sunildatt Tewari, responded to Mr. Pritchards concerns advising his opinion that a daycare would increase the value of his property when he wants to sell and that he would have an interest in purchasing his property.

Senior Planner Smith advised the Board that one other letter was provided in their package from a neighboring property owner in opposition of the special exception.

The Board had a general discussion with staff to clarify the parking, fencing, and signage on the site. Planner Smith advised the Board that ingress/egress will be off of Charlotte Street and any signage would have to comply with the city code for the R-2 zoning district and must apply for a sign permit. Fencing will be at the play area for the children.

Board member McKinney asked who would police or oversee these types of in home daycare centers. Senior Planner Smith advised that the State of Florida sets the guidelines and will oversee the daycare center actual business activity.

***Motion by James Dunn to approve the Special Exception for 482 Charlotte Street to allow for the use of a daycare subject to Staff recommendations (Attached Exhibit "C"). Seconded by James Gentry, the motion carried unanimously 6-0.***

#### **8. 1130 Plant Street – (Gil, Inc.) Daycare**

Senior Planner Laura Smith presented a Special Exception Permit application to allow for a child daycare center on East Plant Street in a C-2 zoning district. Child daycare centers may only be permitted in the C-2 zoning district by special exception permit. This applicant proposes to occupy 2,361 square feet of an existing commercial building that is 10,305 square feet in total. They are proposing to occupy one of the tenant spaces which is addressed as 1130 E. Plant Street. The proposal is to open a child daycare center for up to forty children that would be enrolled for ages infant to five years old. They will utilize the existing parking on the site which totals thirty-one parking spaces and to construct a playground on the vacant property that is located immediately west of this commercial building which is under same ownership of the commercial building. Staff has reviewed the proposal and find it to be compliant with our codes and we recommend approval subject to the conditions in the staff report that does limit the number of children to be enrolled.

The Board had a general discussion with staff to clarify the playground area location. Community Development Director Ed Williams advised the Board that Mr. Lamén, the property owner, owns property on both sides and the City took property from him for the widening of Plant Street and part of our acquisition agreement with Mr. Lamén and part of the road improvements are that the City will be removing drainage structures from the rear of the buildings and then the play area will be relocated right behind the tenant space where the daycare is located. The current playground area is only a temporary location until the City completes the improvements. Director Williams also advised the Board that City Staff has been working with this daycare owner for several months trying to find a location for a daycare facility.

***Motion by Mac McKinney to approve the Special Exception for 1130 Plant Street to allow for the use of a daycare subject to Staff recommendations (Attached Exhibit "D"). Seconded by James Dunn, the motion carried 5 – 1; Board Member Horsley opposed.***

#### **9. 3554 West Orange Country Club Dr – (The New Academy Inc) SEP Revision**

Senior Planner Laura Smith presented an amendment to the special exception permit granted on July 2, 2012 allowing for a private school in a C-2 zoning district to The New Academy, Inc. located at 3554 West Orange Country Club Drive. The proposed modification is related to the condition that the applicant maintain an agreement with "Genetic Fitness" gym located immediately in front of this building. "Genetic Fitness" is under construction and not open so the applicant has converted two of the units not needed for student space into a recreational physical education area for the students to do the physical education curriculum.

The New Academy is proposing to use this space they converted as a permanent solution for their recreational facilities. The applicant is asking for a modification to change the one condition of their special exception to allow this to be their long term solution to a recreational area for the number of students they are permitted to have right now. In the event that student number increases they would need more space for class rooms and at that time they would have to come up with an alternate long term recreational plan that is more suited for a larger number of students.

Theresa Sungadi, representative for the Applicant made a statement to the Board summarizing the layout and use of the suites and provided photos of the activities and the modifications of the suites converted for recreational use.

*Motion by Eric Weiss to approve the Special Exception revision for 3554 West Orange Country Club Dr – The New Academy, Inc. to modify the criteria of the prior special exception approval to remove the requirement for an agreement for a gym/fitness facility and utilize the space renovated on the premises for a gym/playing area for the use by the school subject to Staff recommendations (Attached Exhibit “E”). Seconded by James Dunn, the motion carried unanimously 6-0.*

#### **VARIANCE(Public Hearing)**

#### **10.227 Charlotte Street – (Knof, Kristoffer J)**

Senior Planner Laura Smith presented a request for variance for a property located at 227 Charlotte Street. The property is zoned R-2 and the applicant is requesting a variance for the front yard setback to reduce the required front yard from 30' to 3'. The variance is being requested after the applicant completed construction of a 171 square foot detached open carport in front of the single family structure that is located on the property. Open carports are not uncommon in this area but the big distinction is that most of those are at least 5' off the front property line. Staff has reviewed the application and would recommend that the Board denies the 3' variance request and Staff would pose an alternative to the applicant to consider relocating this detached carport to bring it back and attach it to the front of the house. The way it sits right now there is a space between the actual house and where the carport starts. The carport is 7' off the front of the structure, the carport structure is 19' and then there is 3' and then the property line. We are proposing the applicant to adjust his request to be a 10' front yard setback and attach it to the front of the structure and go through the proper building permit process to do that and staff would then recommend a 10' front yard setback as a variance as opposed to the 3'.

Owner/Applicant, Kristofer J. Knof, made a statement to the Board asking there consideration of the 3' variance since the structure has already been constructed but would comply with Staff's recommendation to adjust the variance request if the Board so requires it.

The Board had general discussion with staff and legal counsel and agreed with staff's recommendation to have the applicant revise his variance request and move the carport back and affix it to the structure.

*Motion by Mark Maciel to approve the variance request as modified to allow for a 20' front yard setback reduction for the construction of a carport structure on the property at 227 Charlotte Street subject to Staff recommendations (Attached Exhibit "F") and subject to the proper building permits are applied for and the structure passes all building code requirements. Seconded by James Gentry, the motion carried unanimously 6-0.*

**GENERAL STATEMENT:** Community Development Director advised the Board that the applicant on Water Side on Johns Lake informed us that there is a provision in the state law that prohibits outlawing St. Augustine grass in developments and will be providing staff with a copy of it.

**11. ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:28 p.m.

**APPROVED:**

**ATTEST:**

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Chairman James Gentry

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Administrative Specialist Corrina Williams

# EXHIBIT "A"

## CITY OF WINTER GARDEN PLANNING & ZONING DIVISION

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

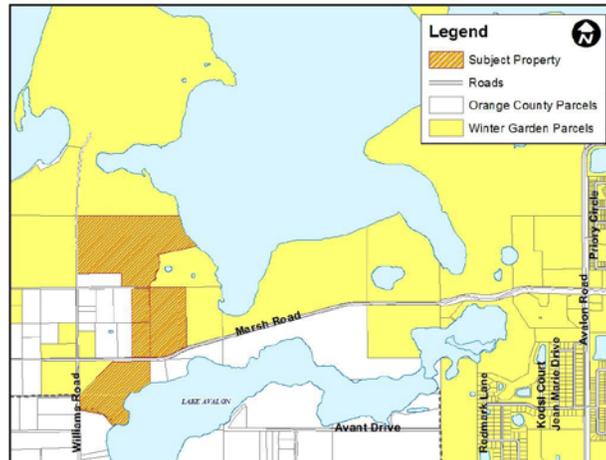
# STAFF REPORT

**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 6, 2012  
**SUBJECT:** REZONING (ORDINANCE 12-44)  
**Marsh Road (105.68+/- ACRES)**  
**Parcel ID# 06-23-27-0000-00-002**      **Parcel ID# 06-23-27-0000-00-004**  
**Parcel ID# 06-23-27-4288-08-211**      **Parcel ID# 06-23-27-4288-08-321**  
**Parcel ID# 06-23-27-4272-00-030**

**APPLICANT:** MAURICE M. BOYD, WARREN HARDIN EDWARDS, III,  
MCKINNON CORPORATION & MCKINNON GROVES, LLLP

### INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Land Development Regulations, Comprehensive Plan, and Future Land Use Map. The subject property, located on Marsh Road east of Williams Road and west of Avalon Road, is approximately 105.68± acres. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



P&Z : PH11-027

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The applicant is requesting to rezone 105.68± 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 portion of the subject property located on the north side of Marsh Road is presently used for Timberland & Orange Groves and does not contain any structures, the portion of the property located south of Marsh Road is vacant unimproved land which is not used for a specific agricultural purpose and does not contain any structures.

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

The properties located to the north consist of a Single Family residence zoned NZ in the City and agricultural land use for Timberland and Orange Groves zoned NZ in the City. The property located to the east is vacant land that consists of one Single-Family Residential home and the remainder of the property is agricultural use (Timberland & Orange Grove), this property was recently rezoned for 172 single-family dwelling units to UVPUD in the City. The properties to the west include a property used for Orange Groves zoned NZ in the City, and several properties zoned A-1 in unincorporated Orange County each containing a single-family residential structure. The property to the south is zoned A-1 in unincorporated Orange County and contains a single-family residential structure.

The surrounding properties to the north, east, and west 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.

The surrounding properties to the south are not within the JPA expansion area, but are located within the Avalon Rural Settlement Area in unincorporated Orange County. As stipulated by the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden, buffering and density limitations must be exercised where properties located within the JPA expansion area adjoin properties that are located in the Avalon rural settlement.

#### **PROPOSED USE**

The applicant proposes to develop the 105.68 ± acre site into an urban village planned unit development (UVPUD) of 296 single family homes and 17 single-family live/work units for a total of 313 dwelling units.

### APPROVAL CRITERIA

In accordance with the City's Comprehensive Plan and Land Development Regulations, a proposed planned unit development and its associated preliminary development plan may be approved only after competent, substantial evidence has been presented which allows the following determinations to be made: (staff conclusions/findings are underlined)

- (1) The proposed PUD is consistent with the land development regulations, comprehensive plan and the future land use map;

The proposed UVPUD is consistent with the land development regulations, comprehensive plan, and the future land use map. See other portions of this report concerning consistency with the land development regulations.

- (2) The proposed PUD will not substantially devalue or prevent reasonable use and enjoyment of the adjacent properties;

The proposed UVPUD project will not deprive or prevent adjacent property owners of any rights or abilities to enjoy or continue existing uses of their property or to develop their property in accordance with the city's land development regulations and comprehensive plan goals, objectives, and policies. Further, in accordance with land development regulations and the comprehensive plan, the proposed UVPUD will provide for adequate buffering against adjoining properties and rights-of-way in the form of either landscaping to create a visual screen and/or perimeter walls/fencing.

- (3) Adequate public infrastructure facilities and water and sewer service to support the development of the proposed PUD are available or an agreement or binding conditions have been established that will provide these facilities, improvements and services in a reasonable time frame;

The proposed UVPUD site has several dirt and/or gravel driveway points of transportation access at this time due to the predominantly agricultural use of the property. However, at such time as 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, four (4) secondary access points will be provided along Williams Road to provide multiple points of entry and exit to the future residents and ensure cross access connections to the adjoining properties located to the west of the proposed development, and a cross connection on the east side of the property will be provided to connect the propose development with the recently approved Waterside on John's Lake UVPUD. All roadway improvements will be constructed at the owner's expense and in compliance with city concurrency standards for transportation, and be supported by a traffic study/analysis of the impact the proposed development will have on the roadway network. Traffic studies/analyses submitted with any proposed development are reviewed for accuracy and consistency with the goals, objectives, and policies of the City's comprehensive plan in addition to the City's vision for future growth and expansion.

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

P&Z : PH12-025

(water, sewer, and reclaimed water) will be extended and connections made to serve the development of the property, all extension and connection costs shall be borne by the property owner. At the present time there is capacity available within the City's water, wastewater and reclaimed water systems to support the proposed development.

Prior to any approvals for preliminary plat or construction plans, a Developer's Agreement detailing the obligations of the developer associated with the proposed UVPUD is required. The Developer's Agreement must address, but is not limited to the following: project phasing, potable water, sewer and reclaimed water utilities extension and oversizing requirements, location of reuse and potable water pumping stations/storage tanks, right-of-way improvements and conveyances, other off-site public infrastructure improvements, lift station, transportation/roadway system, and impact fees.

- (4) The proposed PUD will not allow a type or intensity of development that is premature or presently out of character in relationship to the surrounding area;

The proposed UVPUD project is consistent with the comprehensive plan's goals, objectives and policies for the Urban Village future land use designation and the UVPUD zoning criteria and land development regulations. The proposed UVPUD project features a gross density of 2.96 dwelling units per acre which is substantially lower than the maximum density of 4 dwelling units per acre permitted within the Urban Village future land use designation and in accordance with the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden. Additionally, the gross density of 2.96 dwelling units per acre for the proposed UVPUD project is substantially lower than the 10 dwelling units per acre that the previous Horizons West designation would allow.

The proposed UVPUD is not premature or presently out of character in relationship to the surrounding area. Using the Orange County Public Schools Concurrency Service Areas as an identification of the surrounding area, there are many residential and commercial developments within the surrounding area which have similar or greater density and/or intensity than the proposed UVPUD project. Some of the approved and/or constructed developments within the surrounding area which extends east beyond SR 429 include Waterside on John's Lake, Hickory Hammock, Avalon Reserve, Stoneybrook West, Carriage Pointe, Stone Creek, Belle Meade, Avamar Crossings, Alexander Ridge, and Carriage Ponte Reserve.

Recently the property located immediately to the east of the subject property was approved for rezoning to UVPUD, the project known as Waterside on John's Lake is permitted for up to 172 single family dwelling units and is approximately 75.94 +/- acres. Additionally, numerous properties located to the west of the subject property, totaling over 150 acres are seeking annexation into the City of Winter Garden municipal limits.

- (5) The rezoning will not interfere with an adjacent property owner's reasonable expectation of use or enjoyment; and

With the exception of the properties located south of the subject property in the Avalon Rural Settlement Area and three (3) parcels adjoining the subject property to the west, all other adjoining property owners either participated in the annexation and future land use

designation of Urban Village for their properties in 2007 or purchased their property after it had been annexed into the City of Winter Garden and designated Urban Village on the future land use map of the City's comprehensive plan. In accordance with the City's comprehensive plan, the only zoning permitted within the Urban Village future land use designation is Urban Village Planned Unit Development or Institutional. Further, in accordance with land development regulations and the comprehensive plan, the proposed UVPUD will provide for adequate buffering against adjoining properties and rights-of-way in the form of either landscaping to create a visual screen and/or perimeter walls/fencing.

- (6) There is availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed PUD and the surrounding area, or an agreement or binding conditions have been established that will provide such transportation facilities to support said traffic in a reasonable time frame.

At such time as 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, four (4) secondary access points will be provided along Williams Road to provide multiple points of entry and exit to the future residents and ensure cross access connections to the adjoining properties located to the west of the proposed development, and a cross connection on the east side of the property will be provided to connect the propose development with the recently approved Waterside on John's Lake UVPUD. The main entrance on Marsh Road will be constructed with the first phase of development; cross access points to the north portion of the Property from Williams Road and improvement to Williams Road shown on Exhibit "B" to Ordinance 12-44 will be constructed with the third phase of development. All roadway improvements will be constructed at the owner's expense and in compliance with city concurrency standards for transportation, and be supported by a traffic study/analysis of the impact the proposed development will have on the roadway network. Traffic studies/analyses submitted with any proposed development are reviewed for accuracy and consistency with the goals, objectives, and policies of the City's comprehensive plan in addition to the City's vision for future growth and expansion. The traffic analysis provided with the proposed UVPUD project indicates that the project will not lower the adopted level of service standard on Marsh Road or Williams Road.

Prior to any approvals for preliminary plat or construction plans, a Developer's Agreement is required detailing the obligations of the developer associated with the proposed UVPUD. The Developer's Agreement will address, but is not limited to the following: project phasing, potable water, sewer and reclaimed water utilities extension and oversizing requirements, location of reuse and potable water pumping stations/storage tanks, right-of-way improvements and conveyances, other off-site public infrastructure improvements, lift station, transportation/roadway system, and impact fees.

- (7) The degree of departure or conformity of the proposed PUD with surrounding areas in terms of character and density.

The proposed UVPUD project is consistent with the comprehensive plan's goals, objectives and policies for the Urban Village future land use designation and the UVPUD

zoning criteria and land development regulations. The proposed UVPUD project features a gross density of 2.96 dwelling units per acre which is substantially lower than the maximum density of 4 dwelling units per acre permitted within the Urban Village future land use designation and in accordance with the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden.

The proposed UVPUD is not premature or presently out of character in relationship to the surrounding area. There are many residential and commercial developments within the surrounding area which have similar or greater density and/or intensity than the proposed UVPUD project. Some of the approved and/or constructed developments within the surrounding area which extends east beyond SR 429 include Waterside on John's Lake Hickory Hammock, Avalon Reserve, Stoneybrook West, Carriage Pointe, Stone Creek, Belle Meade, Avamar Crossings, Alexander Ridge, and Carriage Ponte Reserve.

Recently the property located immediately to the east of the subject property was approved for rezoning to UVPUD, the project known as Waterside on John's Lake is permitted for up to 172 single family dwelling units and is approximately 75.94+/- acres. Additionally, numerous properties located to the west of the subject property, totaling over 150 acres are seeking annexation into the City of Winter Garden municipal limits.

- (8) Compatibility of uses and improvements within the PUD and the relationship with surrounding existing or proposed developments.

The proposed UVPUD project integrates several elements that provide for cohesion between existing natural features/resources and the existing and proposed uses surrounding the property. The project includes construction of a 10 foot wide multi-purpose trail extending the length of the property frontage on Marsh Road to enhance pedestrian circulation as identified in the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden. The project includes an open space/recreational park to be located on John's Lake and an open space/walking trail to be located on Lake Avalon which incorporate the natural features/resources of the area into the design and functionality of the project. Cross access connection points are being provided to the approved Waterside on John's Lake UVPUD located to the east of the property and four (4) cross access connection points are being provided on Williams Road to ensure multiple points of entry/exit to the subject property and provide property owners to the west of the subject property vehicular and pedestrian access through the subject property.

- (9) Prevention of erosion and degrading or enhancement of the surrounding areas.

The proposed UVPUD project, which borders John's Lake on the north side and Lake Avalon on the south side of the property, will provide a 25 foot wetland buffer from the Normal High Water Line of John's Lake and Lake Avalon in addition to an open space/tree preservation tract to extend inland from the wetland buffer line. Proposed UVPUD project also provides for a 100 foot buffer from the confining layer of the karst feature located on the property to the west of the subject property, meets the environmental standards of the Wekiva Study Area, and complies with the City's lake

protection Ordinance provisions. No community docks or boat ramps are proposed to be located on Lake Avalon, however a community dock/pier is proposed as part of the community park facility to be located on John's Lake.

- (10) Provision for recreation facilities, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

Recreational facilities are identified within the proposed UVPUD project to include a 10 foot wide multi-purpose trail along Marsh Road, a waterfront community park with pavilions, volleyball court, tot-lot, walking trails, park benches, and boat dock/pier on John's Lake, and an open space/recreation area with walking trail along Lake Avalon which does not include any boat dock/pier or boat ramp facilities. The recreational facilities proposed comply with the Wekiva Study Area Resource Protection Overlay requirements for passive recreation. Requirements for recreation areas stipulated by the City of Winter Garden subdivision standards are proposed to be met to the greatest extent possible, and payment by the developer into the city recreational fund will make up for any shortfall.

Stormwater management for the proposed UVPUD project will be provided in on-site master stormwater management areas to satisfy the City of Winter Garden, St. John's Water Management District and strict requirements of the Wekiva Study Area criteria.

- (11) The nature, intent and compatibility of any common open space, including the proposed method for the maintenance and conservation of the common open space.

The property on which the UVPUD project is proposed to be developed is located within the Wekiva Study Area Resource Protection Overlay as defined by the City's Comprehensive Plan, and therefore must comply with the Wekiva Study Area Open Space requirements as defined by the City's Comprehensive Plan Policies 1-3.1.7 & 1-3.1.8, which requires that a minimum of 25% of the developable area be Wekiva Study Area Open Space. Wekiva Study Area (WSA) Open Space is land area that remains undisturbed or minimally disturbed such as trails and boardwalks, as part of a natural resource preserve or passive recreation area and includes land preserved for Conservation purposes. WSA Open Space may include dry retention, passive recreation, school playgrounds and buffers. Up to 50% of the WSA Open Space requirement may be met with dry stormwater retention areas. None of the 25% WSA Open Space may be chemically treated with pesticides or fertilizers. WSA Open Space shall not include setback areas, private yards, street right of way, parking lots, impervious surfaces or active recreation areas. The proposed UVPUD project complies with the Wekiva Study Area Open Space requirements; the gross developable area of the property is approximately 105 acres, the required Wekiva Study Area Open Space which will be provided on the property is 26.42 acres. All open space and recreational facilities will be owned and maintained by mandatory Home Owner's Association.

- (12) The feasibility and compatibility of the specified stage(s) or phase(s) contained in the preliminary development plan to exist as an independent development.

The proposed UVPUD project is designed to be developed in three phases, the first phase will incorporate the multi-purpose trail along Marsh Road, round-a-bout on Marsh Road,

and utility infrastructure extension to ensure that all facilities intended to support the proposed development are constructed and installed in conjunction with the development of the first phase. Each phase of development of the proposed UVPUD project 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.

- (13) The availability of existing or planned reclaimed water service to support the proposed PUD.

Reclaimed water capacity is available to serve the property on which the UVPUD is proposed to be developed from the City's existing reclaimed water lines which are located near the intersection of Avalon Road and Marsh Road. At such time that the property is developed, all necessary utility lines (water, sewer, and reclaimed water) will be extended and connections made to serve the development of the property, all extension and connection costs shall be borne by the property owner.

- (14) The benefits within the proposed PUD development and to the general public to justify the requested departure from standard land use requirements inherent in a PUD classification.

The proposed UVPUD includes 40 foot and 55 foot wide lot sizes. The 40 foot wide lots will be designed with garages located to the rear of the property to be supported by a network of alleys and residential street, and the 55 foot wide lots will be designed to incorporate a variety of garage orientations including garages that are recessed 5 feet behind the primary façade of the structure and side entry garages in addition to front projecting garages with increased front setbacks. Front porches will be incorporated into the designs of at least 50% of the residential units.

The proposed UVPUD project incorporates the following features which are of benefit to the general public and support the waivers and reductions requested above: construction of 10 foot wide multi-purpose trail along the site frontage on Marsh Road which provides for pedestrian circulation and access on Marsh Road, roadway improvements in the form of a round-a-bout at the main entrance to the proposed project which will slow and calm traffic on Marsh Road which has been a primary concern of the city and property owners adjacent to the subject property, and preservation of the John's Lake and Lake Avalon shoreline areas to enhance natural resources/features. Additionally, the project as proposed provides open space in excess of the standard subdivision requirements, provides protection and substantial buffering from the neighboring karst feature as well as preservation and conservation of the John's Lake and Lake Avalon shorelines.

- (15) The conformity and compatibility of the proposed common open space, residential and/or nonresidential uses within the proposed PUD.

Exclusively nonresidential uses are not proposed within the UVPUD proposal for the project; however the proposal does include 17 single family residential live/work units. The UVPUD proposal includes 296 single family residential dwelling units and 17 single family residential live work units for a total of 313 dwelling units with 26.42 acres of open space area and 6.51 acres of recreation area. The recreation and open space areas are complementary and supportive to the residential component of the proposed UVPUD project. The project is a pedestrian friendly design and provides internal access to the future commercial core.

P&Z : PH12-025

- (16) Architectural characteristics of proposed residential and/or nonresidential development.

A variety of main entrance treatments have been incorporated into the residential units in the proposed UVPUD project including detached garages located to the rear of the property, front porches, side entry/courtyard garages and recessed garage doors. Building elevations are provided within the Waterside on John's Lake Phase 2 Urban Village Planned Unit Development Preliminary Development Plan.

- (17) A listing of the specific types of nonresidential uses to be allowed.

The UVPUD proposal includes 296 single family residential dwelling units and 17 single family residential live work units, the following are the proposed permitted uses for the business component of live/work units: accountants, architects, artists and artisans, attorneys, computer software and multimedia related professionals, consultants, engineers, graphic design, fashion and interior design, hair stylists and cosmetologists, home-based office workers, insurance, real estate, travel agent, one-on-one instructors, photographers, and other business/office uses as are determined by the City Manager of the City of Winter Garden to be similar with the foregoing list of permitted uses and compatible with surrounding uses.

The business component of the live/work units may not generate vehicular traffic, in excess of normal residential traffic, that will interfere with residential traffic circulation and may not cause more than three vehicles including vehicles used by customers, vendors, and/or delivery services to visit the premises per day. Additionally, all advertising for the business component of the live/work units must clearly state "by appointment only" if the live/work address is used.

Additionally, the following are the proposed prohibited uses for the business component of live/work units: retail sale of food and/or beverages with customers arriving on-site (this does not include internet sales, mail order or off-site catering preparation); entertainment, drinking and public eating establishments; veterinary services including grooming, boarding and/or the breeding or care of animals for hire and/or for sale; any business which involves the use of prescription drugs; adult-oriented businesses, astrology, palmistry, massage, head shops and similar uses; sales, repair and/or maintenance of vehicles including automobiles, boats, motorcycles, aircraft, trucks and/or recreational vehicles; private and/or trade schools.

#### **URBAN VILLAGE PLANNED UNIT DEVELOPMENT INTENT AND REQUIREMENTS**

Development within the urban village future land use classification shall be designed based on an urban development pattern which encourages the formation of a suburban village. The standards and procedures of the urban village planned unit development are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while retaining in the city commission the absolute authority to establish such limitations and regulations as it deems necessary to protect and promote the public health, safety and general welfare. Determining whether to require a mixture of residential and non-residential uses and a variety of housing types and lot sizes within individual urban village planned unit developments will be based on anticipated development patterns and size of property ownerships. Each individual urban village planned unit development will not be required to incorporate all uses permitted in the urban village planned unit development land use regulations.

P&Z : PH12-025

Through the urban village planned unit development process, which may involve the approval of multiple UVPUDs, all development within the urban village future land use classification shall follow the general design principles of: (staff conclusions/findings are underlined)

- (1) creating a series of walkable residential neighborhoods;

Proposed UVPUD includes cross access connection to the properties located to the east and west of the subject property for vehicular and pedestrian access, additionally the proposed UVPUD features a multi-purpose trail along the property frontage on Marsh Road.

- (2) developing an integrated park and trail system to facilitate pedestrian travel and recreation;

Proposed UVPUD includes a waterside community park on John's Lake and a waterside open space/passive recreation area on Lake Avalon accessible through sidewalks and roadways which connect to properties located to the east and the west and the multi-purpose trail located along the property frontage on Marsh Road.

- (3) developing a comprehensive network of roads and traffic calming solutions to complement and support the existing Marsh Road infrastructure;

Proposed UVPUD provides for cross access connection to properties located to the east and west of the subject property and includes construction of a round-a-bout on Marsh Road at the main entrance.

- (4) establishing connectivity to natural systems while preserving wetlands and other natural resources and protecting water quality and quantity;

Proposed UVPUD incorporates shoreline preservation and wetland buffering along John's Lake and Lake Avalon to preserve and protect water quality in both John's Lake and Lake Avalon.

- (5) creating a mixed-use character through the integration of a diversity of uses;

Exclusively nonresidential uses are not proposed within the UVPUD proposal for the project; however the proposal does include 17 single family residential live/work units. The UVPUD proposal includes 296 single family residential dwelling units and 17 single family residential live work units for a total of 313 dwelling units.

- (6) creating a focus center within the urban village

N/A; the proposed UVPUD will be part of the residential community surrounding a future commercial village center which will be located west of the subject property. A certain level of residential development must occur to support the commercial development.

- (7) The urban village planned unit development shall provide a compact integrated development pattern with a park or central feature located within a ¼ mile walking distance of the majority of residences in each neighborhood.

The proposed UVPUD includes two (2) waterfront community open space/recreation areas, one located on John's Lake which is centrally located within the northern portion of the UVPUD site and another located on Lake Avalon which is centrally located within the southern portion of the UVPUD site.

- (8) To ensure adequate housing diversity, urban village planned unit development should generally contain a variety of housing types which may include both attached and detached housing product with ownership and rental opportunities, as well as live/work housing.

The UVPUD proposal for the project includes 17 single family residential live/work units; the proposal also includes 296 single family residential dwelling units and 17 single family residential live work units for a total of 313 dwelling units. The proposed UVPUD includes 40 foot and 55 foot wide lot sizes. The 40 foot wide lots will be designed with garages located to the rear of the property to be supported by a network of alleys and residential streets. The proposed 40 foot wide lots with detached garages will range in size from 1,300 - 2,000 square foot home sizes and will have the option to construct "granny flats" above the detached garages. The 55 foot wide lots will range in size from 1,800 – 3,000 square foot home sizes and be designed to incorporate a variety of garage orientations including garages that are recessed 5 feet behind the primary façade of the structure and side entry garages in addition to front projecting garages with increased front setbacks. Front porches will be incorporated into the designs of at least 50% of the residential units.

- (9) The street network shall be designed to create a hierarchy of interconnected streets and traffic calming solutions to allow travel through and between neighborhoods and beyond the urban village planned unit development. Roadway cross sections shall be designed to accommodate multiple modes of transportation.

The proposed UVPUD will provide cross access connections to properties located to the east and west, a round-a-bout at the main entrance on Marsh Road.

- (10) Emphasis shall be placed on pedestrian and bike paths and shall be incorporated in street cross sections and open spaces.

The proposed UVPUD includes a multi-purpose trail along Marsh Road and a fully integrated network of sidewalks which will connect and provide cross access between properties located to the east and west.

- (11) All development proposals within an urban village planned unit development shall, as determined by the city commission, be consistent with the requirements and/or guidelines 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) as approved by the city commission, as such may be amended from time to time.

The proposed UVPUD is consistent with the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden.  
\*See attached Avalon Rural Settlement Buffer Map.

- (12) All development within the urban village planned unit development shall comply with the Wekiva Parkway and Protection Act, and shall meet or exceed the standards of the Resource Protection Overlay as established by the City's Comprehensive Plan. In the event of a conflict or conflicts between the Urban Village Planned Unit Development zoning district and the Resource Protection Overlay, the Resource Protection Overlay shall control to the extent such conflict exists.

The proposed UVPUD complies with the Wekiva Study Area Resource Protection Overlay requirements as stipulated in the City's Comprehensive Plan. The proposed UVPUD meets the Wekiva Open Space requirements, stricter Wekiva drainage requirements and karst feature setbacks and buffering.

- (13) Maximum density in the urban village planned unit development for any neighborhood shall be four dwelling units per gross acre except in the village center where the density may be up to 12 dwelling units per gross acre. However, certain neighborhoods may use residential clustering while maintaining the overall maximum density for the neighborhood. Maximum intensity for non residential development is 0.3 floor area ratio.

The proposed UVPUD development plan will have a gross developable density of 2.96 dwelling units per acre.

- (14) Stormwater facilities within the urban village residential planned unit development shall generally be designed as amenities and low impact design (LID) techniques will be used where practical.

The proposed UVPUD incorporates stormwater facilities and ponds into the design of the community through placement of the facilities where they function as both visual features and buffers, while also meeting the stricter Wekiva Study Area requirements.

- (15) New development shall connect to City utilities, potable water, sanitary sewer, and reclaimed water when available.

The proposed UVPUD will extend lines for and make connection to city utilities, water, wastewater, and reclaimed water at the developer's expense.

- (16) Residential and nonresidential uses are allowed in the village center and may occupy the same building where nonresidential occupies the first floor with residential on the upper floors.

N/A; the proposed UVPUD is not located in the area that will be developed as the village, however does include 17 single family residential live/work units for a total of 313 dwelling units.

- (17) Accessory dwelling units, not to exceed 850 square feet, above garages shall be allowed for a maximum of 50% of the residential units in the urban village planned unit development. These additional accessory units shall not be counted towards the density.

The proposed UVPUD allows for "granny flats" which will be permitted in compliance with the requirements stipulated within the UVPUD zoning district.

Consistent with the goal of ensuring the entirety of lands designated with the urban village future land use designation develop in such a way as to meet the goals and policies of the comprehensive plan, the city commission shall have the flexibility in deciding whether to require a mixture of residential and non-residential uses and a variety of housing types and lot sizes within individual urban village planned unit developments based on anticipated development patterns.

The urban village planned unit development shall be located in the urban village future land use designation as defined in the city's comprehensive plan, or in such other areas as determined by city commission.

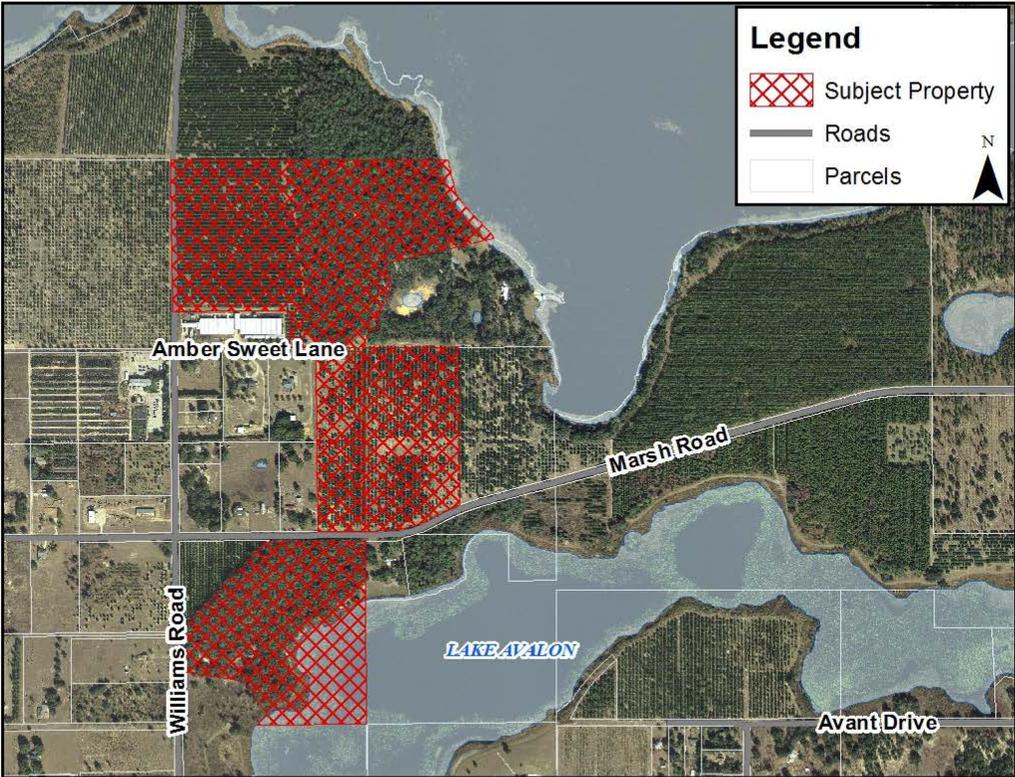
**SUMMARY**

City Staff recommend approval of the proposed Ordinance 12-44. Rezoning the subject property from City NZ to City UVPUD is consistent with the City's Comprehensive Plan, Future Land Use Map and land development regulations, and is consistent with the trend of development in the area.

The proposed development of the subject property is consistent with the stipulations and guidelines of 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.

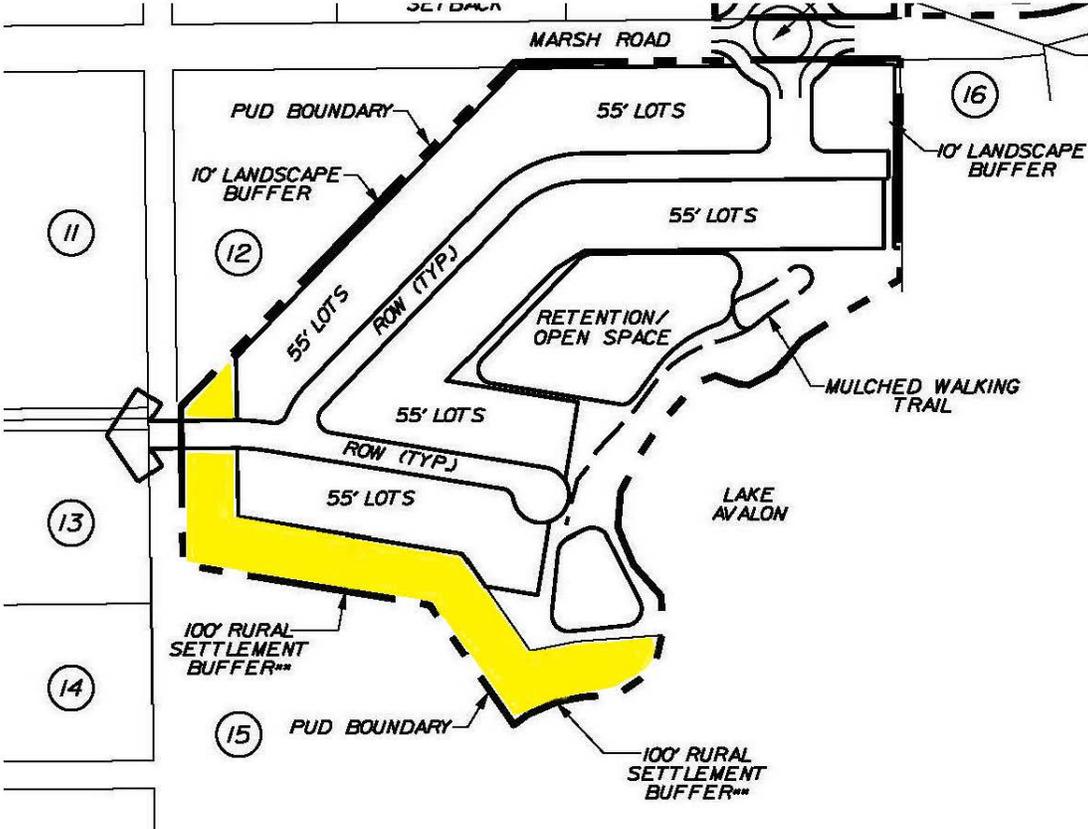
MAPS

**AERIAL PHOTO**  
**Marsh Road**



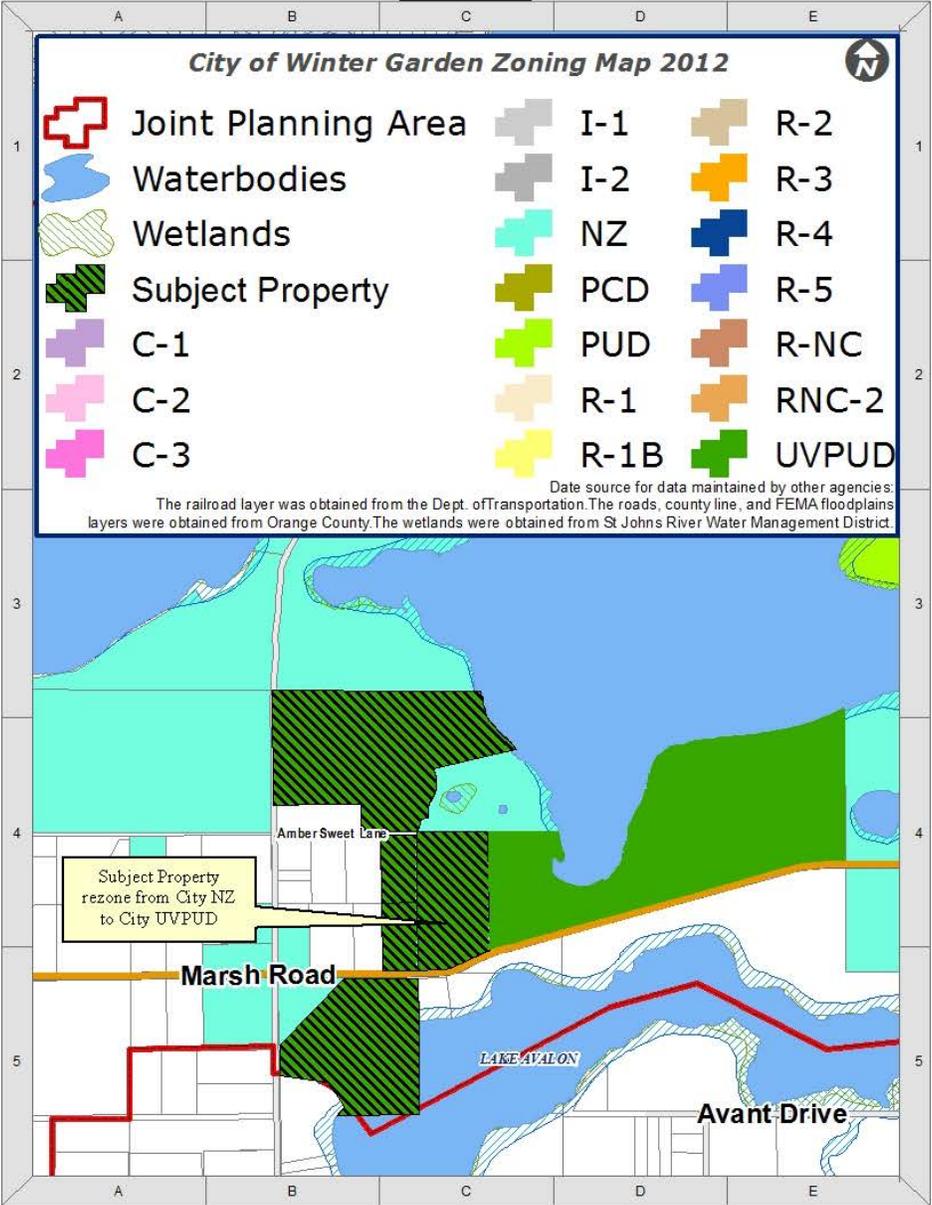
P&Z : PH12-025

**AVALON RURAL SETTLEMENT BUFFER MAP**



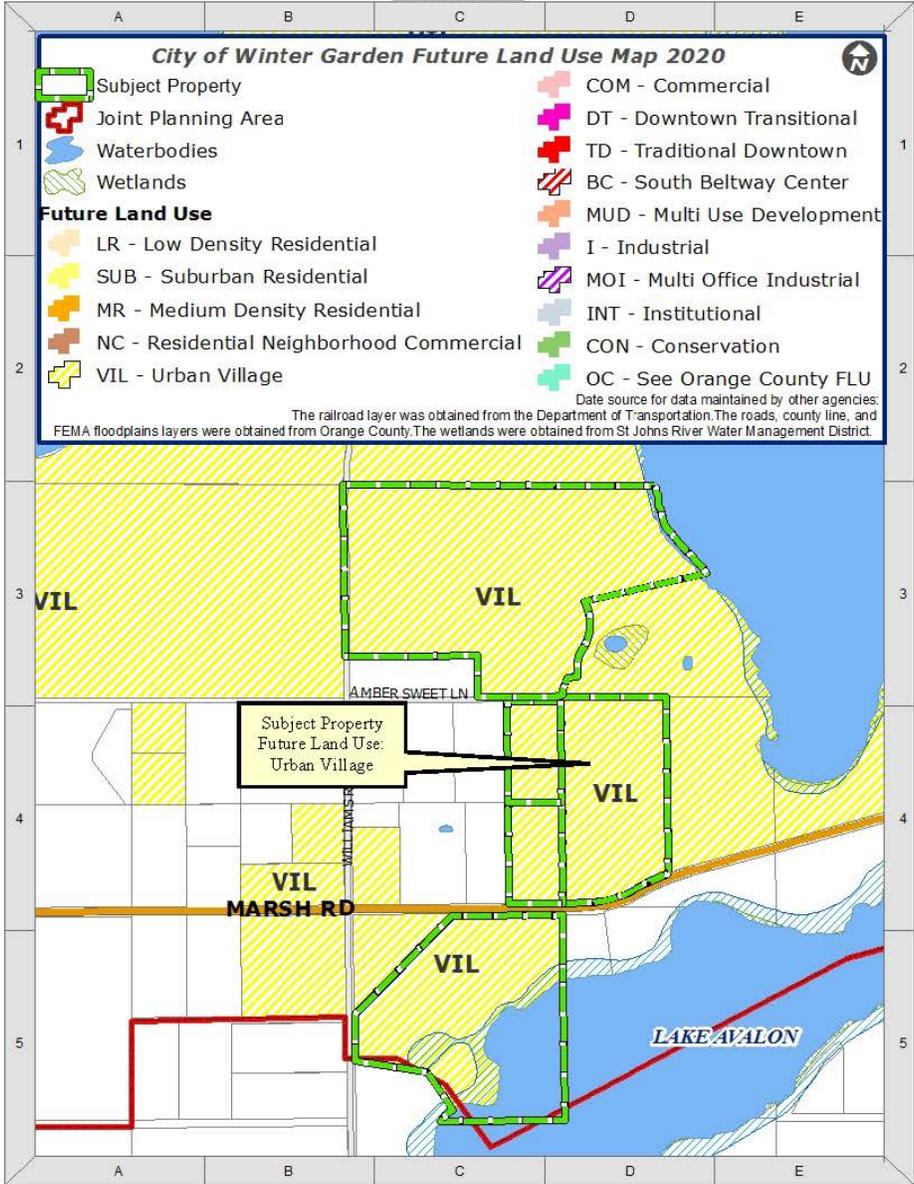
P&Z : PH12-025

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



P&Z : PH12-025

FUTURE LAND USE MAP  
Marsh Road



P&Z : PH12-025

## EXHIBIT “B”

### CITY OF WINTER GARDEN PLANNING & ZONING DIVISION

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

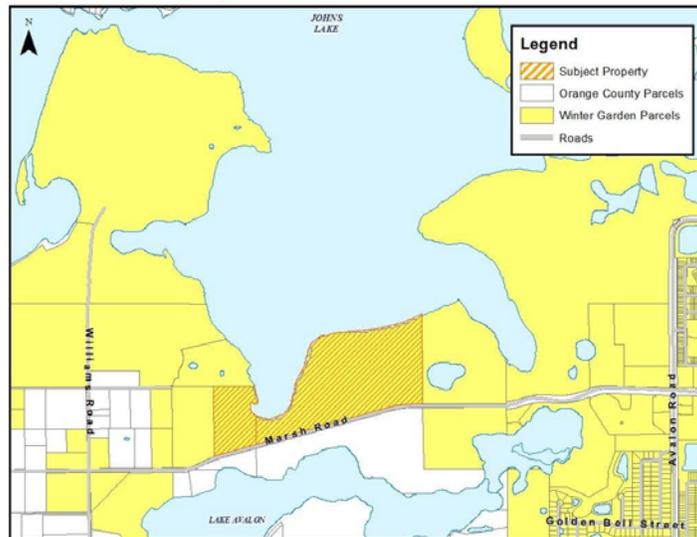
# STAFF REPORT

**TO:** PLANNING AND ZONING COMMITTEE  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 6, 2012  
**SUBJECT:** PRELIMINARY PLAT  
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 Land Development Regulations, Comprehensive Plan, and Future Land Use Map. 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:



P&Z: PH11-053

**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 is requesting preliminary plat approval to move forward with development plans and the final plat. The preliminary plat will subdivide Waterside on John's Lake, a 75.94 ± acre UVPUD into 160 lots, a community park, and common open space with buffers along the south, west and east sides of the property.

**SUMMARY**

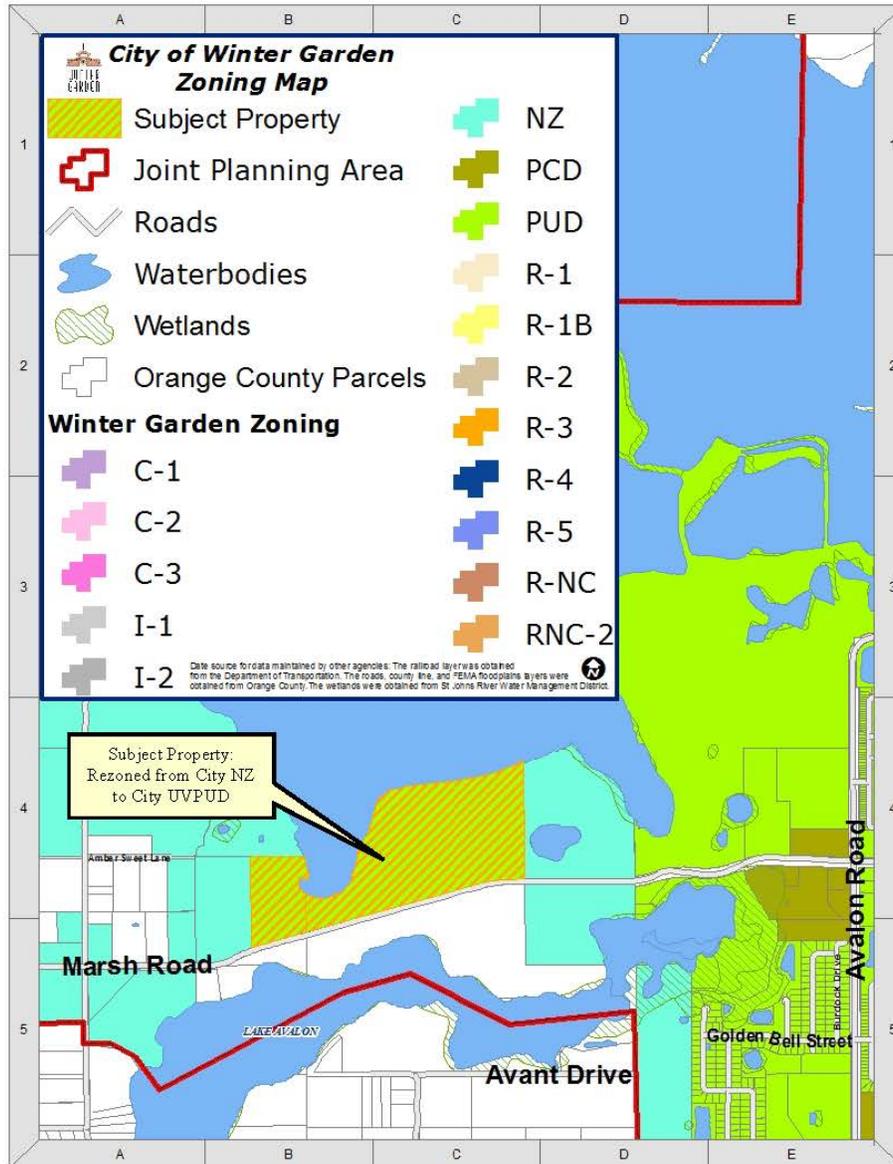
City Staff recommends conditional approval of the proposed Preliminary Plat. Conditional approval of the Preliminary Plat will allow the owner to proceed with development plans as well as the final plat. Conditional approval of the proposed Preliminary Plat is subject to conditions of all prior development approvals including UVPUD Rezoning Ordinance 12-29 and Waterside on John's Lake Developer's Agreement approved by City Commission on August 23, 2012.

MAPS

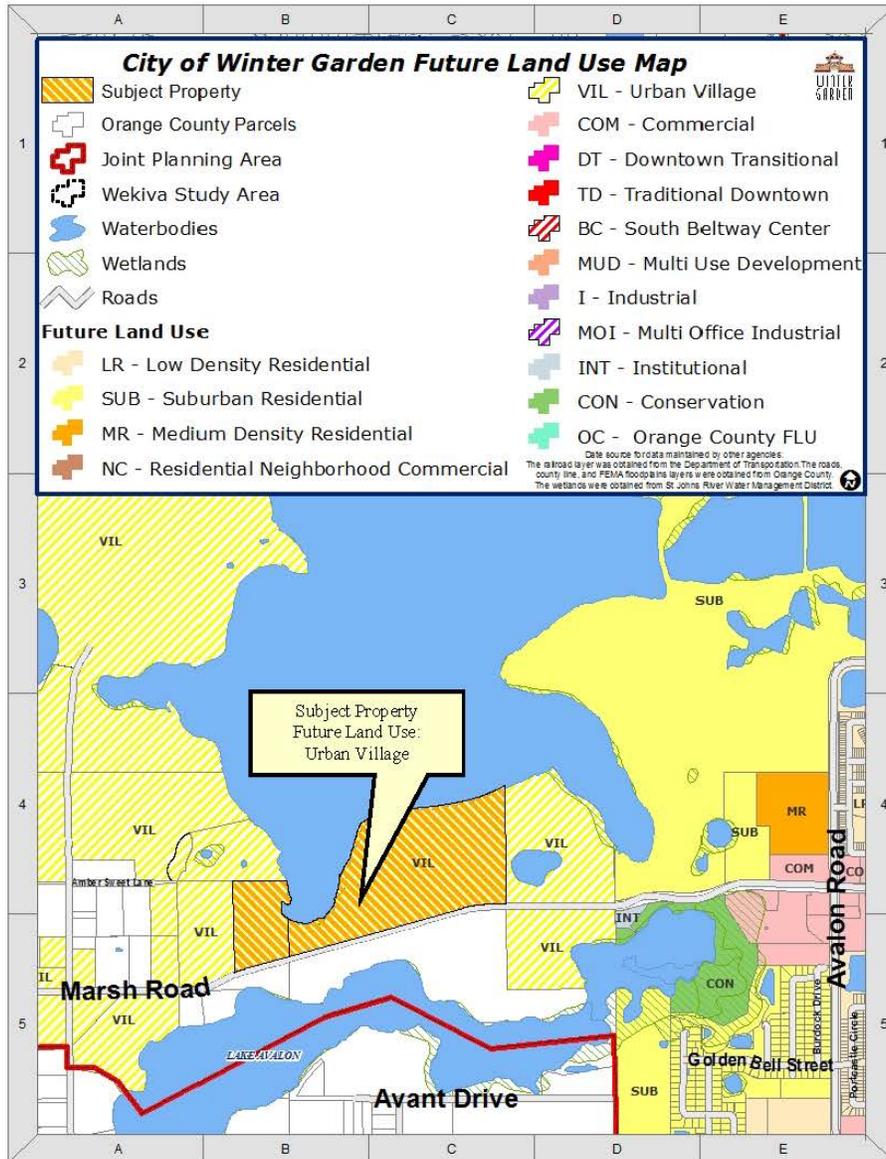
AERIAL PHOTO  
Waterside on John's Lake



**ZONING MAP**  
**Waterside on John's Lake**



**FUTURE LAND USE MAP**  
**Waterside on John's Lake**



# EXHIBIT "C"

## 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 BOARD  
PREPARED BY: LAURA SMITH, SENIOR PLANNER  
DATE: SEPTEMBER 6, 2012  
SUBJECT: SPECIAL EXCEPTION PERMIT  
**482 Charlotte Street (Tewari, Sunildatt)**  
PARCEL ID # 23-22-27-2300-02-020

APPLICANT: Sunildatt Tewari

### 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 is generally located at 482 Charlotte Street. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting a Special Exception to allow for the subject property to be used for a child day care center for up to 5 children. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation R-2. The subject property is designated Low Density Residential on the Future Land Use Map of the Comprehensive Plan.

**EXISTING USE**

The property contains one 1,649 square foot residential structure on a 14,196 square foot lot.

**ADJACENT LAND USE AND ZONING**

Properties located to the north, south and west of the subject property are single family residential homes on single lots zoned R-2 in the City of Winter Garden; properties located to the west are single family residential homes on single lots zoned R-2 in unincorporated Orange County.

**PROPOSED USE**

The applicant proposes to open a child day care center for up to 5 children in the 1,649 square foot residential structure located at 482 Charlotte Street, construct 4 parking spaces (including 1 handicapped space) in front of the residential structure and construct a playground in the rear yard of the property. The proposed child day care center would have 1 employee and operate two day care sessions per day with 5 children enrolled in each session.

**SUMMARY**

City Staff recommends approval of the proposed use subject to the following conditions.

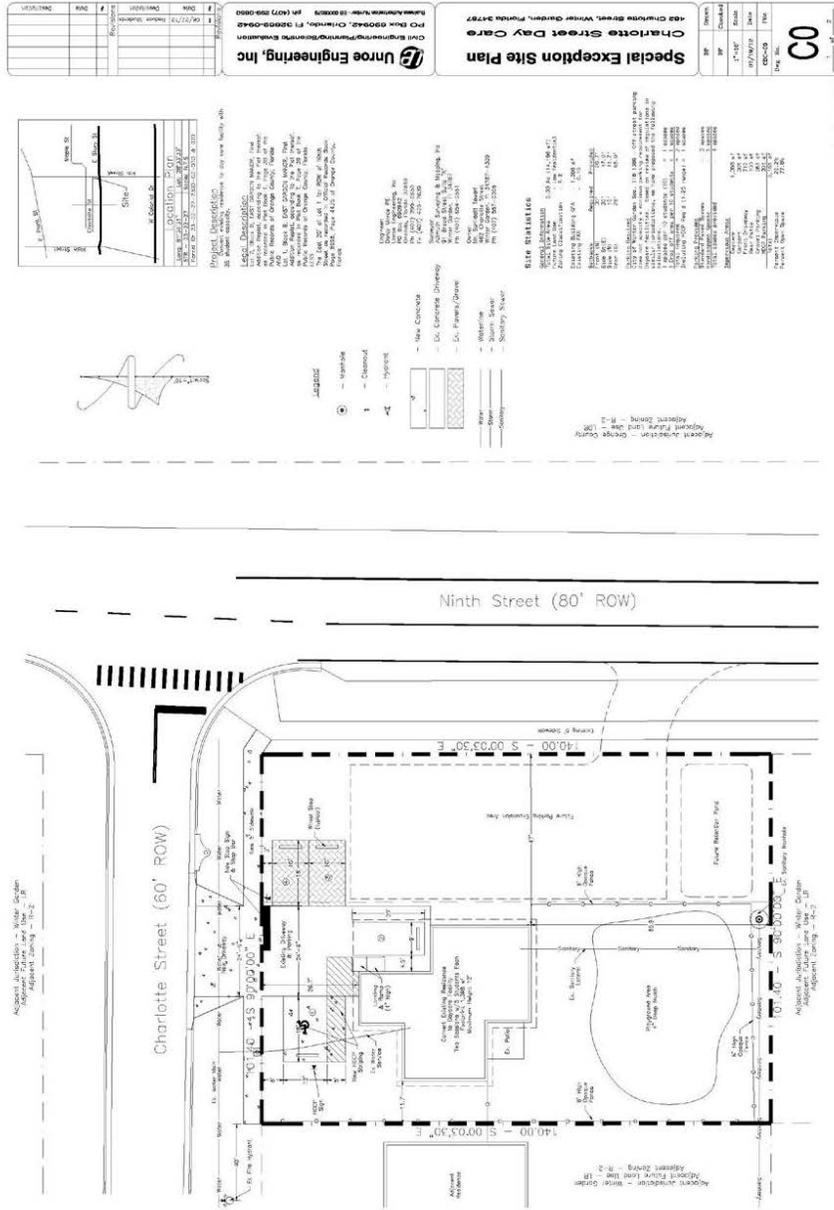
- The child day care center shall be limited to a maximum enrollment capacity of 10 children with a maximum occupancy of no more than 5 children at any one time, expansion of the facility and/or enrollment of more than 10 children will require additional review and amendment to the special exception permit.
- Future access point depicted on site plan to be located on 9<sup>th</sup> Street is not an option for the property and is not supported as an access point to this property.
- The playground facility to be located in the rear yard of the subject property must be constructed and complete, including all landscaping and fencing, prior to the child day care center opening for business.
- A small scale site plan for the parking area must be submitted for Development Review Committee approval prior to any site work beginning. The parking area must be properly permitted and completed prior to the child day care center opening for business.
- A UL listed Fire Alarm System to include monitoring is required to be installed prior to the day care center opening for business.
- All necessary permits must be obtained prior to beginning any construction on or alterations to the site and/or facility.

MAPS/EXHIBITS

**AERIAL PHOTO**  
**482 Charlotte Street**



Site Plan



**Letter of opposition from neighbor**

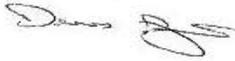
Dennis Aplin  
450 Charlotte St.  
Winter Garden, FL 34787

I **oppose** the rezoning of 482 Charlotte St. Winter Garden, FL for a Day Car Center

Reasons

Don't want a presedent set for future business's  
9th St is already a cut thru for traffic from Plant St. to Hwy 50.  
Issues with parking already on street due to neighbors with excessive friends.  
Neighbors that have excessive Garage sales. This causes an issue with cars parked on both  
sides of the street.

Thank you



**END OF STAFF REPORT**

## EXHIBIT "D"

### CITY OF WINTER GARDEN PLANNING & ZONING DIVISION

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

# STAFF REPORT

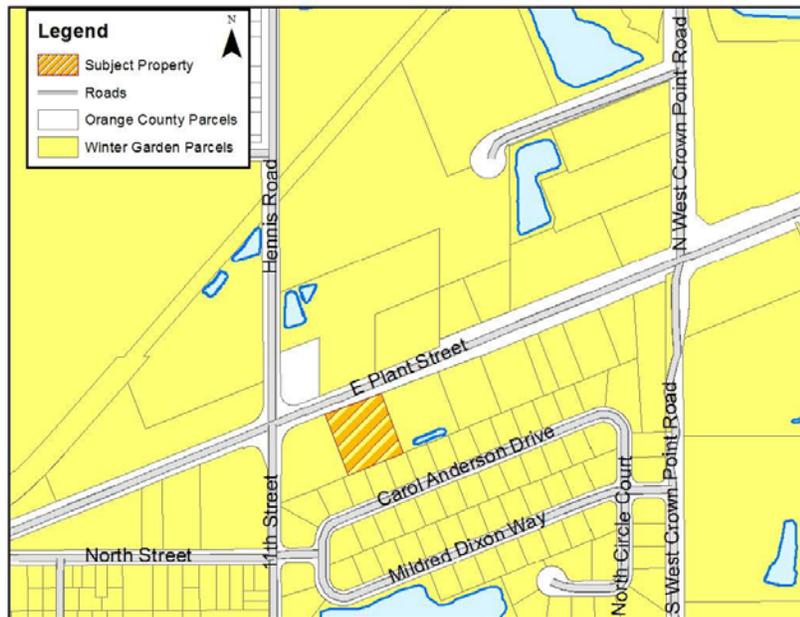
TO: PLANNING AND ZONING BOARD  
PREPARED BY: LAURA SMITH, SENIOR PLANNER  
DATE: SEPTEMBER 6, 2012  
SUBJECT: SPECIAL EXCEPTION PERMIT  
1130 East Plant Street (Gil, Inc.)  
PARCEL ID # 13-22-27-0000-00-036

APPLICANT: Gil, Inc & George Laman

#### 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 is generally located 1130 East Plant Street. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting a Special Exception to allow for the subject property to be used for a child day care center for up to 40 children. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation C-2. The subject property is designated Commercial on the Future Land Use Map of the Comprehensive Plan.

**EXISTING USE**

The property consists of one 10,305 square foot commercial building which is divided into 5 tenant spaces and contains 31 parking spaces.

**ADJACENT LAND USE AND ZONING**

The property located to the north of the subject property is an industrial site occupied by Cemex Construction Materials zoned I-2 within the City of Winter Garden. The property located to the east of the subject property is another commercial property that is under the same ownership as the subject property and developed similarly to the subject property zoned C-2 within the City of Winter Garden. The property located to the west of the subject property is a vacant unimproved property, under the same ownership as the subject property zoned C-2 within the City of Winter Garden. The properties located to the south are three residential properties containing single family residential dwellings in the neighborhood know as Horizon Oaks zoned R-2 in the City of Winter Garden.

**PROPOSED USE**

The applicant proposes to open a child day care center for up to 40 children in a 2,361 square foot unit of the existing commercial building located at 1130 East Plant Street and construct a playground on a portion of the vacant commercial property located on the west side of the building. The proposed child day care center would enroll children ages infant to 5 years old.

**SUMMARY**

City Staff recommends approval of the proposed use subject to the following conditions.

- The child day care center shall be limited to a maximum enrollment capacity of 40 children, expansion of the facility and/or enrollment of more than 40 children will require additional review and amendment to the special exception permit.
- The playground facility to be constructed on a portion of the vacant commercial property located on the west side of the building must be constructed and complete, including all landscaping, prior to the child day care center opening for business.
- All necessary permits must be obtained prior to beginning any construction on or alterations to the site and/or facility.

MAPS/EXHIBITS

**AERIAL PHOTO**  
**1130 East Plant Street**



**END OF STAFF REPORT**

# EXHIBIT “E”

## CITY OF WINTER GARDEN PLANNING & ZONING DIVISION

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

# STAFF REPORT

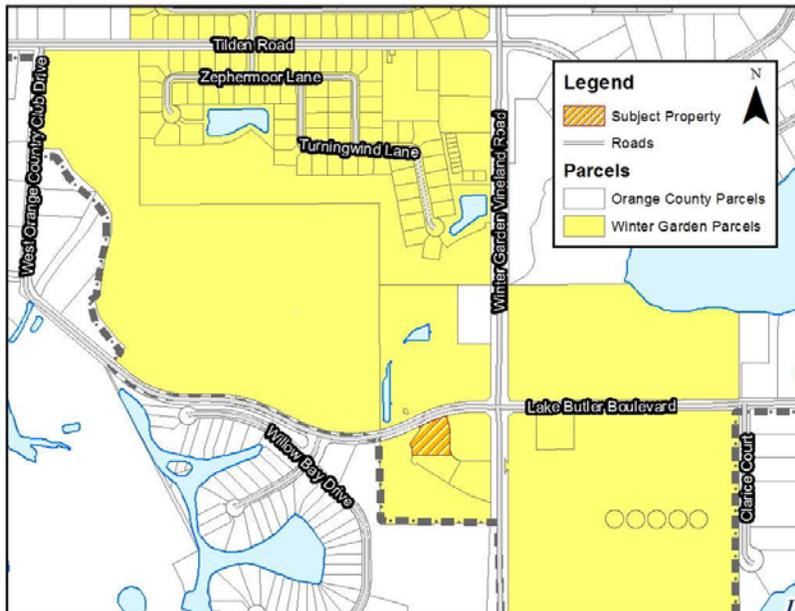
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 6, 2012  
**SUBJECT:** SPECIAL EXCEPTION PERMIT MODIFICATION  
**3554 West Orange Country Club Drive (The New Academy, Inc.)**  
**Woodbridge Commerce Center**  
**PARCEL ID# 11-23-27-3447-00-010**

**APPLICANT:** The New Academy, Inc.

### 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 is located at 3554 West Orange Country Club Drive. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting a modification to the Special Exception which was approved by the Planning and Zoning Board on July 2, 2012 allowing for the subject property to be used for a private school for enrollment of up to 20 students. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation C-2. The subject property is designated Commercial on the Future Land Use Map of the Comprehensive Plan.

**EXISTING USE**

The property consists of one 10,320 square foot two-story commercial building which is divided into 10 tenant spaces. The New Academy occupies 3 tenant spaces on the first floor for classroom and administrative areas and occupies 2 tenant spaces on the first floor for recreation/physical education. The remaining 5 tenant spaces located on the second floor are all currently vacant. The property contains 29 parking spaces (including 2 handicap spaces).

**ADJACENT LAND USE AND ZONING**

The properties located north, south and east of the subject property are commercial buildings zoned C-2 in the City of Winter Garden. The property located to the west of the subject property is a 4.27+/- acre wetland zoned C-2 in the City of Winter Garden.

**PROPOSED USE**

The applicant proposes to modify the Special Exception permit approved by the Planning and Zoning Board on July 2, 2012 which allowed for the property to be used for a private school (Kindergarten – 9<sup>th</sup> Grade) with enrollment of up to 20 students and 4 employees to occupy the 5 units located on the first floor (approximately 5,160 square feet) of the existing commercial building located at 3554 West Orange Country Club Drive. The modification requested is related to the recreation/physical education stipulations of the Special Exception permit which required that the applicant maintain their agreement with Genetic Fitness of Winter Garden (approved to open in the building located directly east of the subject property at 4110 Winter Garden Vineland Road) to provide physical education and recess activities at their gym facility due to the limited space available on the property located at 3554 West Orange County Club Drive to construct a playground or other outdoor recreation area. Further, the Special Exception permit stated that the applicant was required to provide a plan for a recreation area at such time as the previously mentioned agreement expires or provide a revised agreement for use beyond the date of expiration of the agreement.

The applicant has converted 2 of the tenant spaces located on the first floor of their commercial building to accommodate their recreation/physical education needs as the renovations of the Genetic Fitness of Winter Garden facility are currently underway but an exact date of completion is uncertain. The applicant requests that the Planning and Zoning Board modify the Special Exception Permit granted to the New Academy to allow for them to continue to use the 2 tenant spaces converted to accommodate their recreation/physical education curriculum as a permanent solution in lieu of the agreement with Genetic Fitness of Winter Garden.

**SUMMARY**

City Staff recommends approval of the proposed modification of the Special Exception permit subject to all conditions stipulated in the Special Exception permit granted by the Planning and Zoning Board on July 2, 2012 remain in full effect and shall continue to regulate the operation of a private school on the property located at 3554 West Orange Country Club Drive with the

following modification to the 3<sup>rd</sup> condition:

- The size of the property and constraints of the surrounding areas greatly limit the possibility for construction of a playground or other recreation area. The applicant has renovated 2 of the tenant spaces (approximately 2,000 square feet) located on the first floor of the commercial building located at 3554 West Orange Country Club Drive to accommodate their need for recreation/physical education facilities. The applicant has fulfilled their obligation to provide a recreation plan to support the private school at its present enrollment limitation of 20 students. Should the applicant exercise their option to request amendment to the Special Exception permit to expand the private school and increase the total maximum enrollment after the agreed upon 2 year waiting period, then they will be required to provide a recreation plan which will be reviewed with their application for amendment to the Special Exception permit. Staff reserves the right to conduct site visits and facility inspections to ensure that the private school continues to operate within the constraints of the Special Exception permit as granted by the Planning and Zoning Board.

#### MAPS/EXHIBITS

##### **AERIAL PHOTO 3554 West Orange Country Club Drive**









**END OF STAFF REPORT**

## EXHIBIT “F”

# CITY OF WINTER GARDEN PLANNING & ZONING DIVISION

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

# STAFF REPORT

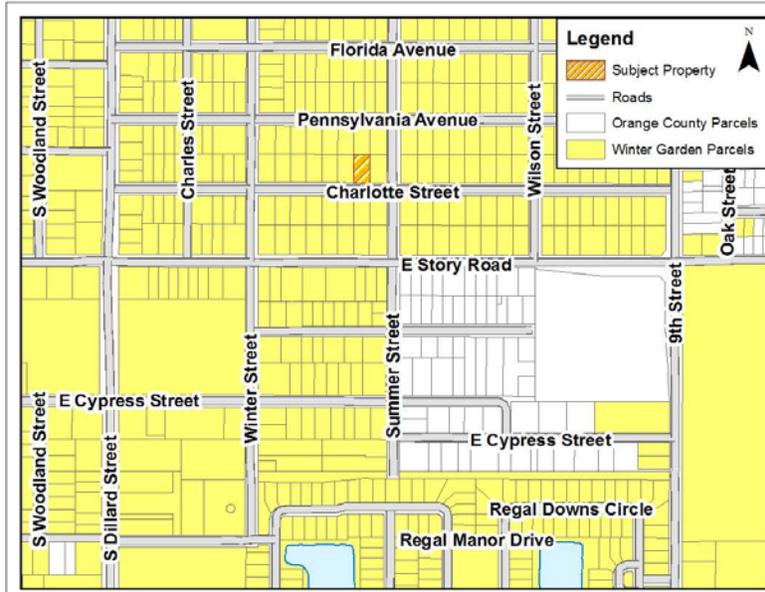
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 7, 2012  
**SUBJECT:** VARIANCE  
227 Charlotte Street (0.23+/- ACRES)  
PARCEL ID # 23-22-27-2299-01-100

**APPLICANT:** Kristoffer J. Knof

### INTRODUCTION

The purpose of this report is to evaluate the request for a front yard setback variance for property located at 227 Charlotte Street in Winter Garden, Florida. The request is for a 3 foot front setback in lieu of the required 30 foot front yard setback. If approved, this variance will allow a 171 square foot (19' x 9') detached open carport in front of the principal structure to remain.

The subject property, located on Charlotte Street is approximately a 0.23± acre lot near the intersection of Charlotte Street and Summer Street. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



P&Z : PH12-049

The applicant is requesting a front yard setback of 3 feet in lieu of the required front yard setback of 30 feet. The subject property carries the zoning designation R-2 (Single-Family Residential District) and is designated LR (Low Density Residential) on the Future Land Use Map of the City's Comprehensive Plan.

#### **EXISTING USE**

The subject property presently consists of a 1,376 square foot single-family residential home with a 300 square foot detached metal roof patio to the rear of the structure.

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

The adjacent properties to the north, south, east and west of the subject property are single-family residential homes. The adjacent properties have the zoning designation R-2 (Single-Family Residential District) and the future land use designation of LR (Low Density Residential).

#### **PROPOSED USE**

The applicant was found to be constructing an 8 foot tall, 171 square foot (19 x 9) detached open carport in front of the residential structure without permits. The structure is nearly complete; however no building permits have been issued due to the structure being non-compliant with front setback requirements.

#### **CODE REFERENCE**

**Sec. 118-398 (1) a** of the City Code of Ordinances addresses minimum yard requirements. This section states in part that the minimum yard requirements in the R-2 Single-Family Residential District are "*front: 30 feet, side: 10 feet each, rear: 20% of depth of lot.*"

The applicant is seeking a variance to the minimum front yard requirements for the detached open carport to remain in front of the existing single family residence. The application for variance does not include any removal of trees on the property or addition of any new impervious surfaces.

#### **CODE REQUIREMENTS /CRITERIA**

##### **Code Requirements/Criteria:**

Section 118-131 of the City Code that relates to the review criteria states that, "A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue." The code also lists the following criteria that are to be addressed before a variance can be approved. Underlined text is Staff's comments concerning this particular petition.

(a) *Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;*

The 171 square foot detached open carport located within 3 feet of the front property line

P&Z : PH12-049

should not negatively impact or interfere with the reasonable enjoyment of adjacent or nearby property owners as the carport does not interfere with line of sight and it does not encroach into side yard setback requirements. Additionally, there were no comments received from any of the surrounding property owners regarding the requested variance.

- (b) *The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;*

The requested variance allowing a 3 foot front yard setback in lieu of the required 30 foot is not reasonable use of the property. The request is out of character with other structures located in the surrounding area and other residential structures in the R-2 single-family residential zoning district. Specifically, though there are several open carports constructed in the surrounding area that do not comply with front yard setback requirements they have all been constructed attached to the principal structure and none are located closer than 5 feet from the front property line.

- (c) *In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;*

Strict compliance with the City's land development regulations will not further any legitimate City objective. This request does not encroach into any recorded easement and does not add any new impervious surfaces to the property.

- (d) *The granting of the variance is consistent with the city's comprehensive plan; and*

The variance is consistent with the provisions of the City's Comprehensive Plan relating to single family residential neighborhood character.

- (e) *The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.*

The variance requested is not the minimum variance that will make reasonable use of the land, as the property owner constructed the carport detached from the principal structure with a 7 foot separation from the front of the principal structure. Had the applicant attached the carport to the principal structure then the carport would be setback 10 feet from the front property line instead of 3 feet from the front property line. Denying this variance does not benefit the property owner or the City.

#### **SUMMARY**

City Staff recommends denial of a variance to Sections 118-398(1)a to allow a 3 foot front yard setback in lieu of the required 30 foot front yard setback for the property to allow for the 171 square foot (19 x 9) detached open carport to remain.

However, staff recommends approval of a variance to Sections 118-398(1)a to allow a 10 foot front yard setback in lieu of the required 30 foot front yard setback for the property to allow for the construction of a 171 square foot (19 x 9) attached open carport. This can be achieved by the applicant relocating the detached open carport and attaching the carport to the front of the primary structure.

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**NEXT STEP**

If applicant chooses not to relocate the existing detached open carport to be attached to the primary structure, then the carport must be removed from the property.

If the applicant accepts staff's recommendation to relocate the carport and attach the carport to the front of the primary structure then the next step is to apply for appropriate Building Permits.

**ATTACHMENTS**

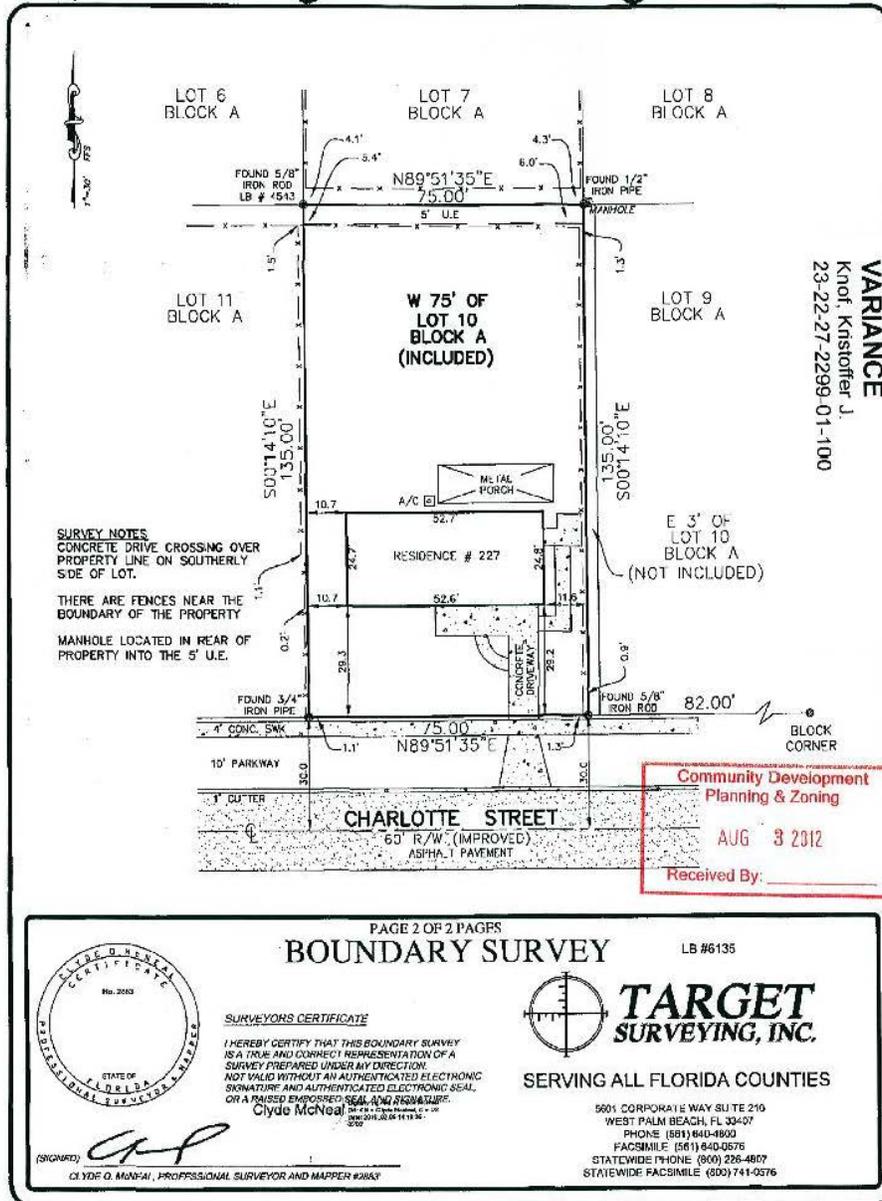
- Aerial Photos
- Survey
- Site Photos

**AERIAL PHOTO**  
**227 Charlotte Street**



P&Z : PH12-049

**SURVEY**  
**227 Charlottes Street**



P&Z : PH12-049



**Site Photos**  
**227 Charlotte Street**



P&Z : PH12-049



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**END OF STAFF REPORT**

P&Z : PH12-049