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**PLANNING & ZONING BOARD AGENDA**

To: James Gentry – Chairman  
Jimmy Dunn - Vice Chairman  
Kent Horsley  
Mark Maciel  
Mac McKinney  
Rohan Ramlackhan  
Eric Weiss

Copy to: Mike Bollhoefer  
Dan Langley  
Ed Williams  
Laura Smith  
Stephen Pash  
Alejandra Fazekas

RE: Agenda – October 1, 2012 - 6:30 PM  
Commission Chambers, City Hall  
300 West Plant Street, Winter Garden

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1. **CALL TO ORDER**

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

3. **APPROVAL OF MINUTES FROM THE SEPTEMBER 10, 2012 MEETING**

**SPECIAL EXCEPTION PERMIT (PUBLIC HEARING)**

4. 1297 Winter Garden Vineland Road – (United Cerable Palsy) Charter School  
Parcel ID #: 26-22-27-9147-00-010

5. 12788 W. Colonial Drive - (Absolute Pawn LLC)  
Parcel ID #: 12-22-27-6496-23-005

**APPEAL OF ADMINISTRATIVE OFFICIALS DECISION (PUBLIC HEARING)**

6. 3337 Daniels Road – (Firestone Winter Garden) Mays & Company  
Lowndes Drosdick Doster Kantor & Reed P.A.  
Parcel ID #: 35-22-27-9398-03-080

7. **ADJOURNMENT**

To the **SPECIAL MEETING** of the Planning and Zoning Board on Monday, October 15, 2012 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1<sup>st</sup> floor.



**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

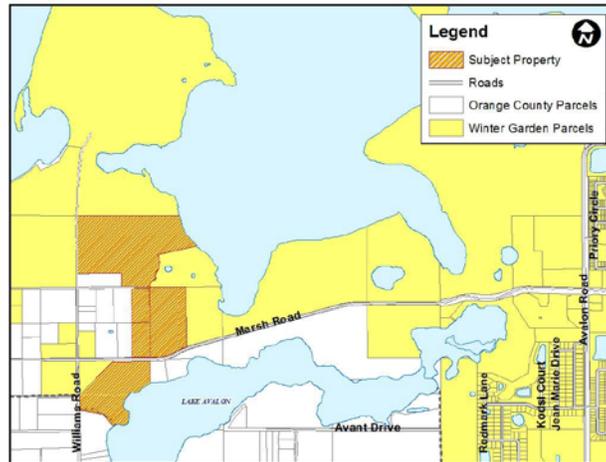
# STAFF REPORT

**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.

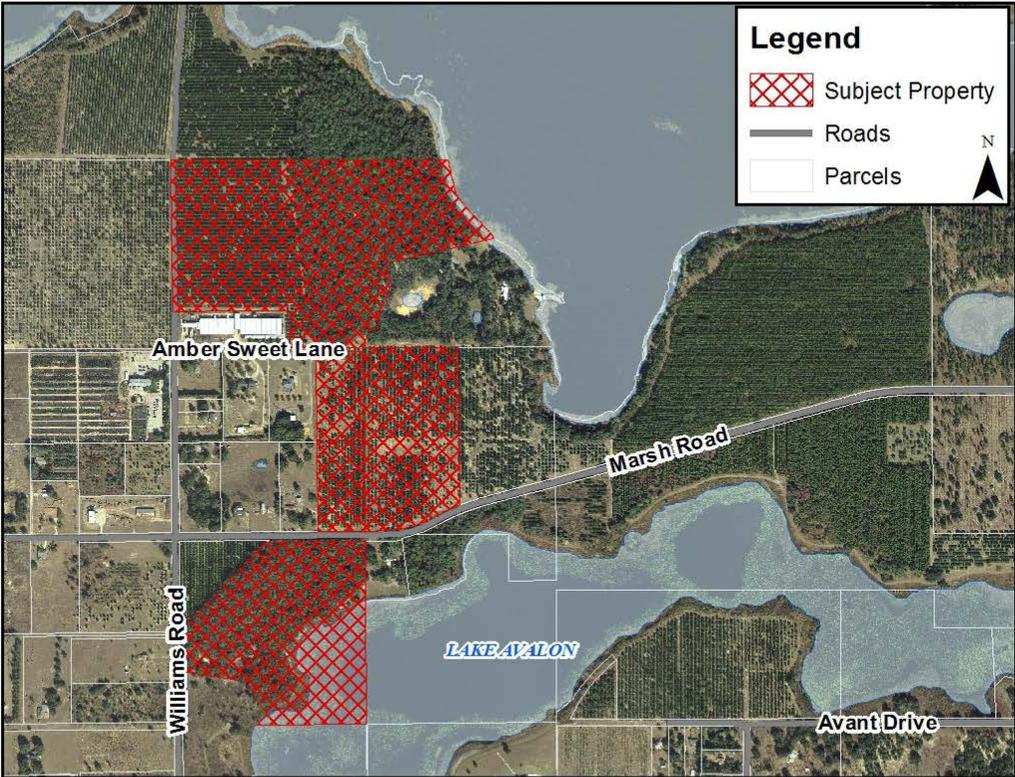
**SUMMARY**

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.

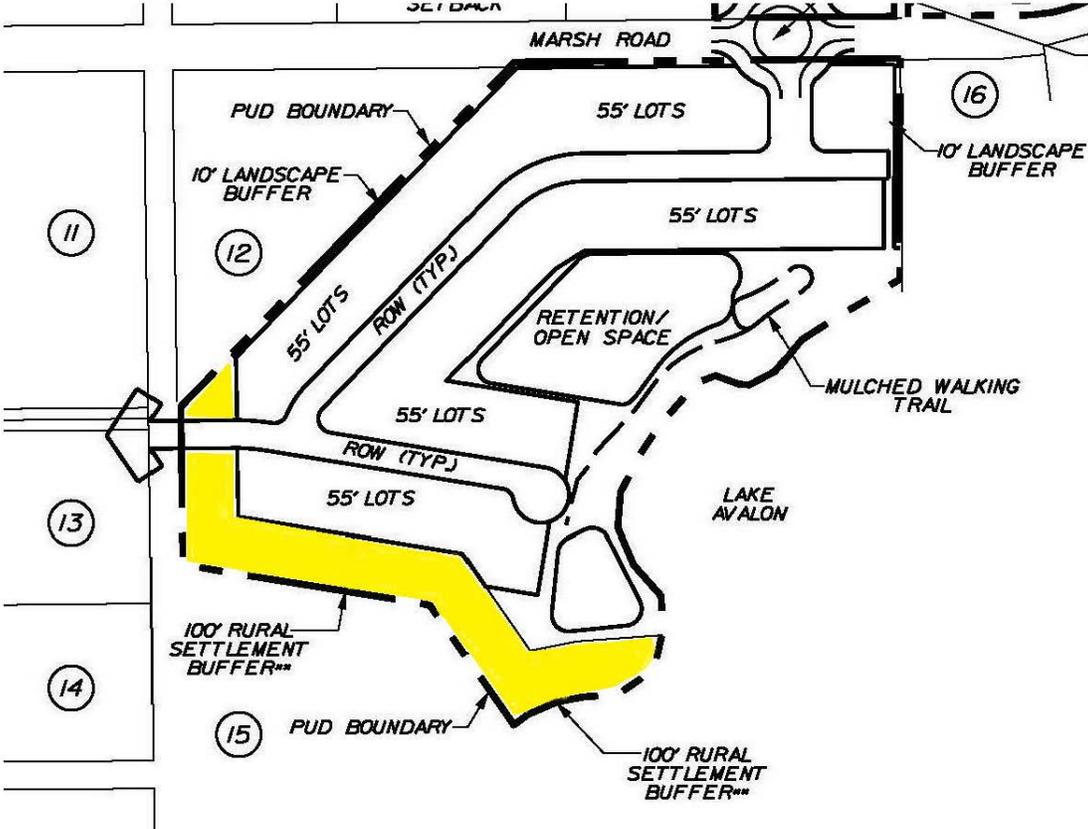
MAPS

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



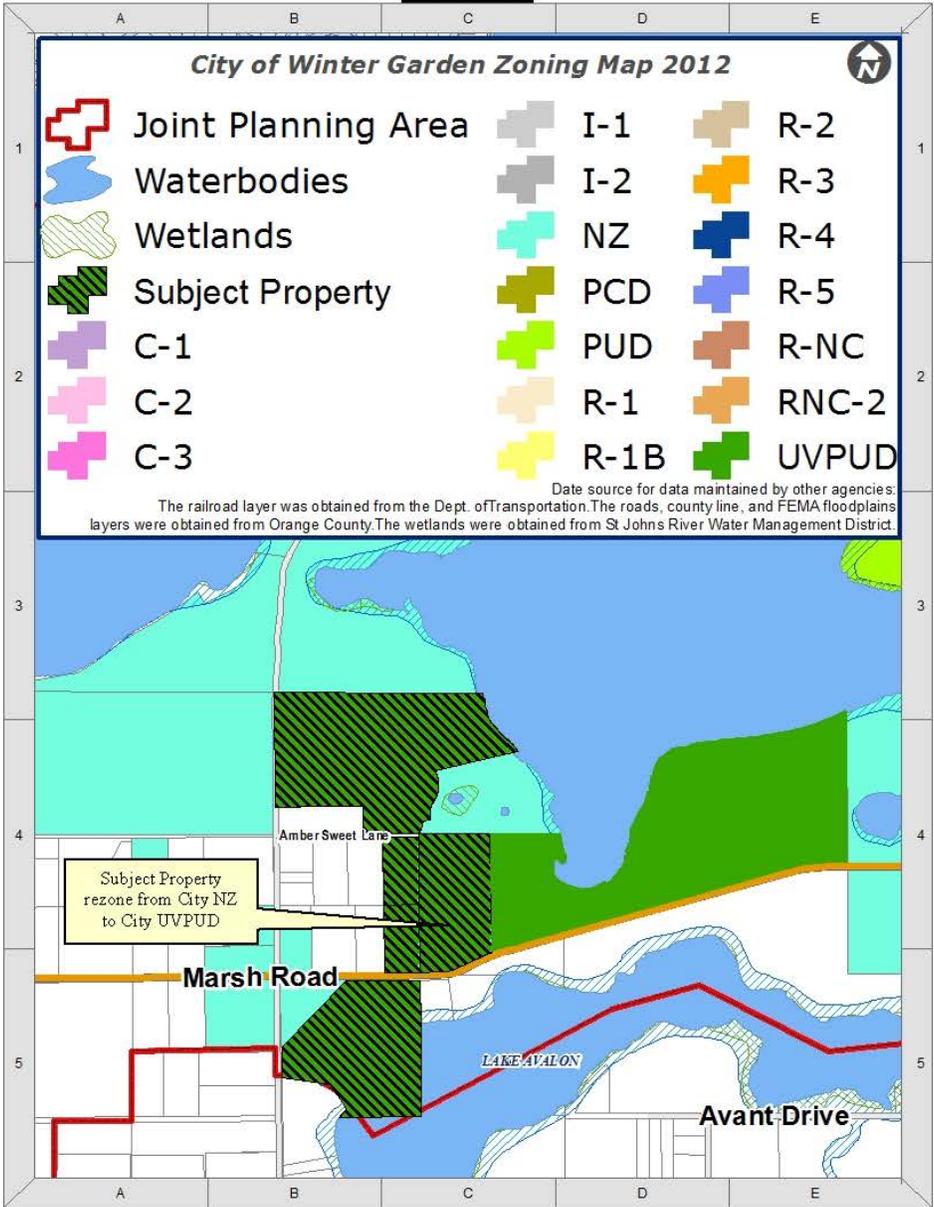
P&Z : PH12-025

**AVALON RURAL SETTLEMENT BUFFER MAP**



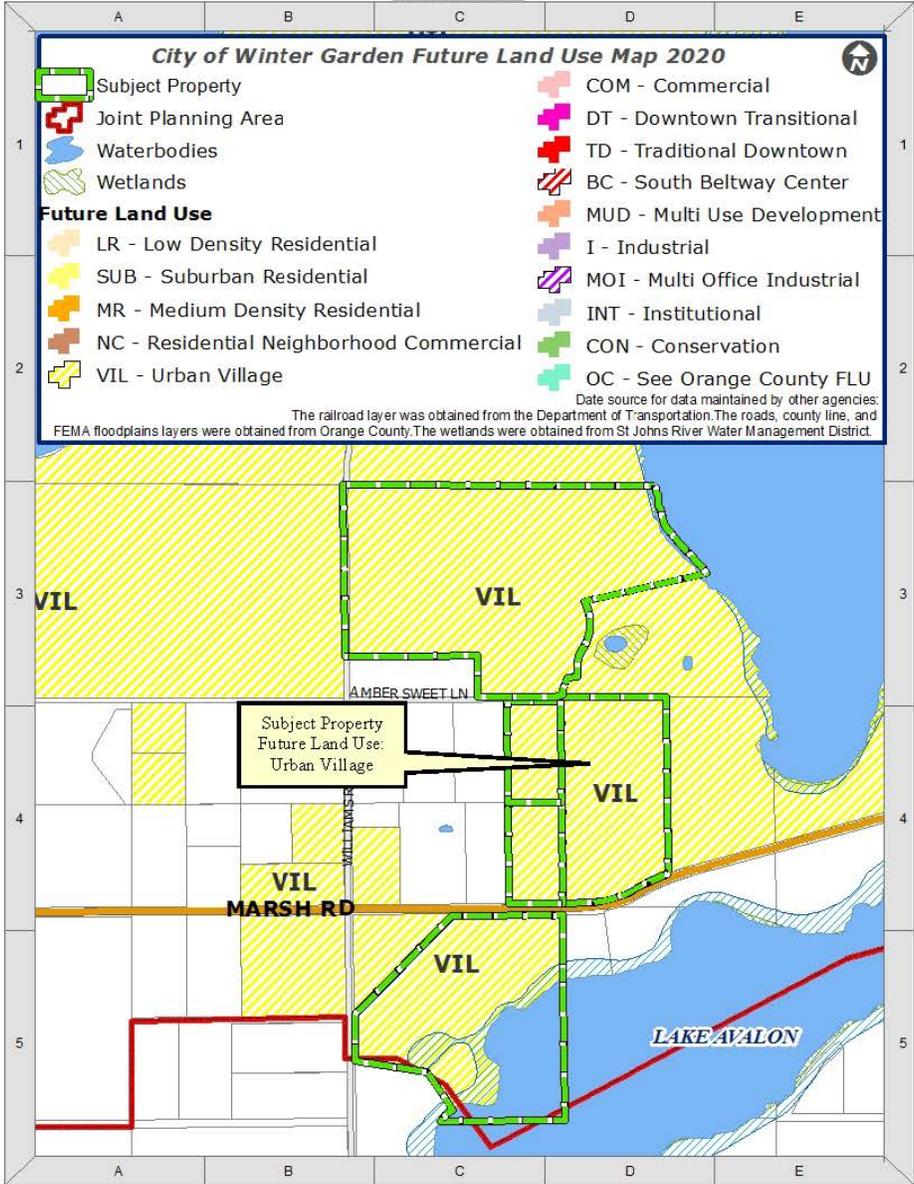
P&Z : PH12-025

ZONING MAP  
 Marsh Road



P&Z : PH12-025

FUTURE LAND USE MAP  
Marsh Road



END OF STAFF REPORT

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**

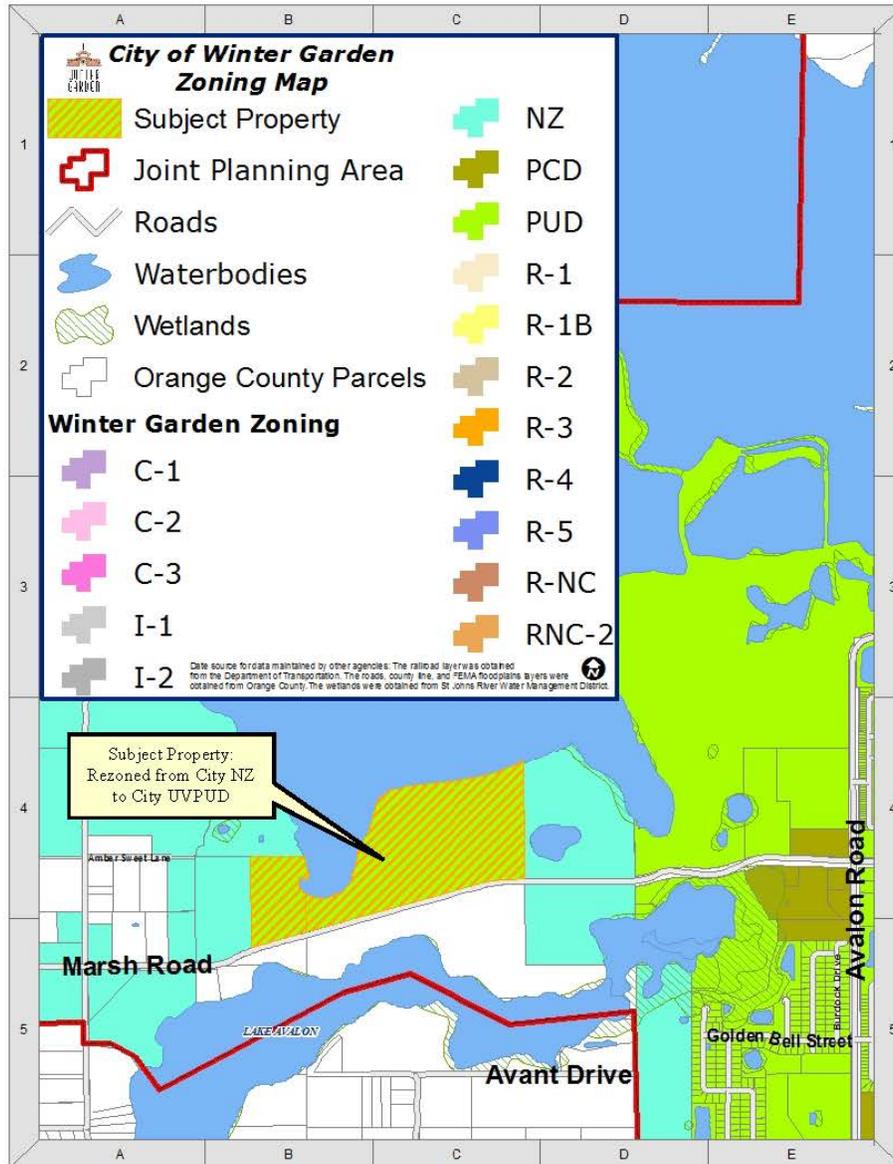
City Staff recommends conditional approval of the proposed Preliminary Plat. Conditional approval of the Preliminary Plat will allow the owner to proceed with development plans as well as the final plat. Conditional approval of the proposed Preliminary Plat is subject to conditions of all prior development 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

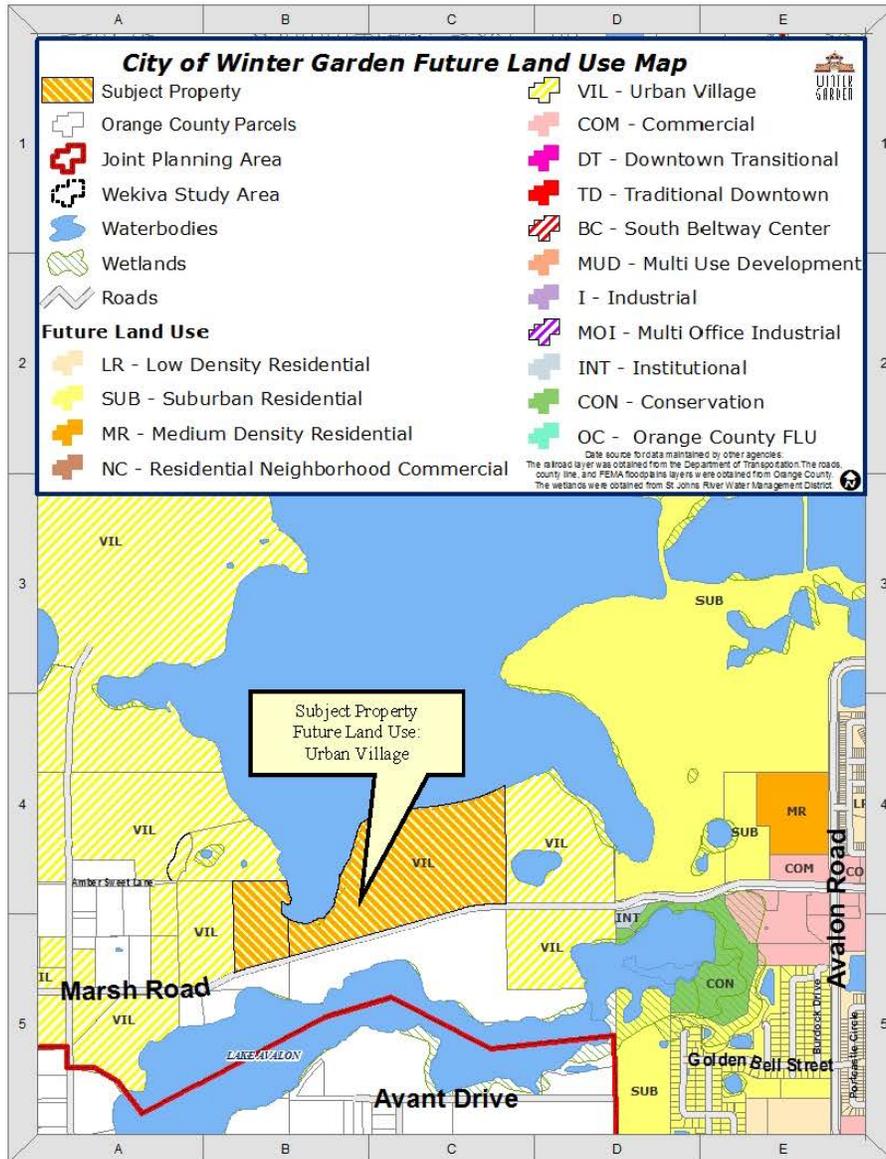
AERIAL PHOTO  
Waterside on John's Lake



**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**

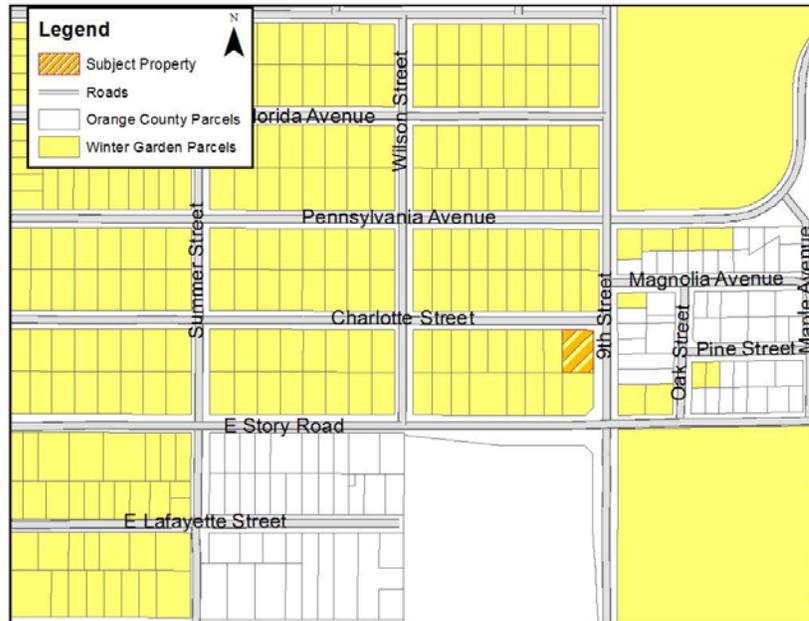
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 6, 2012  
**SUBJECT:** SPECIAL EXCEPTION PERMIT  
**482 Charlotte Street (Tewari, Sunildatt)**  
**PARCEL ID # 23-22-27-2300-02-020**

**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.

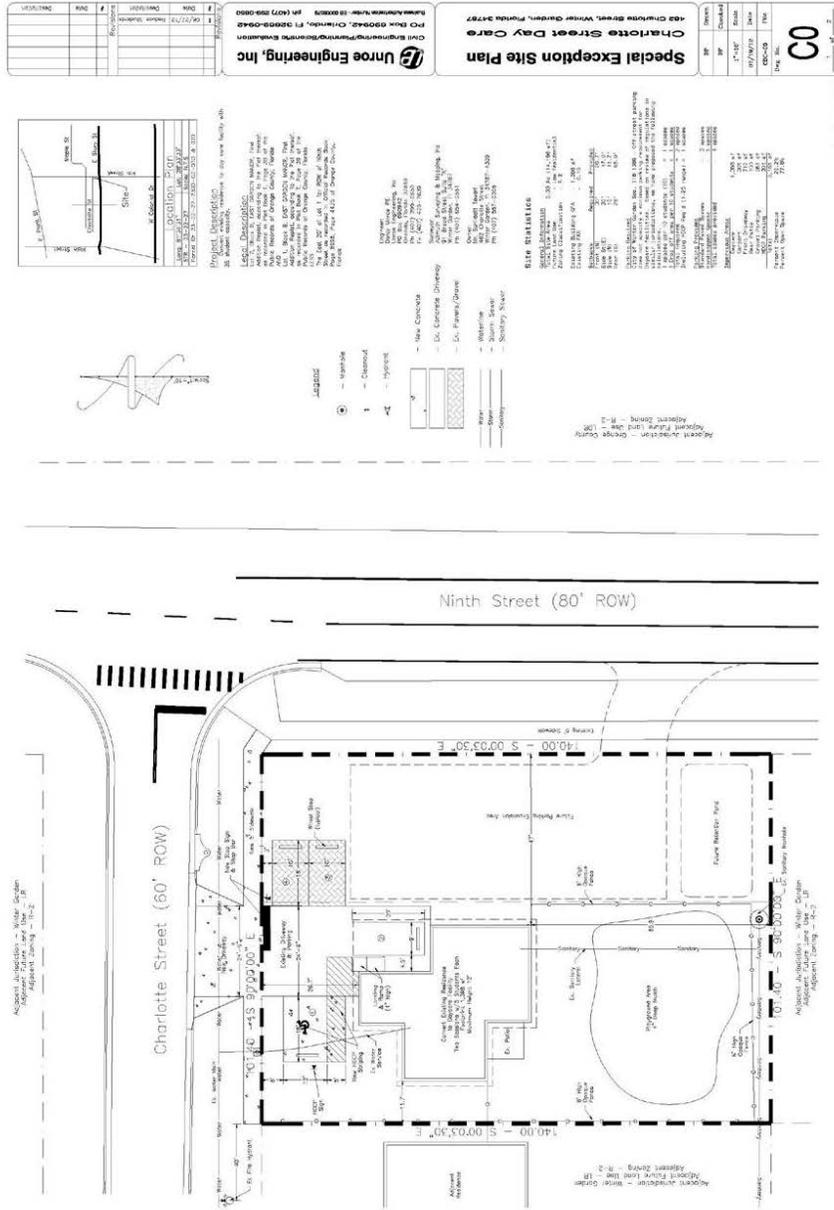
- The child day care center shall be limited to a maximum enrollment capacity of 10 children with a maximum occupancy of no more than 5 children at any one time, expansion of the facility and/or enrollment of more than 10 children will require additional review and amendment to the special exception 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**

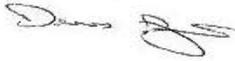
Dennis Aplin  
450 Charlotte St.  
Winter Garden, FL 34787

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

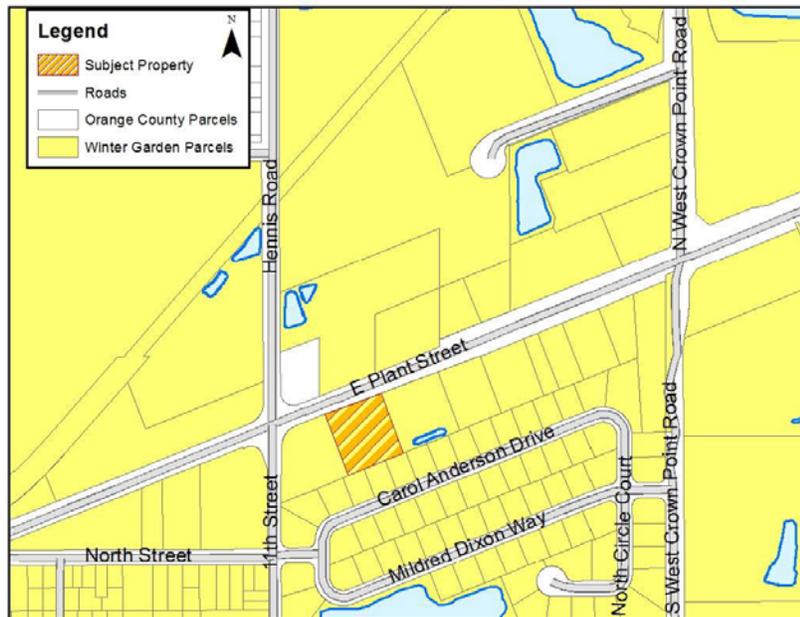
TO: PLANNING AND ZONING BOARD  
PREPARED BY: LAURA SMITH, SENIOR PLANNER  
DATE: SEPTEMBER 6, 2012  
SUBJECT: SPECIAL EXCEPTION PERMIT  
1130 East Plant Street (Gil, Inc.)  
PARCEL ID # 13-22-27-0000-00-036

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

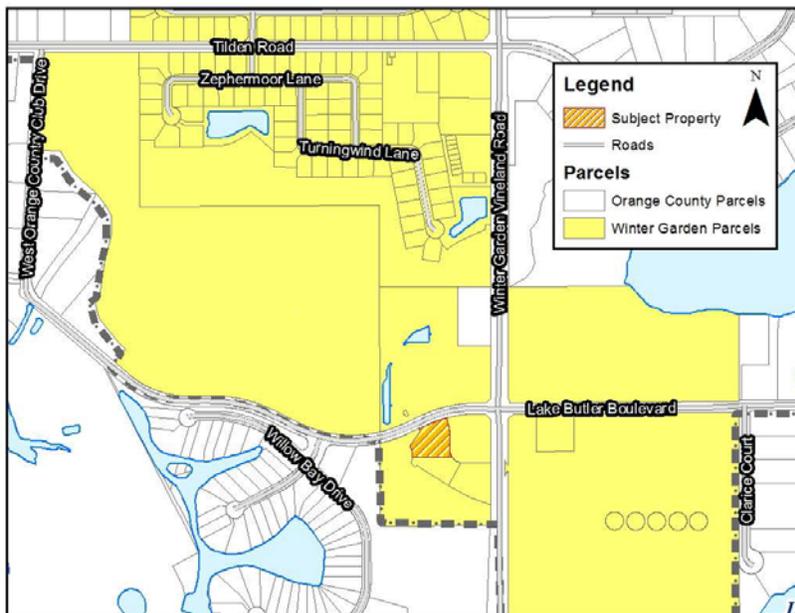
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 6, 2012  
**SUBJECT:** SPECIAL EXCEPTION PERMIT MODIFICATION  
**3554 West Orange Country Club Drive (The New Academy, Inc.)**  
**Woodbridge Commerce Center**  
**PARCEL ID# 11-23-27-3447-00-010**

**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

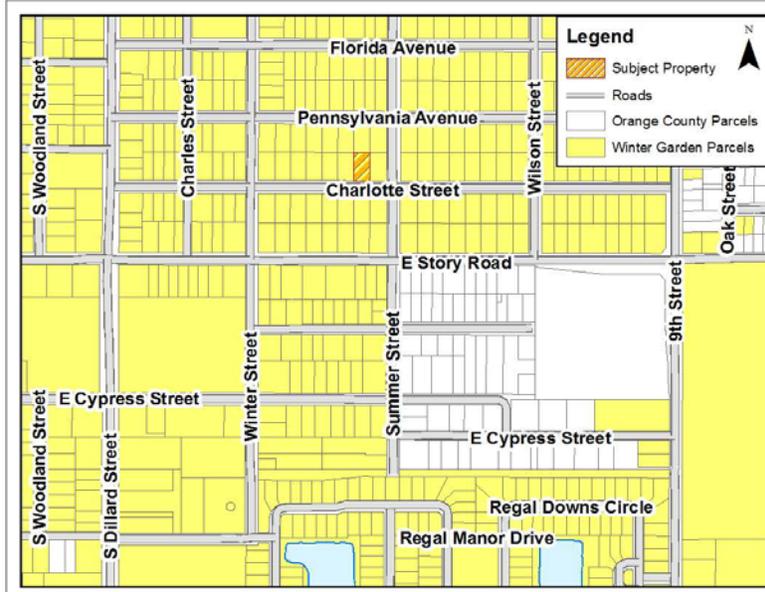
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 7, 2012  
**SUBJECT:** VARIANCE  
227 Charlotte Street (0.23+/- ACRES)  
PARCEL ID # 23-22-27-2299-01-100

**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.

**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**

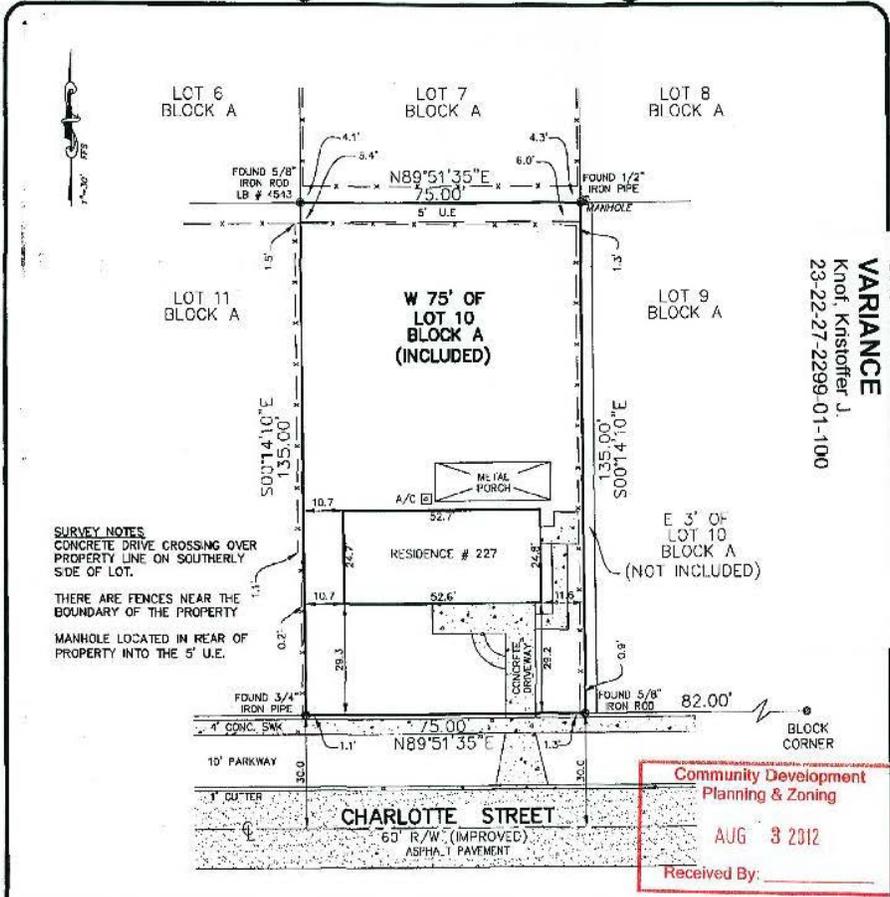
- Aerial Photos
- Survey
- Site Photos

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



P&Z : PH12-049

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



**SURVEY NOTES**  
 CONCRETE DRIVE CROSSING OVER PROPERTY LINE ON SOUTHERLY SIDE OF LOT.  
 THERE ARE FENCES NEAR THE BOUNDARY OF THE PROPERTY  
 MANHOLE LOCATED IN REAR OF PROPERTY INTO THE 5' U.E.

Charlotte Street - 227  
**VARIANCE**  
 Knof, Kristoffer J.  
 23-22-27-2299-01-100

Community Development  
 Planning & Zoning  
 AUG 3 2012  
 Received By: \_\_\_\_\_

PAGE 2 OF 2 PAGES  
**BOUNDARY SURVEY** LB #6135



**SURVEYORS CERTIFICATE**  
 I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION. NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND AUTHENTICATED ELECTRONIC SEAL OR A RAISED EMBOSSED SEAL AND SIGNATURE.  
 Clyde McNeal  
 (SIGNATURE) *CM*  
 CLYDE O. McNEAL, PROFESSIONAL SURVEYOR AND MAPPER #2002



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P&Z : PH12-049



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



P&Z : PH12-049



P&Z : PH12-049



**END OF STAFF REPORT**

P&Z : PH12-049

**THE CITY OF WINTER GARDEN**  
**PLANNING AND ZONING BOARD AGENDA ITEM**

**ITEM # 4 (Public Hearing)**

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**DATE:** September 27, 2012                      **MEETING DATE:** October 1, 2012

**SUBJECT:** 1297 Winter Garden Vineland Road (SPECIAL EXCEPTION PERMIT)  
**PROJECT NAME** United Cerebral Palsy Charter School  
**PARCEL ID#** 26-22-27-9147-00-010

**ISSUE:** The applicant is requesting a Special Exception Permit to allow for the property located at 1297 Winter Garden Vineland Road to be used for a charter school.

**SUPPLEMENTAL MATERIAL/ANALYSIS:**

**OWNER/APPLICANT:** Hillcrest Properties III, Inc.

**CURRENT ZONING:** PCD

**PROPOSED ZONING:** N/A

**CURRENT FLU:** Commercial

**PROPOSED FLU:** N/A

**SUMMARY:**

The applicant proposes to open a charter school for enrollment of up to 105 students with 44 employees.

**STAFF RECOMMENDATION(S):**

City Staff recommends approval of the request for Special Exception permit for the operation of a charter school at property located at 1297 Winter Garden Vineland Road subject to the conditions as shown in the attached staff report.

**NEXT STEP(S):**

Submit for Small Scale Site Plan Review

**ATTACHMENT(S):**

Location Map  
Staff Report  
Letter of Proposal  
Site Plan

# LOCATION MAP

1297 Winter Garden Vineland Road

United Cerebral Palsy Charter School



# CITY OF WINTER GARDEN

## PLANNING & ZONING DIVISION

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

# STAFF REPORT

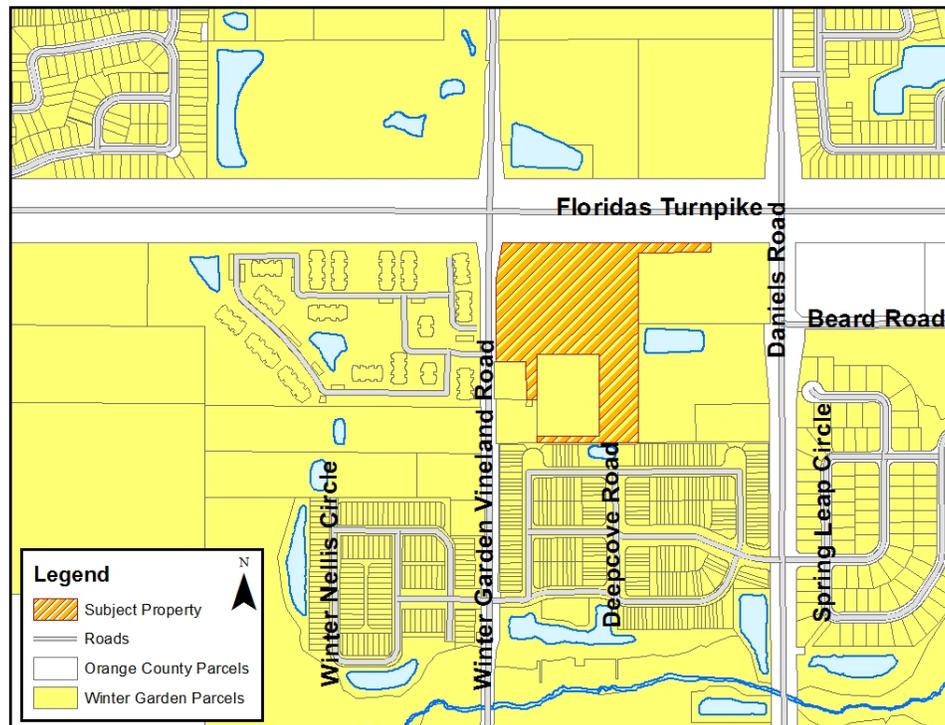
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** LAURA SMITH, SENIOR PLANNER  
**DATE:** SEPTEMBER 26, 2012  
**SUBJECT:** SPECIAL EXCEPTION PERMIT  
**1297 Winter Garden Vineland Rd**  
**(United Cerebral Palsy West Orange Charter School)**  
**Winter Garden Business Center**  
**PARCEL ID # 26-22-27-9147-00-010**

**APPLICANT:** Hillcrest Properties III, Inc. & United Cerebral Palsy West Orange Charter School

### 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 on the east side of Winter Garden Vineland Road south of Florida's Turnpike, in the Winter Garden Business Center shopping center. 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 charter school for enrollment of up to 105 students with up to 44 employees. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation PCD. The subject property is designated Commercial on the Future Land Use Map of the Comprehensive Plan.

### **EXISTING USE**

The property consists of three one-story commercial buildings, two of which are 10,000 square feet each and one which is 12,000 square feet and each building is divided into multiple tenant spaces. The property is zoned PCD and is approved for the construction of up to nine commercial buildings, three of which may be up to 10,000 square feet and six may be up to 12,000 square feet. The PCD for the property also allows for the construction of a self-storage facility with up to six buildings totaling 63,550 square feet on the south portion of the property. The PCD includes one other parcel on the south side of the property which is a 0.87 acre parcel permitted for commercial development.

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

The subject property is bordered by Florida's Turnpike on the north. Properties located south of the subject property are within the Daniels Landing townhome community zoned R-3 within the City of Winter Garden. The properties located to the west of the subject property include Southern Pines Condominiums zoned PUD and the Lake Apopka Natural Gas office site zoned C-2 in the City of Winter Garden. The properties located to the east of the subject property include a commercial subdivision which contains Bright Horizons Day Care Center zoned C-2 in the City of Winter Garden, and a parcel owned by the City of Winter Garden containing facilities for the City's water system which is zoned R-1 in the City of Winter Garden.

### **PROPOSED USE**

The applicant proposes to open a charter school for enrollment of up to 105 students with 44 employees in 10,000 square feet of the 12,000 square foot building located at 1297 Winter Garden Vineland Road on the east side of the PCD property. The applicant proposed to construct a playground on the vacant building site located on the east side of the 12,000 square foot building located at 1297 Winter Garden Vineland Road, and to construct the 20 parking spaces which would have been constructed around the vacant building site located to the east of the building which they request to operate the school. The proposed school would enroll students ages Infant - 3<sup>rd</sup> Grade.

### **SUMMARY**

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

- The charter school shall be limited to a maximum enrollment capacity of 105 students, expansion of the facility and/or enrollment of more than 105 students will require additional review and amendment to the special exception permit.
- Applicant must submit small scale site plan for all site improvements depicted on the attached conceptual plan. All improvements including parking, paving, fencing, playground construction and landscaping must be permitted and constructed prior to student occupancy of the facility.

- Staff has consulted with the applicant regarding the need for a northbound right turn lane on Winter Garden Vineland Road at the primary entrance to the property. The applicant has expressed their agreement with the City that the proposed use of a charter school requires safe and adequate ingress/egress to the property and that a northbound right turn lane on Winter Garden Vineland Road would support such need for the proposed use of a charter school. Staff has reviewed the feasibility of installing the turn lane and has come to an agreement with the applicant to share the responsibility of causing the construction of the northbound right turn lane. The City has compiled preliminary cost estimates for the construction of the turn lane and the applicant has agreed to pay a portion of the cost of the improvement that the City will construct. The applicant's portion of the cost of the improvement has been determined to be \$25,000.00 which must be paid to the City prior to the issuance of any building permits for the proposed charter school.
- Fence height around the playground depicted on the attached conceptual plan shall not exceed 6 feet in height and must be surrounded on the three sides that are visible from vehicular use areas by an opaque landscape hedge as shown on the attached conceptual plan. Plant material for the landscape hedge shall be minimum 3 gallon plants which shall be no less than 36 inches tall at time of planting, and shall be installed at equal spacing of at least 33 plants for each 100 linear feet which will reach 90% opacity within one year of planting.
- All necessary permits must be obtained prior to beginning any construction on or alterations to the site and/or facility.

## MAPS/EXHIBITS

### **AERIAL PHOTO 1297 Winter Garden Vineland Road**





September 5, 2012

Ms. Laura Smith
Community Development Department
City of Winter Garden
300 West Plant Street
Winter Garden, FL 34787

Re: Special Exception Permit
United Cerebral Palsy West Orange Charter School
1297 Winter Garden Vineland Road

Dear Ms. Smith:

As you requested, we provide this letter in support of the Special Exception Application to allow United Cerebral Palsy of Central Florida ("UCP") to move our existing school in Winter Garden to the building referenced above.

Since 1955, UCP, a tuition-free public charter school and therapy center, has served children with special needs by providing support, education, and therapy services for children with and without disabilities. With seven locations throughout Central Florida, UCP annually supports more than 2,400 families with children diagnosed with disabilities including autism, spina bifida, speech delays, Down syndrome, neurological disorders and cerebral palsy with the following "S.E.T." of services:

- Support: family support, training and counseling;
Education: early intervention education, before/after school care and summer camp, recreation and inclusion programs;
Therapy: physical, occupational, speech and music therapies integrated into our education programs.

We believe all children should learn, play and eventually work together; as such, we serve children with and without disabilities at all of our campuses.

Our current facility in the City of Winter Garden is an Orange County Public School ("OCPS") Charter School located in a shopping center at 630 S. Dillard Street. When OCPS granted UCP a 10 year contract renewal to extend education services to children up to the third grade, we began to look for a larger building and better location for this school. We are thrilled about relocating our school to the building shown on the attached Site Plan (the "Building").

While our current enrollment is 75 students, the new facility is designed to accommodate a maximum enrollment of 105 students. For various health and family reasons, our average daily attendance is only 75% of our enrolled students, which equates to 56 students. Our future average daily attendance, utilizing the same 75%, is estimated to be approximately 79 students (105 x 75% = 78.75).

To support our student population, we currently employ 35 full and part-time team members. Our team members work varying schedules throughout the day and perform roles including administrative, educational, clinical and custodial. Correlated to our expected enrollment increases we anticipate our future maximum staff to increase to 38 in year 1, 41 in year 2 and 44 in year 3.

As a full time Charter school, the UCP West Orange campus operates from 7:30am - 6:00pm and follows the OCPS academic calendar. Our core education hours are 8:30am - 2:30pm, so the primary drop-off window is 8:15 - 8:45 am, while pick-up is 2:15 - 2:45 pm. Of the 56 students in attendance on an average day, 46 arrive between 8:15 and 8:45 (approximately 82%). Based on that information, once we reach the maximum

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1221 W. Colonial Drive
Suite 300
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tel 407.852.3300
fax 407.852.3301

Downtown Orlando/
Holloway Campus
3305 S. Orange Avenue
Orlando, FL 32806
tel 407.852.3300
fax 407.852.3334

Osceola Campus
448 W. Donegan Avenue
Kissimmee, FL 34741
tel 407.852.3300
fax 407.932.3480

West Orange Campus
630 S. Dillard Street
Winter Garden, FL 34787
tel 407.852.3300
fax 407.905.0532

Pine Hills Campus
5800 Golf Club Parkway
Orlando, FL 32808
tel 407.852.3300
fax 407.299.5520

East Orange/Bailes Campus
12702 Science Drive
Orlando, FL 32826
tel 407.852.3300
fax 407.281.0422

Seminole Campus
3590 N. Highway 17-92
Suite 1038
Lake Mary, FL 32746
tel 407.852.3300
fax 407.322.5596

enrollment in our new facility, 65 of the 79 students in attendance each day will arrive between 8:15 and 8:45 (79 x 82% = 65).

UCP also operates extended day programs for our families allowing for early drop off from 7:30 am – 8:30 am, and after school pick-up from 3:00 pm to 6:00 pm. Currently we have 10 students enrolled in the early extended day program, and they arrive at the campus prior to the typical drop-off window. We also have 10 students enrolled in the after school program, so they depart after the core day concludes (and after the typical pick-up time).

As the attached Site Plan shows, the Building has 78 parking spaces for UCP's use. The west 2,000 SF of the Building is currently vacant, so we have not included the 6 spaces at that end in our total. UCP staff (38-44 people) will be directed to use the 48 parking spaces labeled for "Staff Parking" on the Site Plan. Based on their varying work schedules, we would not expect to have all team members on campus at the same time. However, if that were to occur, we would still have 4 unused spaces in the Staff Parking Area.

The 30 parking spaces on the south side of the building will be designated as 10 minute drop-off and pick-up spaces for families between the hours of 8:15 am and 8:45 am and between 2:15 pm and 2:45 pm. Our experience operating schools makes us quite comfortable that the 30 parking spaces will be sufficient for drop-off and pick-up because the duration of each stay is so short. Even if we assume each parent parks for 10 minutes, the 30 spaces would accommodate 90 such parents in the 30 minute window. Pick-up times are more staggered than drop off times, so the 10 minute parking spaces will be more than adequate as described above. Finally, if parents do need to wait for a free parking space, the Site Plan illustrates that we have "stacking" for up to 23 vehicles just around the Building and play area.

While we believe the Site Plan provides ample parking for our use, UCP will use its experienced staff ensure smooth and efficient operations. For example, during peak drop off and pick up times, parents will be directed to enter from the southern entrance and to circulate around the north side of the building and approach the drop off parking spaces from the east. A staff member will hold cars at the beginning of the drop off area and direct the next car in line to the next available parking space. If necessary, UCP will implement other operational protocols to make sure our school works well for our families and the rest of the West Orange Business Center.

In hopes of addressing all of the City Staff's comments about the application, we are happy to confirm two issues regarding the site. First, the Site Plan reflects a "4' Tall Aluminum Fence", but based on the City Staff's recommendation, UCP is happy to make that a 60" fence. Second, the fence type proposed by UCP is based on the Crime Prevention Through Environmental Design ("CPTED") standards, but we understands the City Staff's desire for screening. Therefore, since the fence will be largely transparent, UCP agrees to plant and maintain a shrub screen around the perimeter of the play area to create a continuous landscape screen with a 90 percent opacity within one year of planting. The plant material (e.g. viburnum) will be at least 36 inches high at time of planting, and UCP will install thirty-three (33) three-gallon plants per 100 linear feet. These standards will govern over what is depicted on the Site Plan.

UCP is excited about moving our West Orange Charter School to the West Orange Business Center. The new location will be a significant improvement over our current shopping center location. With UCP's decades of experience operating our facilities in Central Florida and the input of the City staff and our consultants, we are sure this facility and location will allow UCP, our students, and their families to flourish.

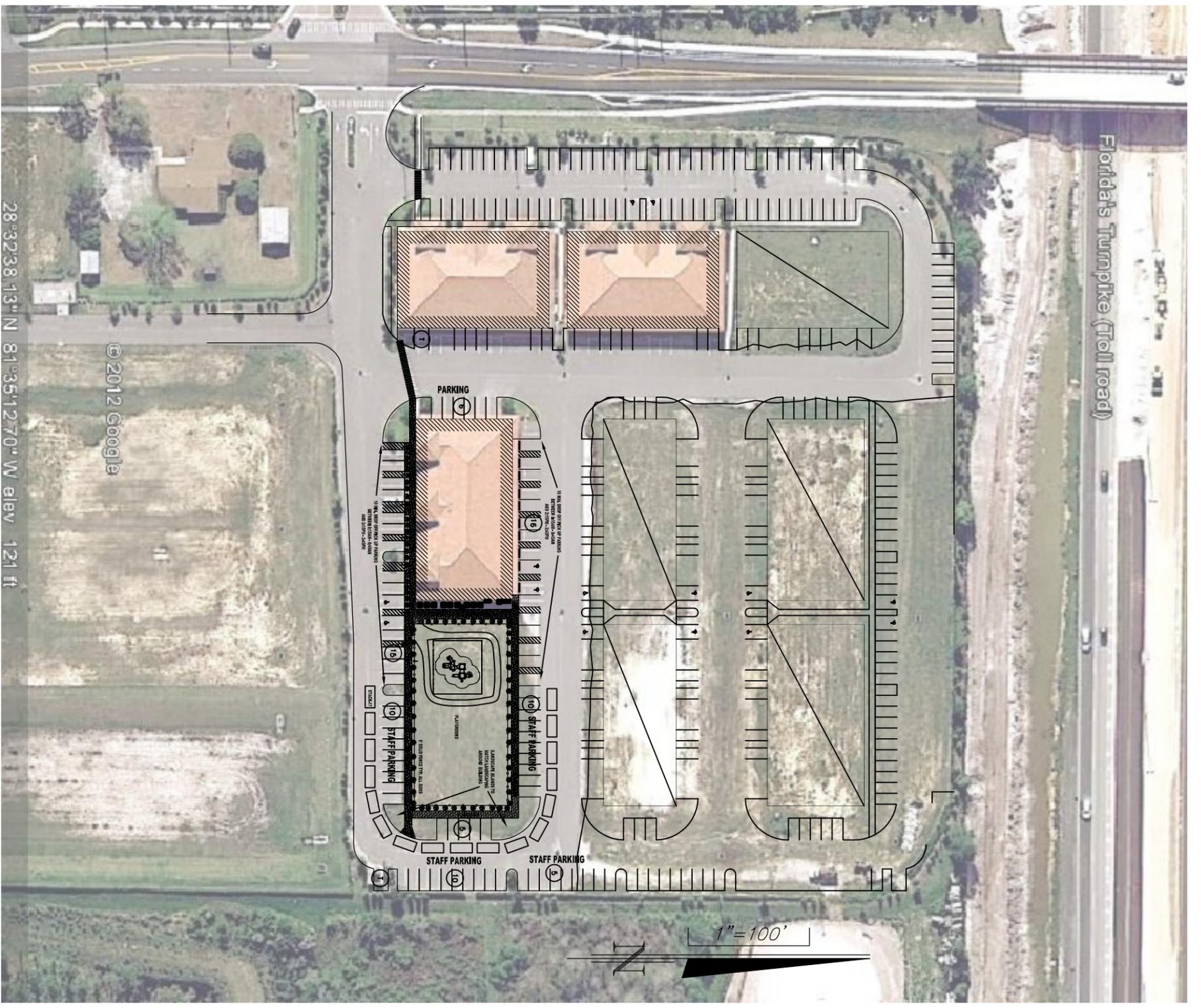
Thank you very much for your hard work and attention to our application. We look forward to working with you and the rest of the City to help us realize our vision for UCP's West Orange Charter School.

Sincerely,



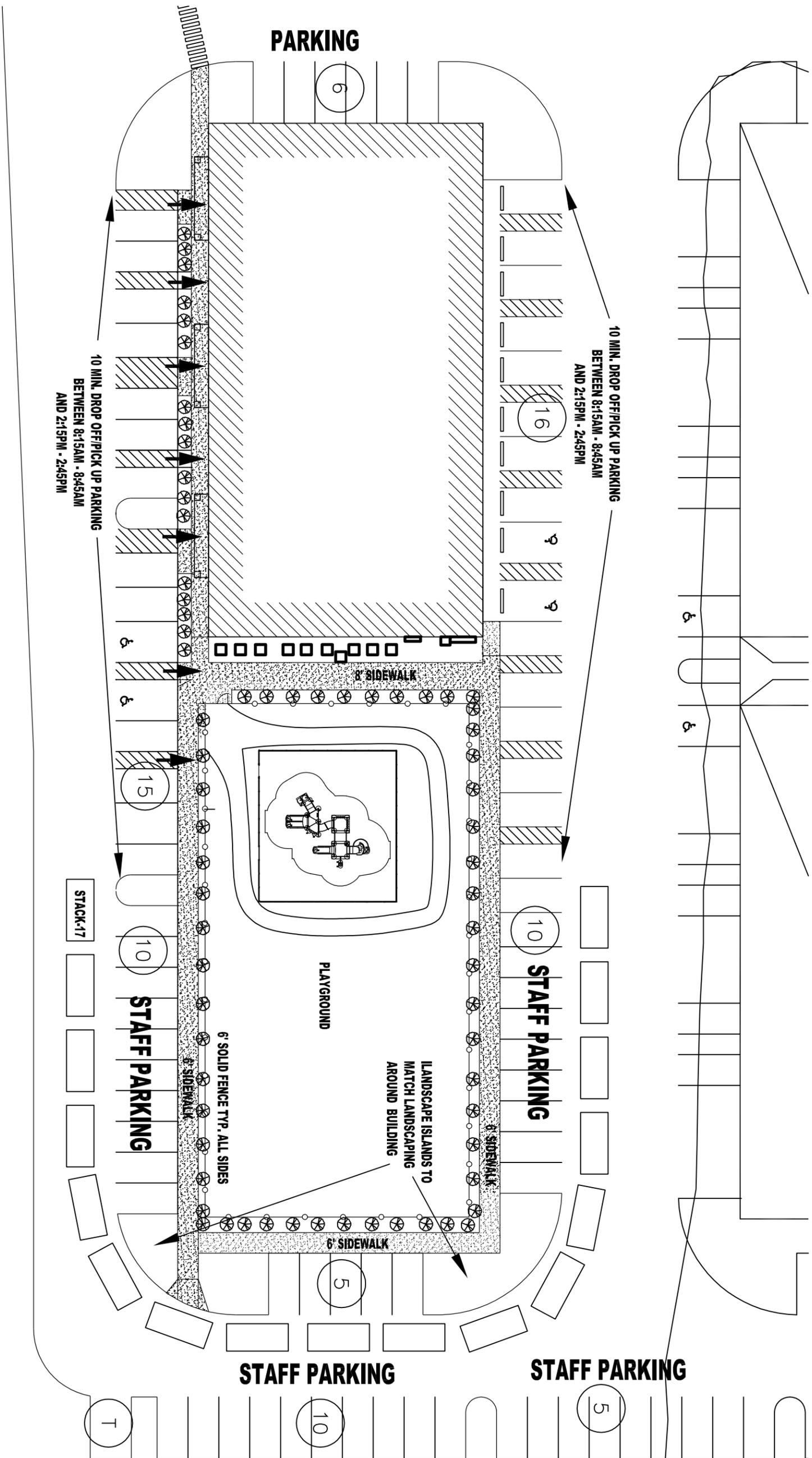
Dr. Ilene Wilkins  
President/CEO  
UCP of Central Florida

Florida's Turnpike (troll road)



© 2012 Google

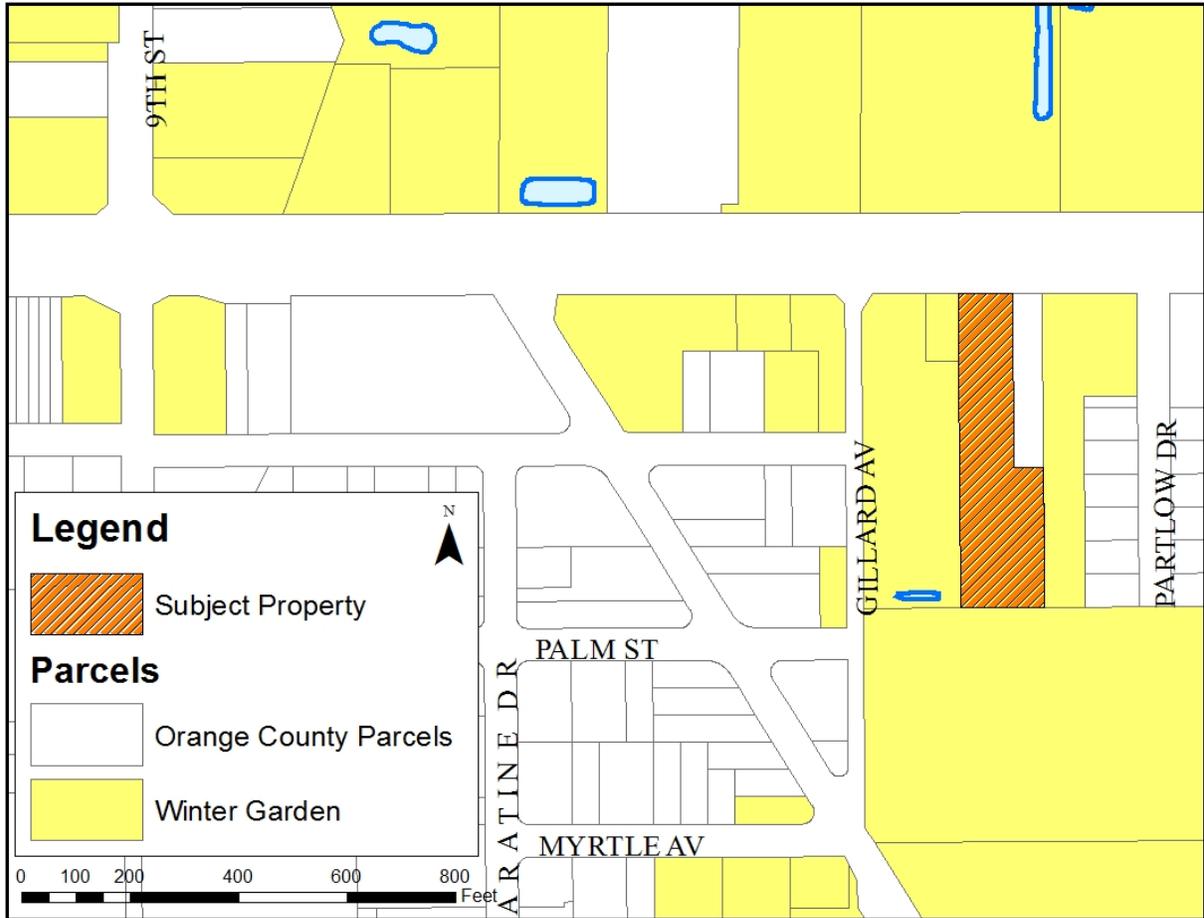
28°32'38.13" N 81°35'12.70" W elev 121 ft





# LOCATION MAP

12788 W. Colonial Drive  
Absolute Pawn



# CITY OF WINTER GARDEN

## PLANNING & ZONING DIVISION

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

# STAFF REPORT

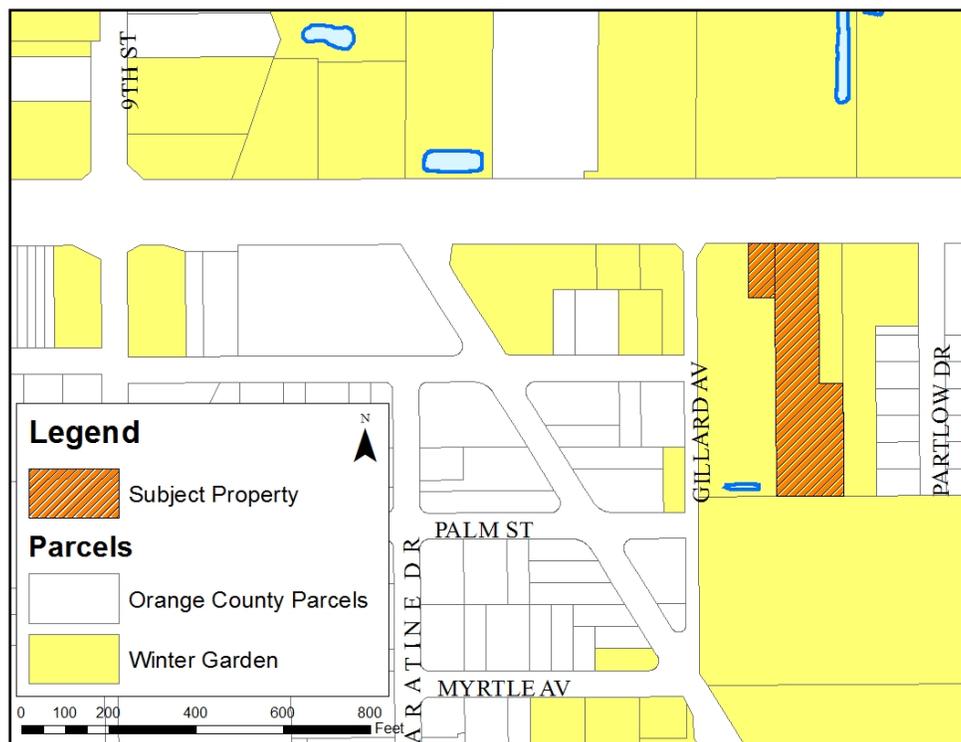
**TO:** PLANNING AND ZONING BOARD  
**PREPARED BY:** ALEJANDRA FAZEKAS, PLANNER I  
**DATE:** SEPTEMBER 26, 2012  
**SUBJECT:** SPECIAL EXCEPTION PERMIT  
**12788 W Colonial Drive**  
**(Absolute Pawn, LLC)**  
**PARCEL ID # 12-22-27-6496-23-005**

**APPLICANT:** Steven Sandvik, Business Owner

### 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 on the south side of West State Road 50 east of Gillard Ave and west of Partlow Drive. 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 Permit to allow automobile sales as part of a pawn and gun shop business in the north building on the subject property. The subject property is located within the City of Winter Garden municipal limits, carries the zoning designation C-2, is designated Commercial on the Future Land Use Map of the Comprehensive Plan and is located within the West State Road 50 Overlay.

### **EXISTING USE**

The property consists of two commercial buildings on a 1.82 ± acre lot. One building is located on the north side of the property fronting on SR 50 and the other on the south side of the property. The applicant is currently occupying the entire north building which is approximately 4,240 square feet with 32 parking spaces for the pawn and gun shop business.

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

The property located to the north of the subject property is Quality Health of Orange County zoned C-2. The property located to the south is vacant unimproved land owned by WS Group zoned C-2. The commercial properties located to the east include Scooter's Car Wash owned by Classic Car Wash IV, LLC and Budget Insurance Office owned by Thomas Joyce both zoned C-2. The property located to the east is Walker Brothers Millworks, Inc zoned I-1. The adjacent properties to the subject property are within the City of Winter Garden.

### **PROPOSED USE**

The applicant operates a pawn and gun shop business that includes automotive/motorcycle titled item pawn. The applicant is requesting permission to sell automotive/motorcycle items being held on pawn from the subject property that do not get redeemed.

The applicant proposes to store up to six vehicles that are on pawn in the existing warehouse in the back of the building, and the automotive/motorcycle items that do not get redeemed will be offered for sale, the applicant proposes to display the items outside on the north west side of the parking lot.

### **ANALYSIS**

The north building on the subject property was previously approved by the Planning and Zoning Board to operate an automobile sales facility by Special Exception Permit on October 7, 2002 which subsequently expired. A Site Plan with the required landscaping, paving and parking striping was approved by the Planning and Zoning Board on February 3, 2003 and it was executed.

The proposed location of the business was a new and used automobile sales facility from 2001 to 2005 with different business owners. Because the automobile sales has not been operating for more than 365 days, a new Special Exception Permit must be approved to allow automobile sales as part of the pawn and gun shop business operation. The proposed location has been occupied by other permitted commercial businesses since 2005.

### **SUMMARY**

City Staff recommends approval of the Special Exception Permit request to operate automotive/motorcycle sales as part of the pawn and gun shop business operations subject to the following conditions:

1. Automobile sales display area:

- i. The automobile sales display area shall be limited to the north west side parking area only for up to 10 vehicles.
- ii. The remaining parking spaces on the north east side of the subject property will be for customers and employees use only.

2. Signs:

a. Permitted Signs:

- i. The building can have one wall sign per frontage. Each sign may be a maximum of 36 square feet and a maximum of 2 feet tall.
- ii. Signs on vehicles to display price, options, etc. are permitted provided they cannot be read from the road.
- iii. Flags, other. Flags include any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device. Standards for flags are as follows:
  1. Only two such flags shall be permitted.
  2. The flags shall not be flown higher than a 35-foot pole, measured from grade.
  3. Only one flag per pole up to six feet by ten feet, or two flags per pole up to four feet by six feet may be flown.
  4. The flag shall extend no closer than ten feet from the edge of any adjacent public right-of-way.
- iv. Grand opening sign. One on-site temporary sign announcing the opening of a newly licensed business, that does not exceed 16 square feet in copy area and that is not displayed for longer than 30 days after the issuance of the occupational tax for the new business shall be allowed.

b. Prohibited Signs:

- i. No sign, permanent or temporary, shall be erected or placed so that it interferes with a clear sight triangle distance per Florida Department of Transportation (FDOT) design standards.
- ii. Portable signs.
- iii. A-frame, T-framed signs.
- iv. Signs on trailer frames with or without mounted wheels.
- v. Vehicle signs or signs on or attached to vehicles which have a total copy area in excess of ten square feet, when the vehicle is not "regularly used in the conduct of the business" and (a) is visible from a street right-of-way within one hundred feet of the vehicle, and (b) is parked for more than two consecutive hours within one hundred feet of any street right-of-way. A vehicle shall not be considered "regularly used in the conduct of the business" if the vehicle is used primarily for advertising, or for the purpose of advertising.
- vi. Flashing, moving, animated coursing, blinker, racer-type, intermittent, rotating, moving or revolving signs, whirligig devices, inflatable signs and

tethered balloons, pennants, banners, ribbons, streamers, spinners, and other similar types of attention-getting devices except for changeable copy signs when in compliance with the applicable regulations of this chapter.

- vii. Signage used on bus transit shelters within the right-of-way.
- viii. Bench signs.
- ix. Roof sign.
- x. Traffic sign replica.
- xi. Pole signs.
- xii. Pylon signs.
- xiii. Changing sign (automatic).
- xiv. "Stick-in" signs.

3. Parking:

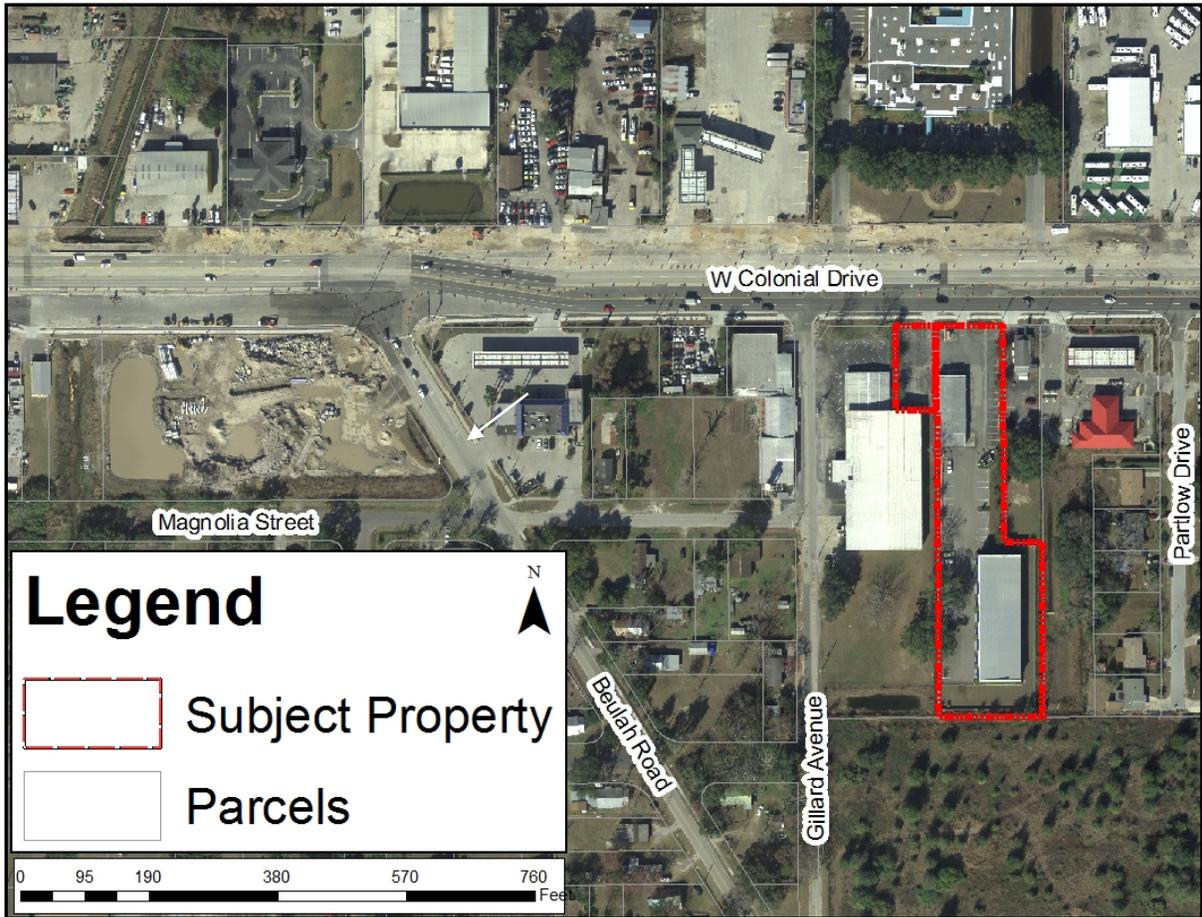
- a. A minimum of one handicap parking space shall be provided on site.
- b. One (1) customer parking space shall be provided for every five (5) vehicles for sale on the site.
- c. No vehicles can be parked to prevent access to, from, or through the site.
- d. The parking areas shall be restriped to define appropriately the parking spaces provided.

4. Vehicle Maintenance:

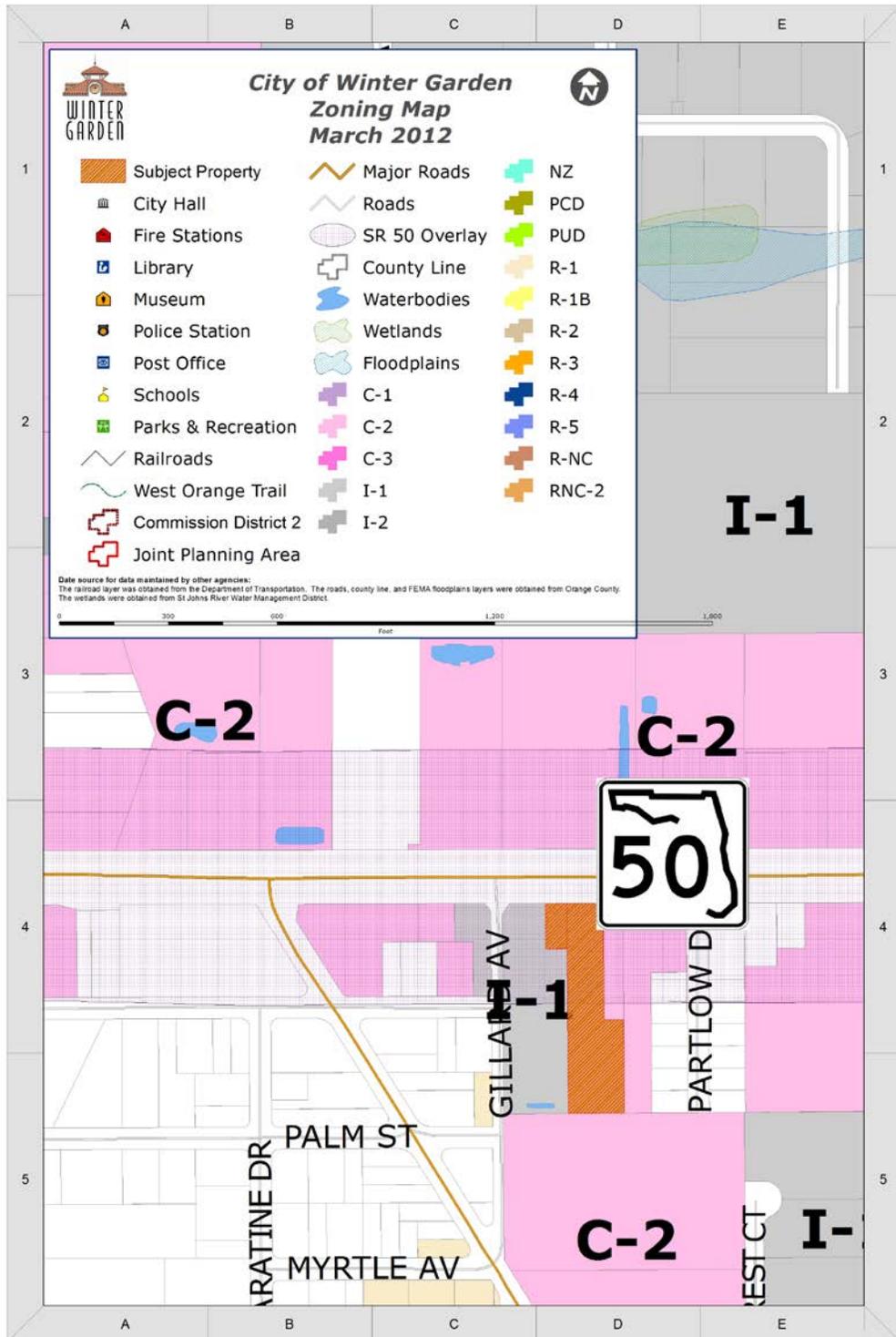
- a. All work on vehicles shall be done inside. No working on vehicles outdoors is allowed.
- b. No outdoor storage of any materials is allowed.
- c. Any vehicles stored outside must have active tags and be in operating condition at all times.

**MAPS/EXHIBITS**

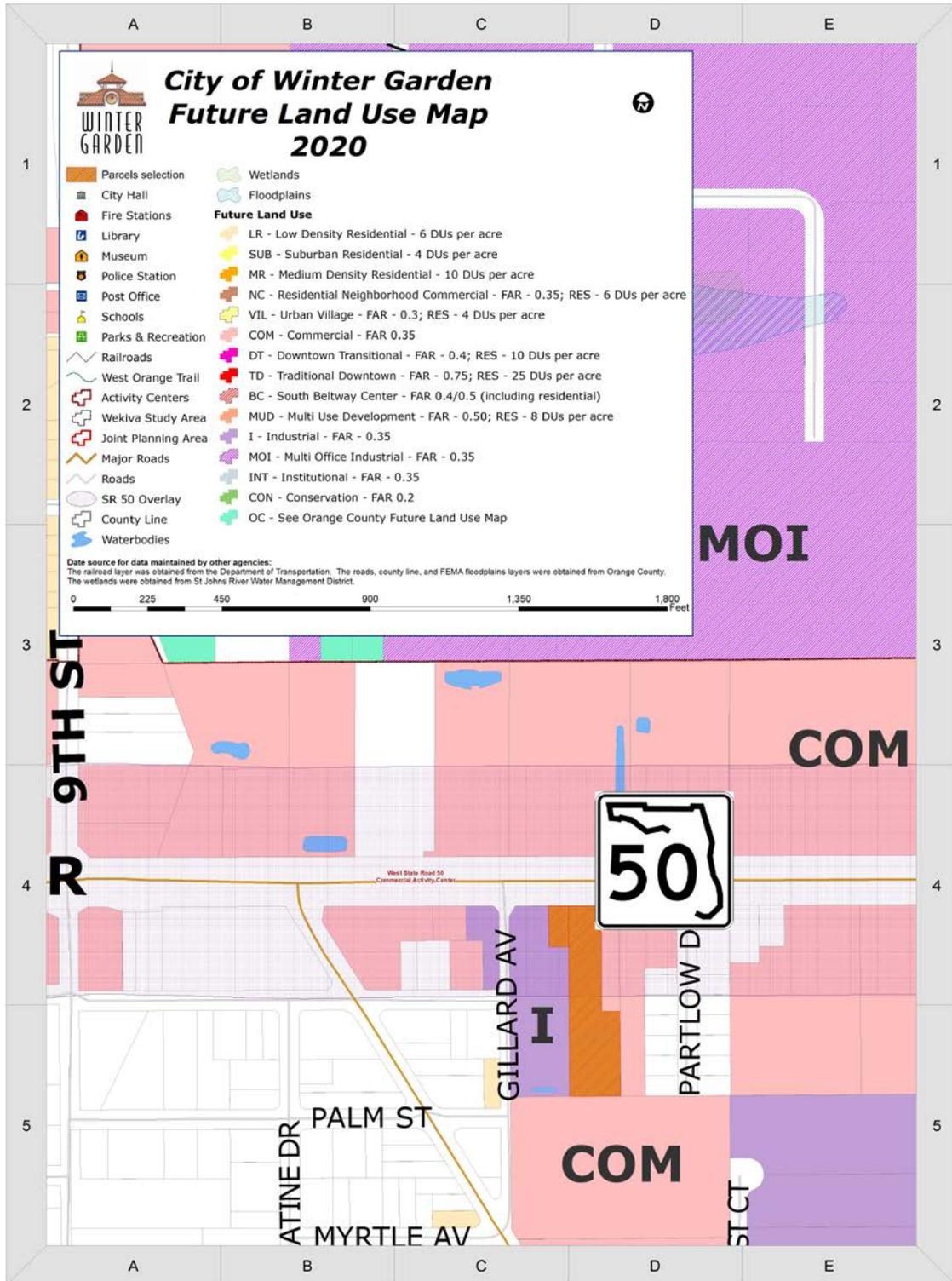
**AERIAL PHOTO**  
**12788 W Colonial Drive**



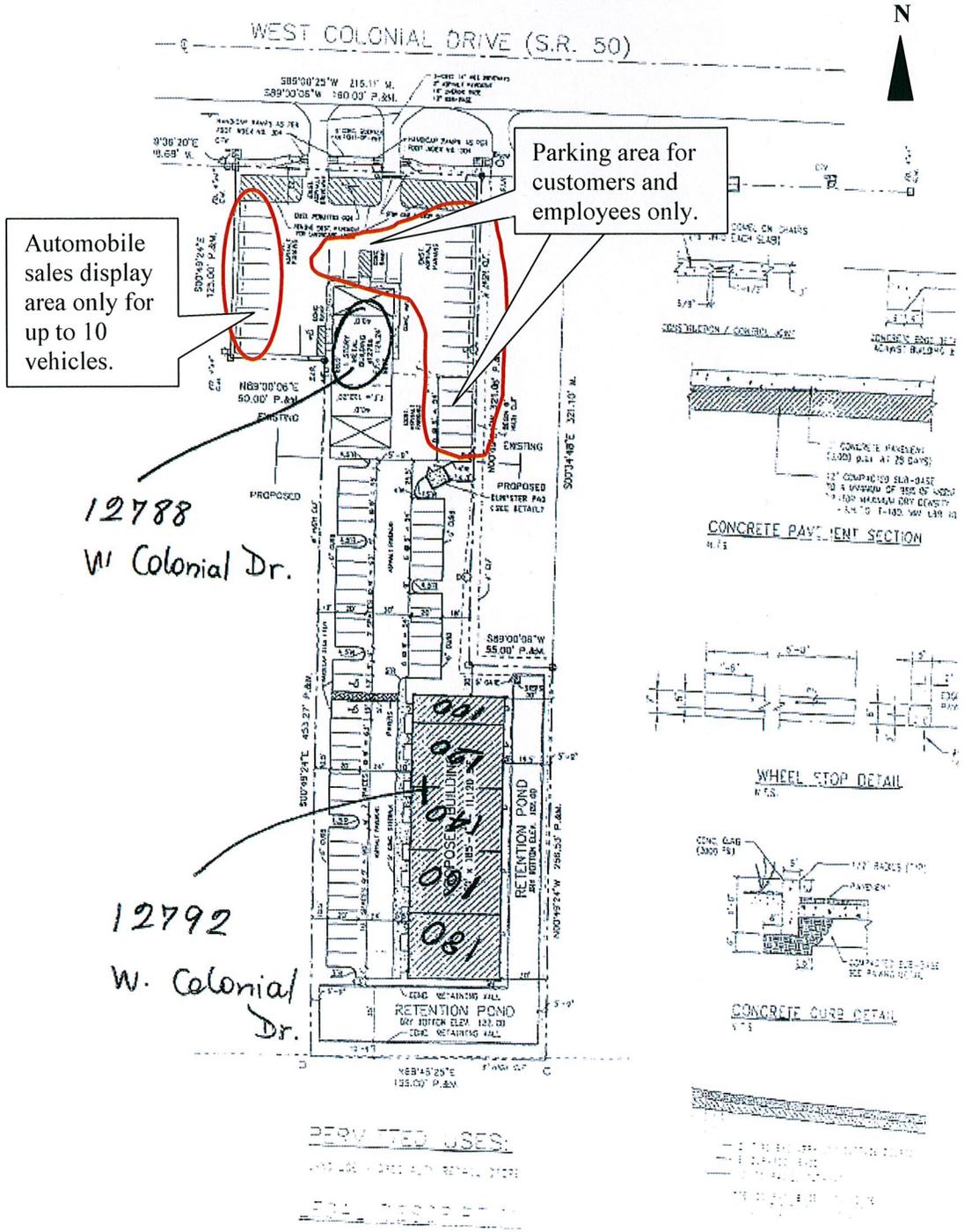
**ZONING MAP**  
**12788 W Colonial Drive**



**FUTURE LAND USE MAP  
 12788 W Colonial Drive**



**EXISTING SITE PLAN**  
**12788 W Colonial Drive**



Automobile sales display area only for up to 10 vehicles.

Parking area for customers and employees only.

12788  
 W Colonial Dr.

12792  
 W. Colonial  
 Dr.

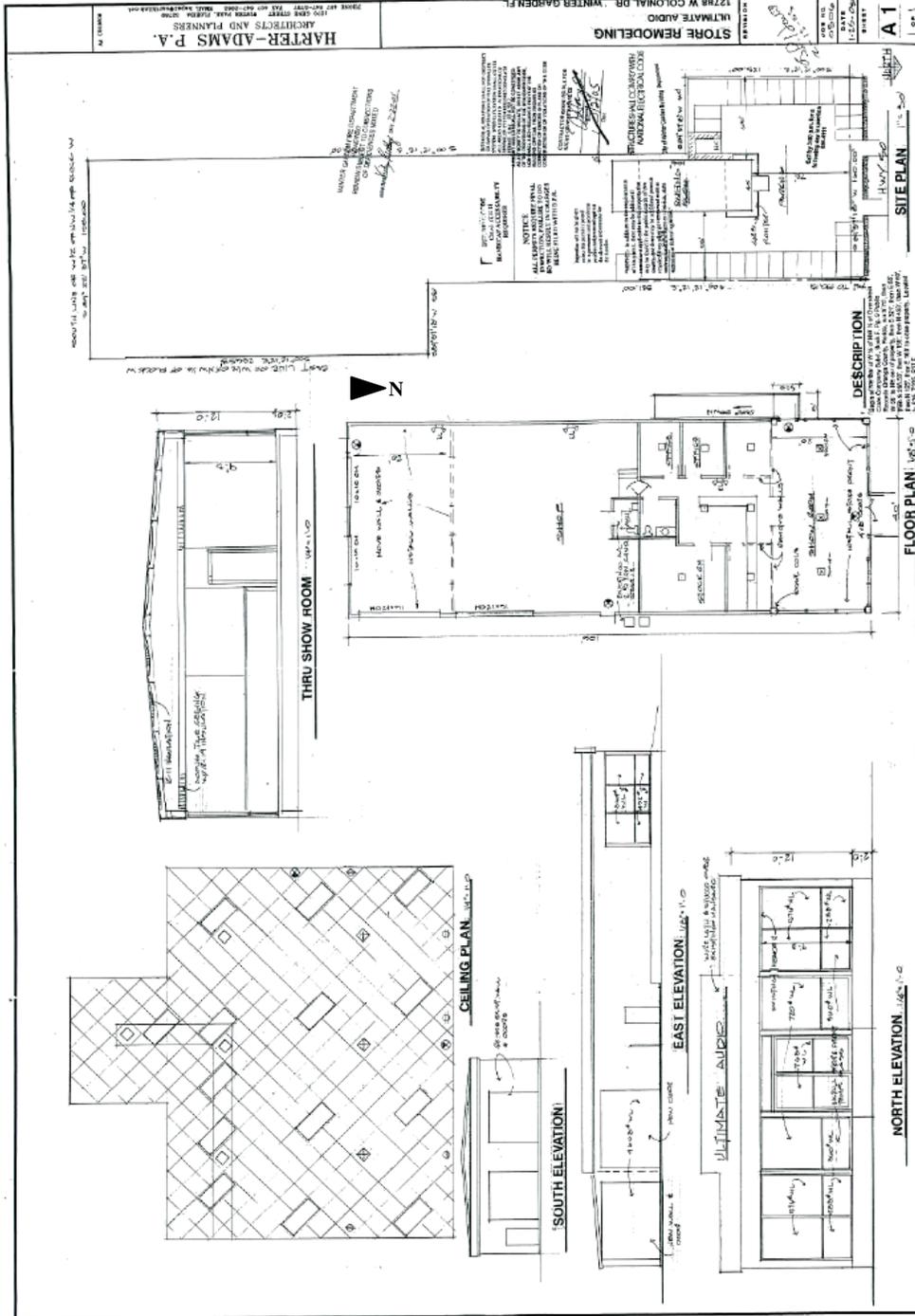
CONCRETE PAVEMENT SECTION

WHEEL STOP DETAIL

CONCRETE CURB DETAIL

PERMITTED USES:  
 AND USE - SEE PLAN SHEET 1001  
 FOR PROPOSED USES

**FLOOR PLAN OF NORTH BUILDING  
 12788 W Colonial Drive**





North building



North west parking area



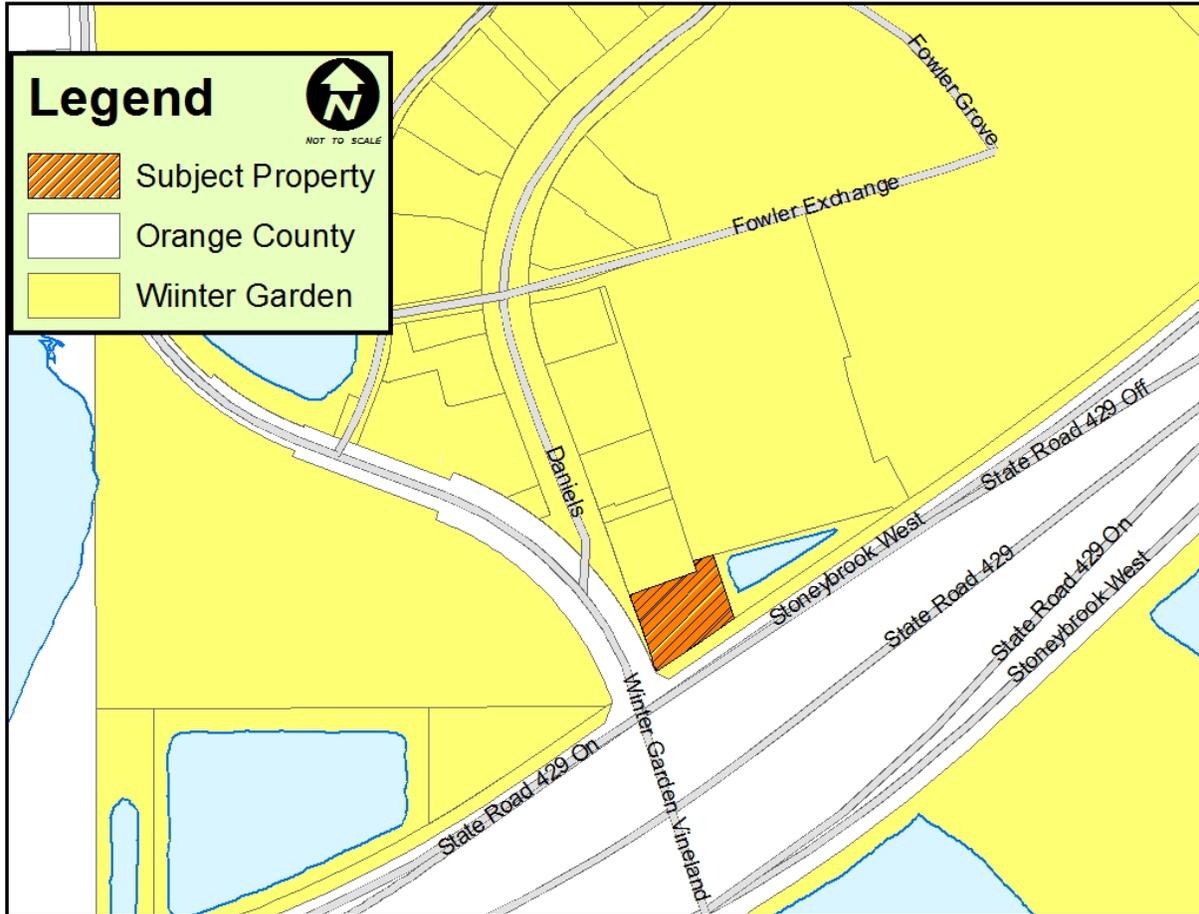
North east parking area

**END OF STAFF REPORT**



# LOCATION MAP

Firestone Winter Garden  
3337 Daniels Road





**PETITION FOR SPECIAL EXCEPTION PERMIT**

<b>SUBMITTAL REQUIREMENTS</b>		
<i>PLEASE BRING ALL OF THE FOLLOWING ITEMS THAT APPLY WHEN SUBMITTING YOUR REQUEST</i>		
APPLICATION	INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED.	<input type="checkbox"/>
SITE PLAN	5 COPIES (IF LARGER THAN 11" X 17" <b>FOLDED NOT ROLLED</b> )	<input type="checkbox"/>
	<b>NOTE: 12 ADDITIONAL COPIES OF THE SITE PLANS WILL BE REQUIRED FOR THE P &amp; Z BOARD</b>	<input type="checkbox"/>
SURVEY	SURVEY WITH COMPLETE LEGAL DESCRIPTION	<input type="checkbox"/>
OWNERSHIP	PROOF OF OWNERSHIP (IE., A COPY OF THE DEED)	<input type="checkbox"/>
FEE	SPECIAL EXCEPTION PERMIT FEES ARE NON-REFUNDABLE (PLEASE CHECK APPROPRIATE BOX):	<input type="checkbox"/>
	A. FOR-PROFIT BUSINESS: <input type="checkbox"/> \$500.00	
	C. NOT-FOR-PROFIT BUSINESS: <input type="checkbox"/> \$200.00	
POA	LIMITED POWER OF ATTORNEY (IF SIGNED BY AGENT OF THE OWNER)	<input type="checkbox"/>

**\*\* ADVISEMENTS \*\***

**PROCEDURE:**

THE PROCEDURE FOR A SPECIAL EXCEPTION PERMIT IS OUTLINED IN SECTION 118-96 THROUGH 118-102 OF THE CITY'S CODE OF ORDINANCES. IN GENERAL, THE PETITION SHALL BE HEARD AND APPROVED, DENIED OR APPROVED WITH CONDITIONS BY THE PLANNING AND ZONING BOARD AT AN ADVERTISED PUBLIC HEARING.

**CODE OF ORDINANCES:**

THE CITY OF WINTER GARDEN'S CODE OF ORDINANCE CAN BE FOUND ON THE INTERNET AT [WWW.MUNICODE.COM](http://WWW.MUNICODE.COM). ACCESS TO THE INTERNET CAN BE OBTAINED AT ANY BRANCH OF THE ORANGE COUNTY LIBRARY.

**APPLICATION SUBMITTAL:**

APPLICATION SUBMITTAL DEADLINE IS THE FIRST DAY OF THE MONTH. THE APPLICATION SHALL BE PRESENTED TO THE PLANNING & ZONING BOARD ON THE FIRST MONDAY OF THE FOLLOWING MONTH (IE; APPLICATION IS SUBMITTED ON THE 1<sup>ST</sup> DAY OF JANUARY, IT WILL BE SCHEDULED BEFORE THE P & Z BOARD ON THE FIRST MONDAY OF FEBRUARY.)

**NOTE:** IF THE PETITIONER WISHES TO BE REPRESENTED BY AN AGENT, A LIMITED POWER OF ATTORNEY MUST BE PROPERLY EXECUTED AND PROVIDED TO THE CITY ALONG WITH THIS APPLICATION.



**PETITION FOR SPECIAL EXCEPTION PERMIT**

SECTION 118-99 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCE REQUIRES THAT EACH APPLICANT FOR A SPECIAL EXCEPTION PERMIT SUBMIT A WRITTEN PETITION PROVIDING CERTAIN INFORMATION AND CLEARLY DESCRIBING HOW THE SPECIAL EXCEPTION REQUEST SATISFIES ALL THE SPECIFIC CONDITIONS NECESSARY FOR THE GRANTING OF THE SPECIAL EXCEPTION. PLEASE PROVIDE THE INFORMATION REQUESTED IN SUFFICIENT DETAIL IN ORDER TO ASSIST THE PLANNING AND ZONING BOARD IN MAKING THEIR DETERMINATION AS TO THIS PETITION (USE ADDITIONAL SHEETS IF NECESSARY):

**OWNER OF RECORD INFORMATION:**

BUSINESS NAME: Sembler Winter Garden partnership # 1, Ltd.  
CONTACT NAME: Gregory S. Sembler  
MAILING ADDRESS: 5858 Central Avenue  
CITY: St. Petersburg STATE: Florida ZIP: 33707-1728  
PHONE: 727-384-6000 FACSIMILE: 727-345-4937 CELLULAR: 727-424-5912  
EMAIL: Greg.sembler@sembler.com

**APPLICANT / CONTACT PERSON (IF DIFFERENT THAN OWNER OF RECORD):**

BUSINESS NAME: Mays & Company  
CONTACT NAME: Steve Meier  
MAILING ADDRESS: 5949 Sherry Lane, Suite 1570  
CITY: Dallas STATE: Texas ZIP: 75225  
PHONE: 972-807-7181 FACSIMILE: 214-363-8409 CELLULAR: 214-632-9611  
EMAIL: Steve@mayscompany.com

Only the primary contact as indicated by the Applicant/Contact Person will receive all correspondence from the City.

**PROPERTY/SITE INFORMATION:**

PROJECT NAME: Firestone Winter Garden  
SITE ADDRESS: 3337 Daniels Road  
COUNTY PROPERTY APPRAISER TAX PARCEL ID NUMBER(S): 35 - 22 - 27 - 9398 - 03 - 080  
CURRENT ZONING: PCD ACRES: 1.35  
EXISTING USE: Vacant Commercial Out Parcel DU OR SQFT: \_\_\_\_\_  
PROPOSED USE(S): Automotive Service with Tire Installation DU OR SQFT: 8,772

**DETAILED DESCRIPTION OF YOUR REQUEST: (MAY ATTACH SEPARATE SHEET IF NEEDED)**

The proposed project includes the constructin of a Firestone automotive service center. The building will consist of 10 bays and services will include tire installation.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RESPONSIBLE PARTY:**

I UNDERSTAND THAT THE CITY OF WINTER GARDEN REQUIRES THAT THE APPLICANT BE RESPONSIBLE FOR REIMBURSING THE CITY FOR ALL ADVERTISING COSTS ASSOCIATED WITH THIS APPLICATION, INCLUDING POSTAGE FOR NOTICES TO ADJACENT PROPERTY OWNERS, AND FOR NEWSPAPER ADVERTISING AS REQUIRED BY THE FLORIDA STATUTES AND THE CITY CODE. I UNDERSTAND THAT I WILL BE BILLED FOR THESE COSTS AND WILL BE RESPONSIBLE FOR PAYING THEM, WHETHER OR NOT MY APPLICATION FOR A SPECIAL EXCEPTION PERMIT IS SUCCESSFUL.

IN ADDITION, IF THIS APPLICATION IS DEEMED TO REQUIRE REVIEW BY THE CITY ENGINEER, CITY SURVEYOR AND/OR CITY ATTORNEY, I UNDERSTAND THAT I OR MY COMPANY WILL BE RESPONSIBLE TO PAY FOR ANY AND ALL REASONABLE LEGAL, ENGINEERING, OR SURVEYING FEES INCURRED BY THE CITY OF WINTER GARDEN IN THE PROCESS OF REVIEWING THE ABOVE PROJECT. I ALSO UNDERSTAND THAT IF THIS PROJECT PROPERTY IS SOLD, I OR MY COMPANY WILL BE RESPONSIBLE TO ENSURE THAT THE NEW OWNER WRITES A SIMILAR LETTER ACCEPTING ALL THE RESPONSIBILITY TO PAY FOR ANY AND ALL REASONABLE LEGAL, ENGINEERING, OR SURVEYING FEES INCURRED BY THE CITY OF WINTER GARDEN IN THE PROCESS OF REVIEWING THIS PROJECT FROM THE DATE THE PROPERTY IS SOLD.

AN APPLICANT SHALL PROVIDE PROMPT WRITTEN NOTICE TO THE CITY MANAGER IN THE EVENT OF A CHANGE IN OWNERSHIP OF ALL OR A PORTION OF A LOT, TRACT, OR PARCEL OF REAL PROPERTY WITH THE RESPECT TO WHICH AN APPLICATION, OR PROJECT IS PENDING BEFORE THE CITY.

Please initial recognizing your agreement of the above requirement:

INITIALS: SM

All invoices for the costs associated with this project should be sent to:

PROJECT NAME OR ADDRESS: Firestone Winter Garden

NAME: Steve Meier

COMPANY: Mays & Company

MAILING ADDRESS: 5949 Sherry Lane

Dallas TX 75225  
CITY STATE ZIP

TELEPHONE: 972-807-7181 EXT.: \_\_\_\_\_

FACSIMILE: 214-363-8409

EMAIL: 214-632-9611

**PROPERTY OWNER AUTHORIZATION / SIGNATURE OF APPLICANT:**

I/WE HEREBY CERTIFY THAT I/WE ARE THE OWNER(S) OF THE REAL PROPERTY WHICH IS THE SUBJECT FOR THIS PETITION AND THAT THE FOREGOING INFORMATION ON THIS PETITION IS TRUE AND COMPLETE.

**See Additional Application Copy**

\_\_\_\_\_  
APPLICANT/OWNER SIGNATURE DATE

\_\_\_\_\_  
PRINT NAME

**NOTARIZATION:**

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

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_, BY \_\_\_\_\_, AS \_\_\_\_\_

OF \_\_\_\_\_, WHO IS PERSONALLY KNOWN TO ME OR WHO PRODUCED \_\_\_\_\_ AS IDENTIFICATION.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
PRINT NAME

FOR OFFICE USE ONLY

- FEES PAID
- SURVEY/LEGAL ATTACHED
- OWNERSHIP ATTACHED
- SITE PLANS ATTACHED
- POA ATTACHED

DATE/RECEIVED BY STAMP



COMMUNITY DEVELOPMENT DEPARTMENT  
 PLANNING AND ZONING DIVISION  
 300 WEST PLANT STREET  
 WINTER GARDEN, FLORIDA 34787

P: 407.656.4111  
 WWW.WINTERGARDEN-FL.GOV

**PETITION FOR SPECIAL EXCEPTION PERMIT**

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**OWNER OF RECORD INFORMATION:**

BUSINESS NAME: SEMBLER WINTER GARDEN PARTNERSHIP #1, LTD.  
 CONTACT NAME: GREGORY S. SEMBLER  
 MAILING ADDRESS: 5858 CENTRAL AVENUE  
 CITY: ST. PETERSBURG STATE: FLORIDA ZIP: 33707-1728  
 PHONE: 727-384-6000 FACSIMILE: 727-345-4937 CELLULAR: 727-424-5912  
 EMAIL: GREG.SEMBLER@SEMBLER.COM

**APPLICANT / CONTACT PERSON (IF DIFFERENT THAN OWNER OF RECORD):**

BUSINESS NAME: Mays & Company  
 CONTACT NAME: Steve Meier  
 MAILING ADDRESS: 5949 Sherry Lane Suite 1570  
 CITY: Dallas STATE: Texas ZIP: 75225  
 PHONE: 972-807-7181 FACSIMILE: 214-363-8409 CELLULAR: 214-632-9611  
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Please initial recognizing your agreement of the above requirement:

INITIALS: \_\_\_\_\_

All invoices for the costs associated with this project should be sent to:

PROJECT NAME OR ADDRESS:

NAME:

COMPANY:

MAILING ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
CITY STATE ZIP

TELEPHONE:

FACSIMILE:

EMAIL:

EXT.: \_\_\_\_\_

PROPERTY OWNER AUTHORIZATION / SIGNATURE OF APPLICANT:

I/WE HEREBY CERTIFY THAT I/WE ARE THE OWNER(S) OF THE REAL PROPERTY WHICH IS THE SUBJECT FOR THIS PETITION AND THAT THE FOREGOING INFORMATION ON THIS PETITION IS TRUE AND COMPLETE.

Gregory S. Sembler  
APPLICANT/OWNER SIGNATURE  
6/7/12  
DATE  
GREGORY S. SEMBLER  
PRINT NAME

NOTARIZATION:

STATE OF FLORIDA  
COUNTY OF PINELAS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 7 DAY OF JUNE, 20 12, BY GREGORY S. SEMBLER, AS

OF \_\_\_\_\_, WHO IS PERSONALLY KNOWN TO ME OR WHO PRODUCED

Michelle M. McIntosh  
NOTARY PUBLIC SIGNATURE  
MICHELLE M. MCINTOSH  
PRINT NAME

AS IDENTIFICATION.

MY COMMISSION EXPIRES



FOR OFFICE USE ONLY

- FEES PAID
- SURVEY/LEGAL ATTACHED
- OWNERSHIP ATTACHED
- SITE PLANS ATTACHED
- POA ATTACHED

DATE/RECEIVED BY STAMP

Lowndes  
Drosdick  
Doster &  
Kantor &  
Reed, P.A.

A T T O R N E Y S  
A T L A W



MIRANDA F. FITZGERALD, J.D.\*  
DIRECT DIAL: 407-418-6340  
NORTH EOLA DRIVE OFFICE  
POST OFFICE BOX 2809  
ORLANDO, FLORIDA 32802-2809  
miranda.fitzgerald@lowndes-law.com

\* Admitted only in AUTHORUSER3

 MERITAS LAW FIRMS WORLDWIDE

Daniels Road - 3337  
**SPECIAL EXCEPTION APPEAL**  
Mays & Company  
35-22-27-9398-03-080

September 7, 2012

Via E-mail and Hand Delivery

Mr. Ed Williams  
Community Development Director  
Planning Director  
City of Winter Garden  
300 West Plant Street  
Winter Garden, FL 34787

Planning & Zoning Board  
c/o City Clerk  
City of Winter Garden  
300 West Plant Street  
Winter Garden, FL 34787

Gentlemen:

This letter will serve as the required Notice of Appeal from the staff determination rendered by letter from Ed Williams dated August 8, 2012, regarding the Winter Garden Village at Fowler Groves' Special Exception—Firestone Complete Auto Care Center. Based on prior e-mail communications between Mr. Williams and the undersigned (attached as Exhibit "A") enclosed is a check in the amount of Five Hundred and 00/100 Dollars (\$500.00) for the cost deposit that has been requested for this Appeal, pursuant to Sec. 118-165 of the City Code.

Mr. Williams' letter acknowledges that the PUD Ordinance for Winter Garden Village allows freestanding tire installation facilities by special exception. It also states, however, that the special exception provision does not allow "automotive service and repair such as, engine service and repair, air condition service and repair, transmission service and repair and other automotive service and repair services." Mr. Williams' letter also indicates that the Winter Garden Village PUD is consistent with the provisions in the City Code pertaining to Industrial and Commercial Planned Unit Developments,

including Section 118-1024(8) which prohibits “New and used automobile, trailer or farm equipment sales and service facilities.” Mr. Williams’ determination is that the proposed Firestone facility is not authorized under the terms of the Winter Garden Village PUD or the City Code. We disagree with the conclusions in Mr. Williams’ determination for the following reasons:

#### Background Facts

1. On August 22, 2011, Lorena Blankenship, a City staff member, sent a meeting notice stating: “The project feasibility meeting for the proposed Firestone Auto Car Care at Winter Garden Fowler’s Grove has been scheduled for Wednesday August 24, 2011 at 10:30 a.m. at City Hall located at 300 W. Plant Street, Winter Garden (see attached comments).” The comments attached to Ms. Blankenship’s meeting notice are dated August 19, 2011, are attached to this Notice of Appeal as Exhibit “B” and are referred to herein as the “8/19/11 Staff Comments.” The 8/19/12 Staff Comments were distributed to the Applicant and to the City DRC review staff, which includes Mr. Williams.

2. The first paragraph in the 8/19/11 Staff Comments explains the Applicant’s Request as follows: “Mays and Company Real Estate Development LLC is requesting on behalf of Firestone Auto Car Care for review of the feasibility of a freestanding tire installation facility **and related uses** within the Winter Garden Village at Fowler Grove project.” (Emphasis added).

3. Paragraph 3 under “Planning staff review and comments” section in the 8/19/11 Staff Comments established the process needed to apply for City review of the proposed project. It reads:

The establishment of a freestanding tire care facility **or auto care center** would establish inconsistent and incompatible use on Daniels Road and CR 535. Currently, this type of use does not exist on Daniels Road or the CR 535 south of the SR 429. **Zoning requirements for said use requires a special exception in C-2 zoning. The Fowler Grove Village PCD also has a provision for this use to be considered as a special exception.** The applicant has been told that this type of use would better locate on major arterials such as SR 50.” (Emphasis added).

4. The special exception list in the City’s C-2 zoning category includes “Automobile sales and service.” The C-2 zoning category is cross-referenced in the Winter Garden Village PUD Ordinance (Ordinance 05-24). The project must comply with the C-2 development standards.

5. The “Other comments” section of the 8/19/11 Staff Comments, contains the following two sentences: “As an alternative to this location, the City is ready and willing to work with the applicant to find a more suitable location on a major arterial road such as West Colonial Drive (SR 50). Arterial roadways provide for a variety of both general retail businesses and support retail businesses [with] which **minor auto repair** would be more suitably located.” (Emphasis added).

6. The minor auto repair services offered at Firestone Complete Auto Care facilities were expressly discussed at the Community Meeting on May 31, 2012, more than two months prior to the Planning and Zoning Board hearing. At the Community Meeting, the Applicant also presented a video that showed the building design with signage saying "Firestone Complete Auto Care." Mr. Williams was present at the Community Meeting.

#### Argument

7. Thus, for nearly a year prior to the Planning and Zoning Board hearing that was noticed for August 6, 2012, Mr. Williams and other staff members were aware that the use proposed for the only remaining parcel in Winter Garden Village was a Firestone Complete Auto Care Center. There is no question that the staff was fully aware that minor auto repair services, in addition to tire installation, were being proposed by the Applicant. Even the name of the facility made it obvious to all that some automotive services in addition to tire installation would be provided. The Firestone facility is, in fact, a "freestanding tire installation facility" that also performs other minor car preventative and maintenance services. No major automotive repairs, such as engine removal or transmission overhauling, are performed at any Firestone facility.

8. The 8/19/11 Staff Comments laid out the course of action which the Applicant needed to pursue to obtain City review and potential approval of the Firestone facility. These Staff Comments indicated that a special exception application would need to be filed under the express provision of the PUD Ordinance allowing freestanding tire installation facilities or under the C-2 zoning provisions. In accordance with staff direction, the Applicant applied for a special exception to allow the Firestone Complete Auto Care facility on a designated parcel in Winter Garden Village.

9. While it was also clear from the 8/19/11 Staff Comments, that the staff was not supportive of the proposal to develop a Firestone facility at Winter Garden Village, every one of the staff's "aesthetic concerns" listed in paragraph 5 under the "Planning staff review and comments" section of the Staff Comments could be addressed through buffering, site design and/or conditions of approval. The very purpose of a special exception is to give the Applicant the opportunity to prove that the proposed use is consistent with the City's Comprehensive Plan and to show that any potential adverse impacts can be appropriately mitigated. The applicant was summarily denied this opportunity, and the Applicant's due process rights were infringed.

10. For nearly a year, up until the night of the Planning and Zoning Commission hearing on the proposed special exception, the staff, including Mr. Williams, was fully aware that minor car care services would be provided at the proposed Firestone facility in addition to tire installation services. For nearly a year, the staff had interpreted the language in the PUD Ordinance to allow a Firestone facility. The proposed use had not changed in that intervening period. Mr. Williams simply determined just prior to the Planning and Zoning Commission hearing that the Applicant should not be allowed to present its case. He said at the beginning of the hearing that he had "just learned" that services other than tire installation would be conducted at the proposed

Firestone facility. The proposed use was no surprise to Mr. Williams. He had known that services in addition to tire installation were being proposed since issuance of the 8/19/11 Staff Comments.

11. After the staff initially charted the course for how the Applicant should proceed with a request for approval of a Firestone Complete Auto Care facility, that course for obtaining approval was abruptly barricaded by Mr. Williams through an eleventh hour reinterpretation of the PUD Ordinance and Code provisions on which the Applicant had relied. This reinterpretation resulted in Mr. Williams' written determination that now completely forecloses any ability for the Applicant to even request a special exception for the Firestone facility.

12. Mr. Williams' determination, from which this appeal is taken, also indicates that the proposed Firestone facility would be considered a prohibited use under Section 118-1024(8) of the City Code which prohibits "New and used automobile, trailer or farm equipment sales and service facilities." This prohibited use provision was not mentioned in the 8/19/11 Staff Comments and is clearly not applicable. No new or used automobile sales are proposed at the Firestone facility. The "service facilities" referred to in the prohibited use provision cited in Mr. Williams' determination are those associated with "new or used automobile, trailer or farm equipment sales." This provision does not prohibit minor automotive preventive and maintenance services associated with a freestanding tire installation facility.

13. Staff has the initial authority to interpret Code provisions, subject to review by the Planning and Zoning Board and City Commission, and an Applicant should be able to rely on the staff interpretation. Firestone spent substantial funds in following staff direction to file a special exception application and in preparing for the Planning and Zoning Commission hearing, only to learn from Mr. Williams **after** the hearing was announced that "the staff" had changed its position and would not allow the application to proceed, putting the Applicant in the position of either having to spend additional funds to appeal the staff determination in order to obtain a hearing on its special exception request or simply withdraw its application. Neither of these alternatives is acceptable.

14. In this case, it seems that one or more staff members were irritated that the Applicant chose to pursue the alternative of seeking a special exception rather than to pursue the suggested alternative of selecting a site on S.R. 50 that staff found more acceptable. Instead of allowing the Applicant to proceed with a special exception hearing at which comprehensive plan consistency and mitigation of impacts would be addressed and at which the staff and the public could have voiced their objections, Mr. Williams circumvented that entire process through a convenient reinterpretation of provisions in the PUD Ordinance and City Code, to the detriment of the Applicant's due process rights and at substantial expense to the Applicant.

Conclusion

For all of the above reasons, we respectfully request that the Planning and Zoning Commission overturn the revised interpretation of the special exception provision in the Winter Garden Village PUD Ordinance, as expressed in Mr. Williams' written determination, and allow the Applicant to proceed with the special exception hearing. If, however, the revised interpretation is upheld, we ask that all of the fees previously paid to the City, with the exception of the \$500 cost deposit submitted with this appeal, be immediately refunded to the Applicant and that any currently unbilled fees be waived. Such unbilled fees may include mailing expenses related to the Community Meeting and the Planning and Zoning Board hearing on August 6, 2012, City Attorneys' fees, and any other review fees that the City may have been planning to pass on to the Applicant.

Very truly yours,

LOWNDES, DROSDICK, DOSTER,  
KANTOR & REED, P.A.

By:   
Miranda F. Fitzgerald, Attorney,  
as counsel for Mays and Company,  
authorized agent for Sembler Winter Garden  
Partnership #1, Ltd.

MFF/njf  
Attachments (Exhibits "A" and "B")  
c: Mr. Steve Meier (via e-mail w/attachments)

Exhibit "A"

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**From:** Ed Williams <ewilliams@cwgdn.com>  
**Sent:** Friday, August 10, 2012 10:00 AM  
**To:** Fitzgerald, Miranda  
**Cc:** Kurt Ardaman  
**Subject:** RE: Firestone

Dear Ms. Fitzgerald

Division 5 of Chapter 118 sets forth the appeal procedure and requirements. A Notice of Appeal must be filed with the administrative official, in this case Ed Williams along with a check for the estimated costs for publication and review

There is no other application or form for the appeal of the administrative officials decision/interpretation on the city website. A letter with attached documentation should be sufficient. Appeal fee of \$500.00 for publication, mail out and review.

Ed Williams

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**From:** Fitzgerald, Miranda [<mailto:miranda.fitzgerald@lowndes-law.com>]  
**Sent:** Thursday, August 09, 2012 3:33 PM  
**To:** Ed Williams  
**Subject:** Firestone

Ed—I received your letter with the formal determination on the Firestone Special Exception Application. Chapter 118, Section 118-162 pertains to appeals from staff determinations. It states: "The appeal shall be in such form as prescribed by the rules of the planning and zoning board." We have not been able to find a form for such an appeal online. Please send me a copy of the correct form for filing the appeal and a copy of the rules of the planning and zoning board. Also, please provide an estimate of the cost of the publication of the hearing notice, for mailing notices to owners within a distance of (only) 300 feet in any direction from the property line of the site proposed for the Firestone facility, and the "fees required for planning and zoning board review and administration." I look forward to hearing from you. Thanks. Randi

**Miranda F. Fitzgerald, Esq. (Bio)**

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.  
215 North Eola Drive  
Orlando, FL 32801  
Phone: 407-418-6340  
Fax: 407-843-4444  
email: [miranda.fitzgerald@lowndes-law.com](mailto:miranda.fitzgerald@lowndes-law.com)  
[www.lowndes-law.com](http://www.lowndes-law.com)

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**Firestone at Fowler's Grove  
Project Proposal - Project Feasibility Meeting (Special Exception request)**

August 19,2011

**Request:**

Mays and Company Real Estate Development LLC is requesting on behalf of Firestone Auto Car Care for review of the feasibility of a freestanding tire installation facility and related uses within the Winter Garden Village at Fowler Grove project.

**Applicant proposes the following:**

The general description of the project and the site are as follows:

1. 1.34 acre site
2. 8,838 sq ft. building
3. Corner parcel of project located at Daniel's Road/Stoneybrook intersection.
4. Four (4) architectural examples have been provided for City review. While the applicant has provided these as examples, we would prefer that they would pick the preferred building style for this project.

The applicant has provided a conceptual site plan for review to the City. The use for a freestanding tire installation facility requires a special exception in accordance with Article II Division 3 of Chapter 118 of City Code and more specifically per section 2 d (2) in Ordinance 05-24 that rezoned the Winter Garden Village to PCD zoning. This review will focus on the feasibility of this use to surrounding area, the consistency with the Special Exception criteria, consistency with the City's comprehensive plan and other aesthetic issues.

**Initial City Staff Comments:**

The applicant has requested the City review the merits of their request. We are providing our response with review of the existing Fowler Grove Village PCD ordinances and design guidelines, development order and City Code requirements.

**Planning staff review and comments:**

1. The Fowler Grove Village PCD is approved for a variety of retail, restaurant, specialty stores and related retail commercial and retail service uses.
2. All current uses that are adjacent to Daniels Road are only permitted uses by the PCD. To date no other special exception uses have been applied for or approved within the project.
3. The establishment of a freestanding tire care facility or auto care center would establish inconsistent and incompatible use on Daniels Road and CR 535. Currently, this type of use does not exist on Daniels Road or the CR 535 south of the SR 429. Zoning requirements for said use requires a special exception in C-2 zoning. The Fowler Grove Village PCD also has a provision for this use to be considered as a special exception. The applicant has been told that this type of use would better locate on major arterials such as SR 50.

4. The proposed use is inconsistent with policies 1-2.1.17, 1-2.3.4 and 1-2.3.10 in the Future Land Use Element of the City's Comprehensive Plan. These policies address the appropriate location of commercial uses to surrounding development.
5. There are several aesthetic concerns with the proposed use and building location. These include:
  - The design of the building proposes 10 roll up doors on the east side of the building that would be visible from westbound Stoneybrook Parkway. This would allow incompatible building openings that the PCD does not allow even in service areas.
  - The vehicle repair activity would be visible from the adjoining roadways and would be an unacceptable use on the exterior location of the Winter Garden Village project.
  - Concerns exist regarding the outdoor storage of tires and oil drums and disposal of auto part accessories.
  - The location of the project dumpster is not conveniently located to the building for refuse disposal.
  - Delivery times for merchandise delivery have not been identified.
  - An explanation of the east property line boundary is needed. What other improvements other than curbing will be installed?
  - Landscape buffer on north property line is not provided. A waiver will be needed to allow this layout not to have at least a 5 foot landscape buffer. Also, the maneuvering for truck deliveries will need to be clear of any designated parking.

**Other comments:**

The request will require a community meeting before the special exception application is submitted to the City. The City will require the residential areas adjacent to the entire Winter Garden Village project to be notified.

The City does not support the proposed use with the comments provided in this report. If the applicant wants to proceed with the community meeting, the City will assist to coordinate the meeting. The applicant will need to provide the preferred architectural concept for the project, along with the site layout, landscaping concepts and any other important information regarding the use such as hours, deliveries, etc. As an alternative to this location, the City is ready and willing to work with the applicant to find a more suitable location on a major arterial road such as West Colonial Drive (SR 50). Arterial roadways provide for a variety of both general retail businesses and support retail businesses which minor auto repair would be more suitably located.

**Distribution**

Applicant

City DRC review staff



September 25, 2012

Lowndes, Drosdick, Doster, Kantor, & Reed, P.A.  
Attention: Miranda F. Fitzgerald, J.D.  
215 North Eola Drive  
Orlando, FL 32801-2028

City of Winter Garden

P: 407.656.4111

**RE:** Firestone Automotive – Administrative Interpretation

Dear Ms. Fitzgerald:

300 West Plant Street  
Winter Garden, FL  
34787  
wintergarden-fl.gov

In response to your recent appeal of the Administrative Interpretation of the Winter Garden Village at Fowler Groves DRI and the proposed Firestone Automotive Center, I am writing this letter to outline the interpretation of the DRI and the City of Winter Garden Code of Ordinances.

**Ordinance 05-24**

**Section 2. Rezoning.** *The zoning classification of the property, as described in Exhibit "A" attached hereto, is hereby rezoned from City R-1 to City PCD subject to the following conditions, provisions and restrictions:*

- a. Applicability/Conflict** – *All development of or within the Property shall comply with and is subject to the requirements set forth in this Ordinance, including the PCD Description and Design Standards set forth in Exhibit "B" attached hereto and incorporated herein. Unless specifically identified in this Ordinance (including Exhibit "B"), all development on the Property, other than the residential tract, identified in Exhibit "A" must comply the general development standards of the C-2 zoning district and West State Road 50 Overlay requirements, whichever is more restrictive; all other development on the Property (i.e., the residential tract), unless otherwise specifically identified in this Ordinance (including Exhibit "B") must comply with the general development standards of the R-3 zoning district. Notwithstanding anything to the contrary herein, all development of or within the Property shall comply with and is subject to all requirements of the City Code, and ordinances, resolutions, and policies of the City. To the extent of any express conflicts between the express provisions of this Ordinance (including Exhibit "B") pertaining to permitted uses, special exception uses, prohibited uses, floor area ratio, architectural design criteria, architectural review, temporary seasonal sales, and signage and the City Code and ordinances, resolutions, and policies of the City, the requirements set forth herein shall apply. It being the express intent of the City Commission that such City Code and ordinances, resolutions, and policies of the City shall address and control over other matters not expressly provided in this Ordinance.*

When this project was originally submitted to the City, there was no discussion on the overall amount of work that would be generated at this location. At the May 31, 2012 community meeting the applicant identified that only 30% of the total business at the proposed Firestone would be tire sales and installation. After this meeting, staff determined that the proposed use was not a Freestanding Tire Installation Facility, but would be considered an Automobile Sales and Service Facility. Based on the above section of the PCD Ordinance, the proposed development is subject to the standards of Ordinance 05-24, not the standards of the C-2 zoning district. Automobile Sales and Service Facilities are not identified in Ordinance 05-24 as Permitted or Special Exception Uses; therefore they are a Prohibited Use.

**d. Special Exception Uses** – *The following uses are Special Exception Uses on the Property which may be permitted if approval is obtained in accordance with the City Code.*

## **2. Freestanding tire installation facilities.**

The proposed Firestone Automotive Center was originally presented to the City as a Freestanding Tire Installation Facility. At the community meeting on May 31, 2012 the applicant presented to City staff and the community that the majority of business at this facility would be from automobile repairs (approximately 70%) and that only 30% of the business at this location would be tire sales and installation. This meeting was the first time that the applicant informed the City of the amount of business that would be non-tire installation. From the applicant's presentation at this meeting, staff determined that the majority of business would not be tire installation and therefore the proposed Firestone was not a freestanding tire installation facility and was actually a prohibited use within the DRI/PCD.

### **Exhibit "B" of Ordinance 05-24.**

Exhibit "B" of the ordinance is the PCD Description and Design Standards prepared by Sembler Florida, Inc. In this exhibit, there are multiple exhibits that show the preliminary site plan, building elevations, land uses, landscaping requirements, signage, etc. In exhibit 1B of exhibit B, the proposed tire installation facility is shown at two locations, in one building. The proposed building is in the southeast corner of the mall (phase 1) and the tire center shown on the exhibit is a portion of a large retail building (not freestanding). The exhibit also indicates that the two locations would be screened by vegetation, parking islands, or by the location between two buildings.

While the proposed Firestone Automotive Center is minimally screened with one parking island and landscaping, it is not located between two buildings. As proposed it is a stand-alone business in the front of the mall at one of the most visible intersections. Based on the standards identified in Exhibit B, the proposed use and location are not consistent with the DRI/PCD.

**Winter Garden Code Section 118-1024. Prohibited Uses.** *In a planned unit shopping center development, the following uses are specifically prohibited:*

*(8) New and used automobile, trailer or farm equipment sales and service facilities.*

After the May 31, 2012 community meeting where the applicant informed the City how much business would be general maintenance and how much business would be tire sales and installation, it was determined that the business would not be a Freestanding Tire Installation Facility. While the C-2 zoning

district does allow an Automobile Sales and Service Facility to apply for a Special Exception, the PCD section of the Code as outlined above is more restrictive. Based on this section of the Code, the proposed Firestone Automotive Center is prohibited within any PCD.

**Administrative Interpretation**

Based on the above Ordinance, Design Standards, and Code requirements as the City of Winter Garden Community Development Director I have determined that the proposed development of a Firestone Automotive Center is not a Freestanding Tire Installation Facility, but is an Automobile Sales and Service Facility. Both Ordinance 05-24 and the Winter Garden Code of Ordinances identify the proposed use as Prohibited; therefore, a Special Exception request should not be allowed.

If you have any questions please feel free to call me at (407) 656-4111, ext. 2272.

Sincerely,



Ed Williams  
Community Development Director

Firestone – 3337 Daniels Road

Verbatim statement from 5-31-2012 Community Meeting (2:51 – 3:35)

“uh a lot of people ask questions about uhm ah what percentage of their work is under sales as tires and brakes and stuff repairs they provide. 30% of their business is tires and the other 70% is service, minor automotive service, oil change, brake work, suspension work, air condition work, uh electrical work that as I said they don't do any uh major automotive, they don't do any engines, they don't do any transmissions they don't do any body work other than that of an approved zoning uh intense automotive repair type uses that are regarding land uses I think not most businesses do that but they do do more than just sell tires.”