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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

RE: ****REVISED**** Agenda – February 4, 2013 - 6:30 PM
Commission Chambers, City Hall
300 West Plant Street, Winter Garden

1. **CALL TO ORDER**
2. **ROLL CALL AND DETERMINATION OF QUORUM**
3. **APPROVAL OF MINUTES FROM THE JANUARY 7, 2013 MEETING**

VARIANCE (PUBLIC HEARING)

4. 1089 Walker Street – (CPH Engineers, Inc - Autozone)
Parcel ID #: 23-22-27-8104-00-331
Parcel ID #: 23-22-27-8104-00-470
Parcel ID #: 23-22-27-8104-00-460
Parcel ID #: 23-22-27-8104-00-341
Parcel ID #: 23-22-27-8104-00-332
Parcel ID #: 23-22-27-8104-00-360
5. 3638 Turningwind Lane – (Wallace, Paul)
Parcel ID #: 11-23-27-9167-00-220

SPECIAL EXCEPTION PERMIT (PUBLIC HEARING)

6. 12788 W. Colonial Drive (12792 W. Colonial Suite 100 & 200) – (Howards Hot Rod)
Parcel ID #: 12-22-27-6496-23-005

PRELIMINARY & FINAL PLAT(S)

7. Reserve at Carriage Pointe Phase 1 – 37.01 +/- Acres (Bowyer-Singleton & Assoc.)
Taylor Morrison of Florida, Inc.
Final Plat
Parcel ID #: 06-23-27-4284-04-010

ANNEXATION, REZONING, FUTURE LAND USE MAP AMENDMENT (PUBLIC HEARING)

8. 17416 Amber Sweet Lane (Roberts, Joseph)
Annexation / FLU Map Amendment
Parcel ID # : 06-23-27-4288-08-221
9. 1751 Williams Road (Foremostco, Inc.)
Annexation / FLU Map Amendment
Parcel ID # : 06-23-27-0000-00-007

CITY CODE AMENDMENT (PUBLIC HEARING)

10. **Amending Article III, Division 4 and 5 of Chapter 110 of the City of the City Code of Ordinances of the City of Winter Garden.**
11. **ADJOURNMENT**

To the next regular Planning and Zoning Board meeting on Monday, March 4, 2013 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor.



**A REGULAR MEETING MINUTES
PLANNING AND ZONING BOARD
JANUARY 7, 2013**

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 6:30 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 at 6:30 p.m.

MEMBERS PRESENT:

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

MEMBERS ABSENT/ARRIVED LATE:

None

STAFF PRESENT:

City Attorney(s) Kurt Ardaman, Community Development Director Ed Williams, Senior Planner Stephen Pash, and Planning Technician Corrina Williams.

3. APPROVAL OF MINUTES

Approval of minutes from the regular meeting held November 26, 2012.

Motion by Kent Horsley to approve the November 26, 2012 minutes, seconded by James Dunn, the motion carried unanimously 7-0.

VARIANCE(Public Hearing)

4. 500 S. Dillard Street – (Toole Asma LLC – Ace Hardware)

Senior Planner Steve Pash presented a variance request from the City's noise ordinance to allow commercial deliveries to continue between 9:00 pm and 7:00 am. The applicant has submitted information to show these activities have occurred for the past 18 years during this same time. Staff has no record of any complaints over the past 18 years. A recent complaint

has initiated this variance request. Staff is recommending approval of the variance and feels the activity does not negatively affect the neighborhood, and this activity has occurred there for 18 years without incident. The owner has also taken additional steps to reduce the noise and the variance is not out of character with the surrounding properties. Properties in this area all have a commercial land use designation, including the residential neighborhood to the west. These properties are transitioning into commercial uses and carry the land use designation of neighborhood commercial. Strict compliance with the land development regulations will not further any City objectives and granting of the variance is consistent with the future land use and comprehensive plan. Staff believes this is the minimum variance to make reasonable use of the property.

Citizen, Paul Anderson, 412 S. Woodland Street, Winter Garden, FL 34787 – made a statement advising the board he was the citizen who filed the complaint and has since talked with the owners of the property and is satisfied with the arrangements and changes being made to reduce the noise and no longer opposes the variance request.

Applicant, Walter Toole, 500 S. Dillard Street, Winter Garden, FL 34787 – made a statement advising the board of his intentions to work with Mr. Anderson and provided a summary of changes already put in place at the store to modify activities and reduce noise from deliveries.

Motion by James Dunn to approve the noise variance request at 500 S. Dillard Street with staff recommendations (Attached Exhibit “A”). Seconded by Kent Horsley, the motion carried unanimously 7-0.

SPECIAL EXCEPTION PERMIT (Public Hearing)

5. 12788 W. Colonial Drive (12792 W. Colonial Dr. Ste 140)–(TD Fabrication, Inc)

Senior Planner Steve Pash presented a special exception permit request to allow manufacturing in a C-2 zoning district. Staff is recommending approval of the special exception permit with the following conditions; no outdoor work is allowed; no outdoor storage is allowed; and no display or sale of merchandise is allowed.

General discussion with Board and Staff to clarify the conditions listed in the summary of the staff report to include all three conditions.

Motion by Kent Horsley to approve the special exception permit for the property at 12792 W. Colonial Drive, Suite 140, for TD Fabrication, Inc. with staff recommendations (Attached Exhibit “B”). Seconded by James Dunn, the motion carried unanimously 7-0.

6. 12788 W. Colonial Drive (12792 W. Colonial Dr. Ste 180)–(Find Autos Free LLC)

Senior Planner Steve Pash presented a special exception permit request to allow automobile service in the C-2 zoning district. The company is an auto wholesaler and will use this particular suite to perform detailing work with no sales or other services at this location. Staff is recommending approval of the special exception permit to allow the detailing automobile service with the following conditions; no outdoor work is allowed; no outdoor storage of

vehicles or any other materials is allowed; and no display or sale of vehicles or merchandise is allowed at this facility.

General discussion with Board and Staff to clarify the condition that the vehicles must be stored indoors and detailing services performed are also required to be done indoors.

Motion by Mac McKinney to approve the special exception permit for the property at 12792 W. Colonial Drive, Suite 180, with staff recommendations (Attached Exhibit "C"). Secoded by Eric Weiss, the motion carried unanimously 7-0.

PRELIMINARY & FINAL PLAT(S)

7. Covington Chase Phase 2B – 25.2 +/- Acres (JTD Land at Covington Chase, LLC)

Community Development Director Ed Williams presented the final plat for Covington Chase Phase 2B, which was approved at the November 26, 2012 Planning and Zoning Board meeting, for re-approval due to the developer selling off lots to the builder for model homes prior to the approval of the final plat. All the agreements and documents associated with the Final Plat have been corrected and revised to account for the sale of those lots. Staff recommends approval of the final plat.

Motion by James Gentry recommending approve the reconsideration of final plat of 44 lots Covington Chase Subdivision with Staff Recommendations (Attached Exhibit "D"). Secoded by Rohan Ramlackhan, the motion carried unanimously 7-0.

ANNEXATION, REZONING, FUTURE LAND USE MAP AMENDMENT (Public Hearing)

8. 14288; 14350; 14362 Siplin Road (Hanover Capital Partners, LLC)

Senior Planner Stephen Pash presented a voluntary annexation application for approximately 35 acres consisting of three parcels located at 14288, 14350, and 14362 Siplin Road. The applicant has requested voluntary annexation and will submit for zoning and future land use at a later date and will be required to participate in a fair share agreement on the widening of SunRidge Boulevard and utility relocation. The applicant is proposing a subdivision for this property which will go through a planned development. City Staff recommends approval of Ordinance 13-05.

Motion by Eric Weiss to recommend the approval of annexation of 14288; 14350; 14362 Siplin Road – Annexation - Ordinance 13-05, with staff recommendations (Attached Exhibit "E"). Secoded by James Dunn, the motion carried unanimously 7-0.

9. 12900 Roper Road (Oaks of Winter Garden, The)

Senior Planner Stephen Pash presented a voluntary annexation application for the property located at 12900 Roper Road. The applicant has requested voluntary annexation with the future land use designation of low density residential and a zoning designation of R-1B the owner plans to sell the property to a developer and the developer will propose a new

subdivision in the near future. City Staff recommends approval of Ordinance 13-01; 13-02 and 13-03.

Motion by Kent Horsley to recommend the approval of 12900 Roper Road with parcel Id# 36-22-27-0000-00-011 - Annexation – Ordinance 13-01, Future Land Use Amendment – Ordinance 13-02, and Rezoning – Ordinance 13-03, with staff recommendations (Attached Exhibit “F”). Seconded by Mark Maciel, the motion carried unanimously 7-0.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:56 p.m.

APPROVED:

ATTEST:

Chairman James Gentry

Planning Technician 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: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 3, 2013
SUBJECT: VARIANCE
500 S. Dillard Street (1.07+/- ACRES)
PARCEL ID # 23-22-27-8576-01-010

APPLICANT: Asma Toole, LLC

INTRODUCTION

The purpose of this report is to evaluate the request for a variance to the noise ordinance for property located at 500 South Dillard Street in Winter Garden, Florida. The request is to allow commercial deliveries during the night which create noise levels that exceed the maximum allowed between 9:00 p.m. and 7:00 a.m. If approved, this variance will allow commercial deliveries at Ace Hardware between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday to continue.

The subject property, located on South Dillard Street is approximately a 1.07± acre lot at the intersection of South Dillard Street and East Vining 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 variance to Section 38-156. Maximum permissible sound level limits to allow commercial deliveries to the business between the hours of 9:00 p.m. and 7:00 a.m. The subject property carries the zoning designation C-2 (Arterial Commercial District) and is designated COM (Commercial) on the Future Land Use Map of the City's Comprehensive Plan.

EXISTING USE

The subject property presently consists of a 10,400 square foot commercial building (Ace Hardware).

ADJACENT LAND USE AND ZONING

The adjacent properties to the north of the subject site are developed with single-family homes and offices with R-2 and C-3 zoning designation. The properties to the west are single-family residential homes with R-2 zoning designation. The properties to the south and east are developed as commercial/office uses, with C-2 zoning designation and the future land use designation of COM (Commercial). All of the surrounding properties that carry the R-2 zoning designation have a future land use of RNC (Residential Neighborhood Commercial). The commercial land use was put in place working with the surrounding neighborhood, because the area is expected to be developed with commercial uses.

PROPOSED USE

The applicant is requesting a variance to the noise ordinance to be able to continue getting deliveries at the same time as they indicate has occurred for the last 18 years. The application includes a letter from the Ace Hardware Corporation stating that the deliveries to the Store located at 500 South Dillard Street, Winter Garden Florida has been done at 3:00 a.m. for the past 18 years.

CODE REFERENCE

Sec. 38-156 (a) of the City Code of Ordinances addresses maximum permissible sound level limits. This section states in part that the maximum permissible sound level at the receiving property shall not exceed 55 dBA from 9:00 p.m. – 7:00 a.m. when the receiving property is a single-family residential dwelling lot.

The applicant is seeking a variance to the maximum permissible sound level to allow commercial deliveries between 9:00 p.m. and 7:00 a.m. Typically these deliveries happen around 3:00 a.m. as indicated in the letter from Ace Hardware Corporation, which was submitted with the application (attached).

CODE REQUIREMENTS /CRITERIA

Code Requirements/Criteria:

Section 38-165 of the City Code allows variances to the noise ordinance to be requested.

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

P&Z : PH12-049

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;*

A recent complaint about the noise has brought the delivery activities to our attention and required the owner to submit for this variance. The property owner has provided a letter from the Ace Hardware Corporation stating that deliveries have occurred at this time and location for the last 18 years. During that time, staff did not receive any complaints concerning noise. The owner has also submitted a letter outlining additional steps that they have taken to reduce their impact on the surrounding properties. Based on this, staff believes that there should not be any negative impact or interference with the reasonable enjoyment of adjacent or nearby property owners as there have not been any previous complaints and the owner has taken additional steps to make less noise.

- (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 allows a delivery service to continue at the same time as it has happened for the last 18 years. The surrounding properties are either zoned for commercial use or carry a Future Land Use (FLU) designation that allows conversion to commercial uses. With these uses or ability to change use on the surrounding properties, the proposed delivery time is not out of character with other properties and is consistent with those in the same zoning category.

- (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. Based on the information provided by the applicant, this request is consistent with what has occurred at this business for the past 18 years.

- (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 commercial development. The surrounding area is either zoned for commercial uses or has a Future Land Use (FLU) designation of Residential Neighborhood Commercial. The surrounding FLU was put in place based on the request and support of the property owners in this neighborhood. It is expected that this area will be redeveloped with commercial type uses.

- (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.*

P&Z : PH12-049

The variance requested is the minimum variance that will make reasonable use of the land. The property owner has supplied a letter from the delivery company showing that the deliveries have occurred at this time for the last 18 years and they have made changes to the way they unload their truck to be sure they make the least noise/impact to the surrounding area. Denying this variance does not benefit the property owner or the City.

SUMMARY

City Staff recommends approval of the variance to Section 38-156 (a) to allow noise that exceeds the maximum permissible sound limits between the hours of 9:00 p.m. and 7:00 a.m. subject to the following conditions:

1. Deliveries can only occur two times per week.
2. Staff unloading the truck shall be trained to be aware of the surrounding neighborhood. All effort shall be made to make the least noise possible.
3. Any material that can be unloaded by hand shall be unloaded by hand.
4. The fork lift can only be used to unload the truck.
5. Once material has been taken off of the truck, all movement of the material needs to be done using pallet jacks.

ATTACHMENTS

- Aerial Photos
- Loading Area Plan
- Site Photos
- Letter from Ace Hardware

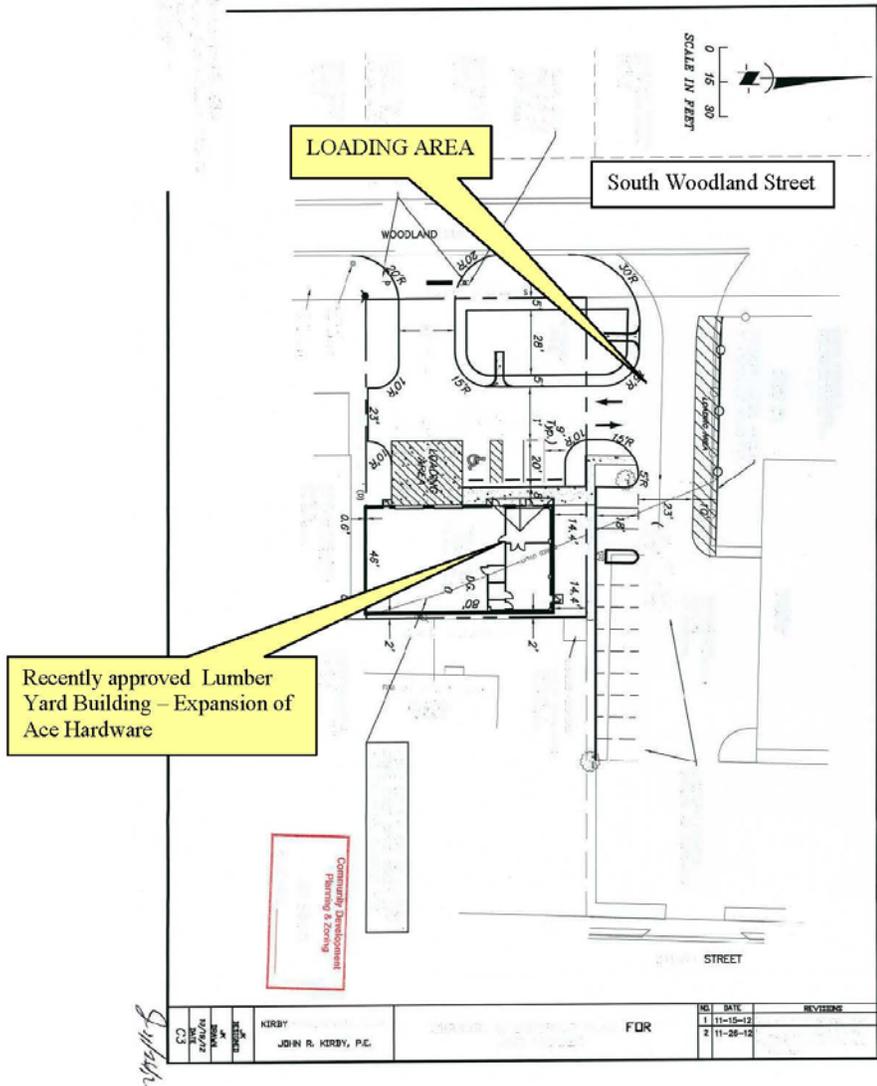
AERIAL PHOTO
500 South Dillard Street



LOCATION OF COMPLAINT

P&Z : PH12-049

LOADING AREA PLAN
500 South Dillard Street



P&Z : PH12-049

SITE PHOTOS
500 South Dillard Street

View of Loading Area



View of Loading Area Looking West from South Dillard Street



P&Z : PH12-049



Site Photos
500 South Dillard Street

View of Loading Area Looking East from South Woodland Street



P&Z : PH12-049

Site Photos
500 South Dillard Street

Views of Surrounding Neighborhood



P&Z : PH12-049



END OF STAFF REPORT

P&Z : PH12-049

EXHIBIT “B”

CITY OF WINTER GARDEN PLANNING & ZONING DIVISION

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

STAFF REPORT

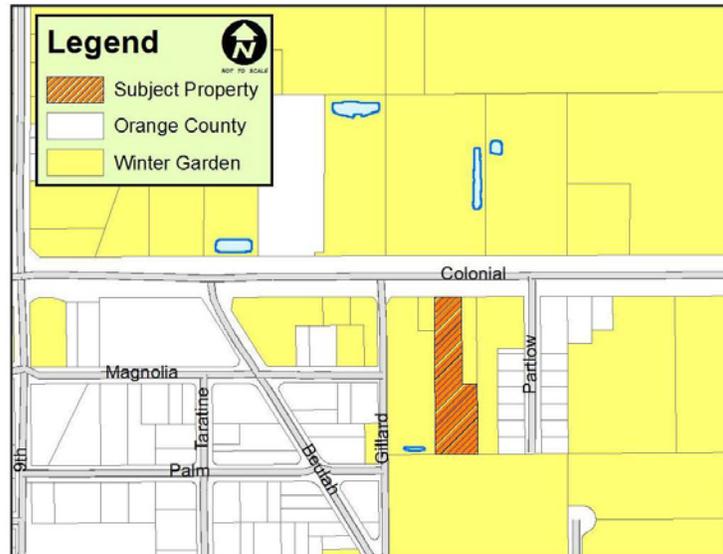
TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 4, 2013
SUBJECT: SPECIAL EXCEPTION PERMIT
12792 West Colonial Drive, Suite 140 (TD Fabrication, Inc.)
PARCEL ID # 12-22-27-6496-23-005

APPLICANT: TD Fabrication, 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 12792 West Colonial Drive, Suite 140 and is approximately 1.66 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant is requesting a Special Exception to allow for the use of a manufacturing facility in a C-2 zoning district. The subject property is located within the City of Winter Garden municipal limits, carries the zoning designation C-2, and is within the West State Road 50 Overlay. The subject property is designated Commercial on the Future Land Use Map of the Comprehensive Plan.

EXISTING USE

The subject property contains approximately 72,108 square feet of building area in two buildings. The front building is used as a Pawn Shop and was recently approved for a Special Exception to allow automobile sales. The building in the back (where the current use is proposed) contains five suites ranging in size from 1,500 square feet to 2,500 square feet. Currently there are no tenants in the back building.

ADJACENT LAND USE AND ZONING

The properties located to the north contain an RV sales facility, a gas station, and a retirement home, are zoned C-2 and in the City. The property located to the east is developed with a car wash and zoned C-2 in the City. The property to the south is vacant, zoned C-2 in the City. The property to the west is a wood working mill/manufacturing business and zoned I-1 in the City.

PROPOSED USE

The property was recently sold and the new owner is pursuing businesses to move into the vacant building. There are currently two applications for Special Exception to operate businesses within this building which are appropriate for the way the building was constructed, but require Special Exception to be allowed in the C-2 zoning district. The applicant proposes to use the 2,500 square foot suite as a manufacturing facility to complete manufacturing work on plastic tanks that are typically installed on recreational vehicles. The tanks range in size from 10 gallons to 140 gallons, are made at another facility in Ocoee, then brought to this location where the owner will install fittings and fasteners. After the fittings and fasteners are installed, the tanks are taken to another location to be installed.

While Section 118-580 prohibits manufacturing in the C-2 zoning district, Section 118-579 allows a Special Exception for other uses which the Planning and Zoning Board determines are the type and intensity of activity desired in the C-2 zoning district. The type of manufacturing proposed at this facility will not generate excessive noise or have materials stored outside, and will have a minimal impact to the surrounding area. Due to the type of manufacturing being proposed, staff recommends allowing the proposed use through the Special Exception Permit.

SUMMARY

City Staff recommends approval of the manufacturing facility, with the following conditions:

- No outdoor work of any type can be done on this property.
- No outdoor storage of any materials.

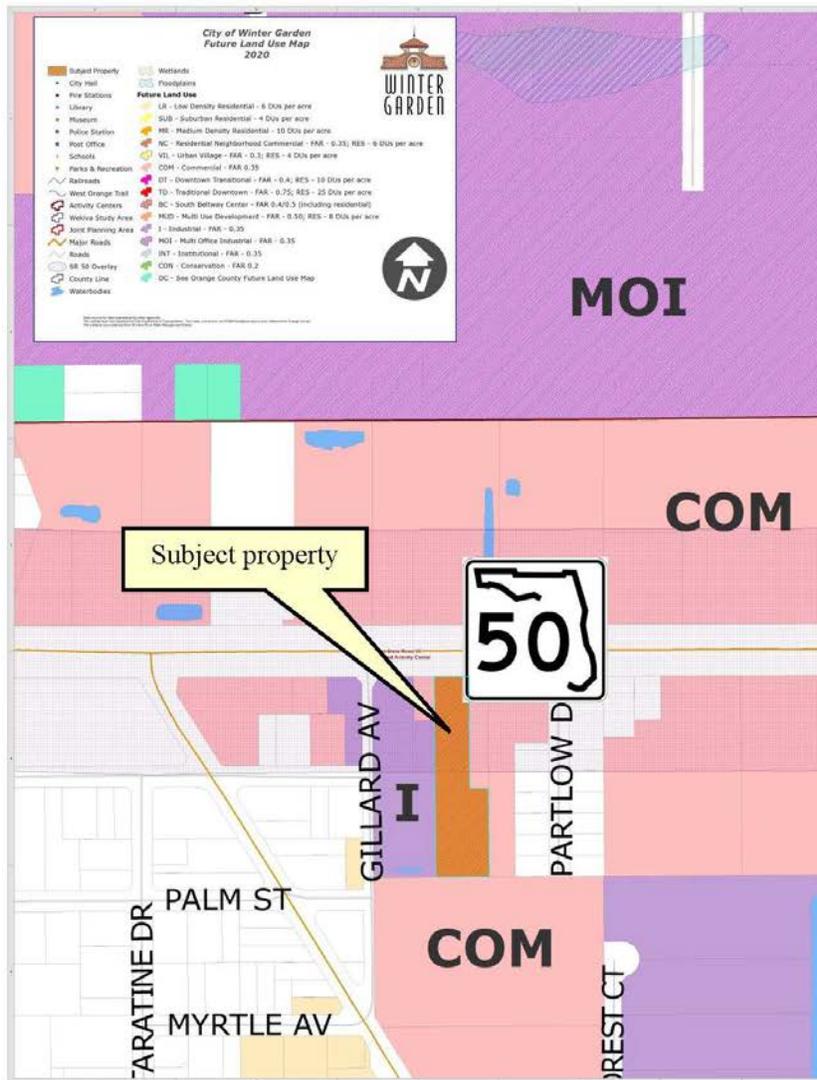
- No display or sale of any merchandise can occur at this facility.

MAPS/EXHIBITS

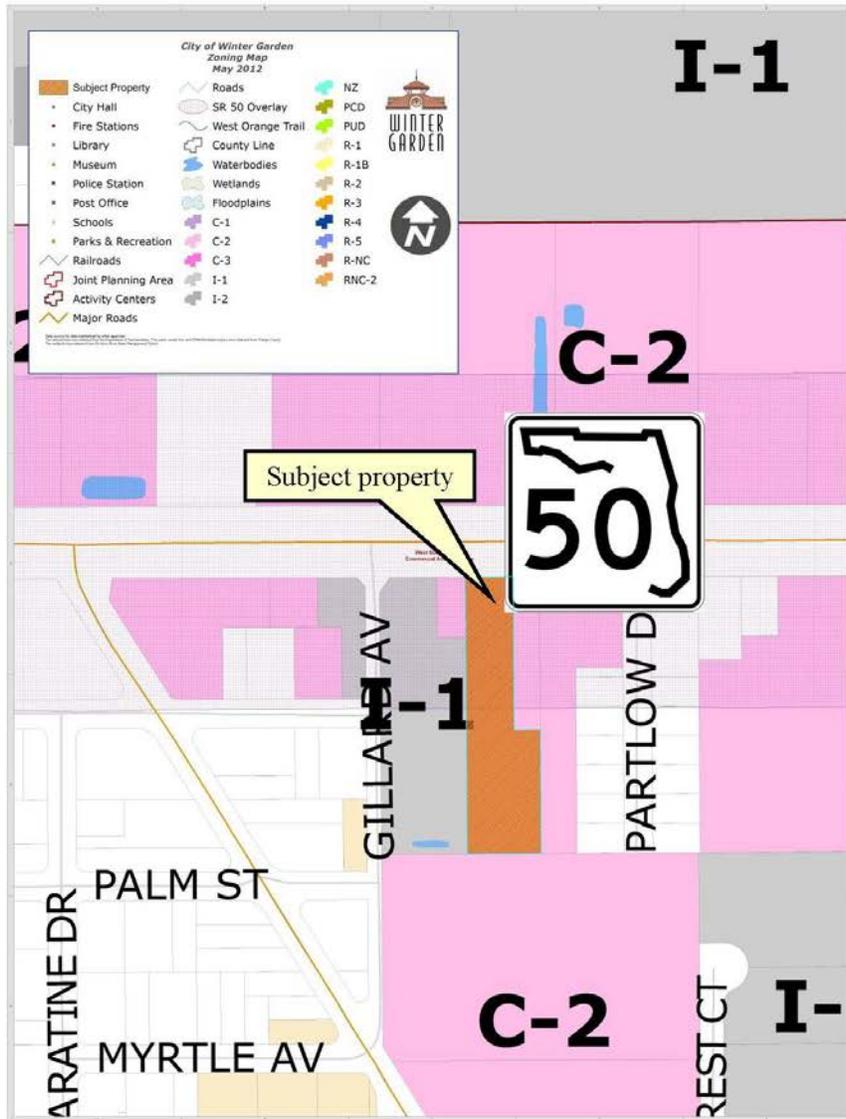
**AERIAL PHOTO
12792 W. Colonial Drive**



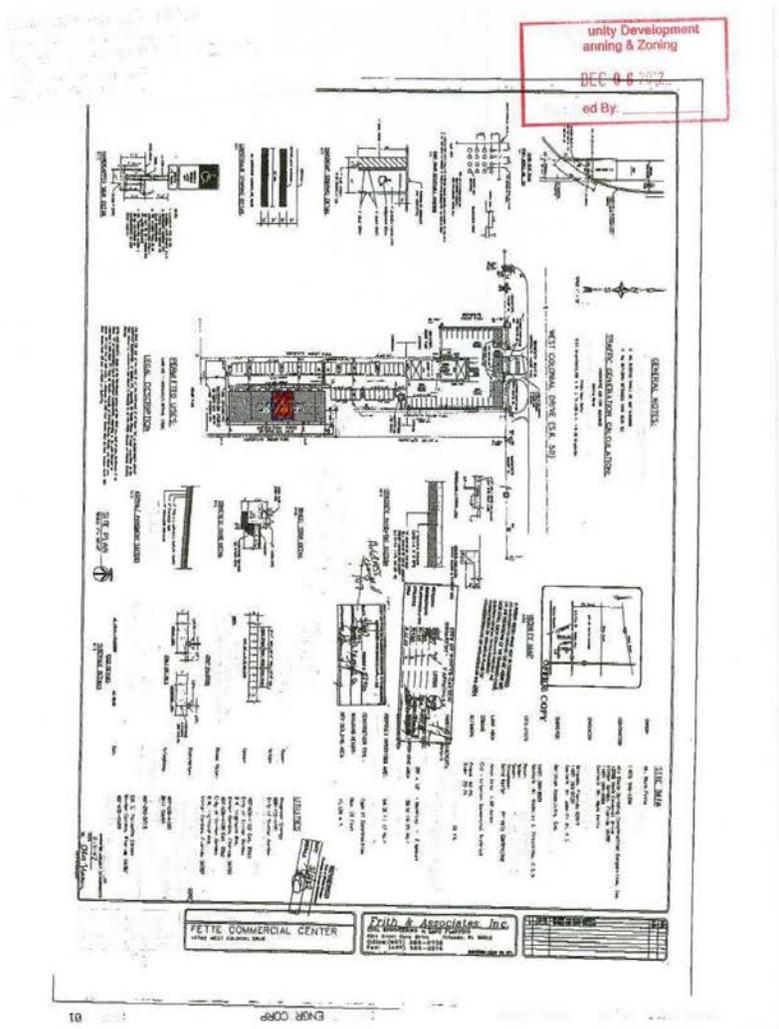
**FUTURE LAND USE MAP
12792 W. Colonial Drive**



ZONING MAP
12792 W. Colonial Drive



**PROPOSED SITE PLAN
12792 W. Colonial Drive**



END OF STAFF REPORT

EXHIBIT “C”

**CITY OF WINTER GARDEN
PLANNING & ZONING DIVISION**

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

STAFF REPORT

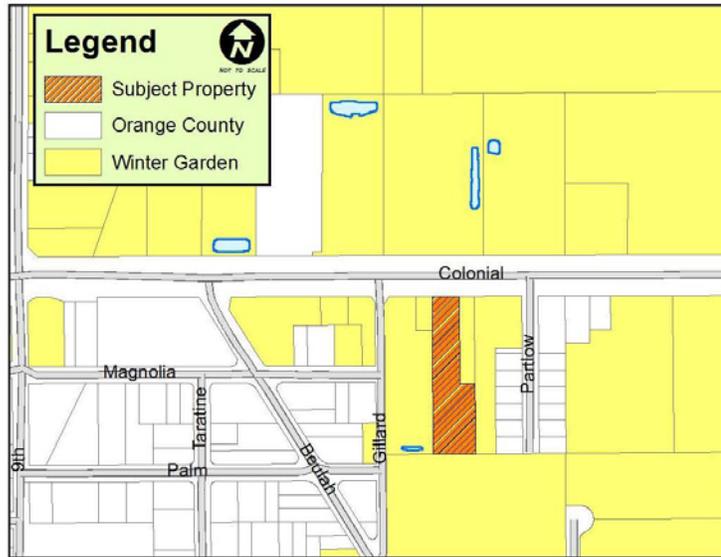
TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 4, 2013
SUBJECT: SPECIAL EXCEPTION PERMIT
12792 West Colonial Drive, Suite 180 (Find Free Autos, LLC)
PARCEL ID # 12-22-27-6496-23-005

APPLICANT: Find Free Autos, LLC

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 12792 West Colonial Drive, Suite 180 and is approximately 1.66 ± acres. The map below depicts the proximity of the subject property to the City’s jurisdictional limits:



The applicant is requesting a Special Exception to allow an auto service facility in a C-2 zoning district. The subject property is located within the City of Winter Garden municipal limits, carries the zoning designation C-2, and is within the West State Road 50 Overlay. The subject property is designated Commercial on the Future Land Use Map of the Comprehensive Plan.

EXISTING USE

The subject property contains approximately 72,108 square feet of building area in two buildings. The front building is used as a Pawn Shop and was recently approved for a Special Exception to allow automobile sales. The building in the back (where the current use is proposed) contains five suites ranging in size from 1,500 square feet to 2,500 square feet. Currently there are no tenants in the back building.

ADJACENT LAND USE AND ZONING

The properties located to the north contain an RV sales facility, a gas station, and a retirement home, are zoned C-2 and in the City. The property located to the east is developed with a car wash and zoned C-2 in the City. The property to the south is vacant, zoned C-2 in the City. The property to the west is a wood working mill/manufacturing business and zoned I-1 in the City.

PROPOSED USE

The property was recently sold and the new owner is pursuing businesses to move into the vacant building. There are currently two applications for Special Exception to operate businesses within this building which are appropriate for the way the building was constructed, but require Special Exception to be allowed in the C-2 zoning district. The applicant owns an automobile wholesale business which purchases and sells vehicles through the Florida Auto Auction in Ocoee. The applicant is requesting Special Exception to use this 2,500 square foot suite as an automobile service facility. The code allows for automobile sales and service facilities through Special Exception. The proposed business in Suite 180 is to detail vehicles then sell them at the auction. As proposed, staff believes this type of activity (detailing cars) is consistent with the surrounding area and will not have a negative impact on the area.

SUMMARY

City Staff recommends approval of the proposed automobile service facility with the following conditions:

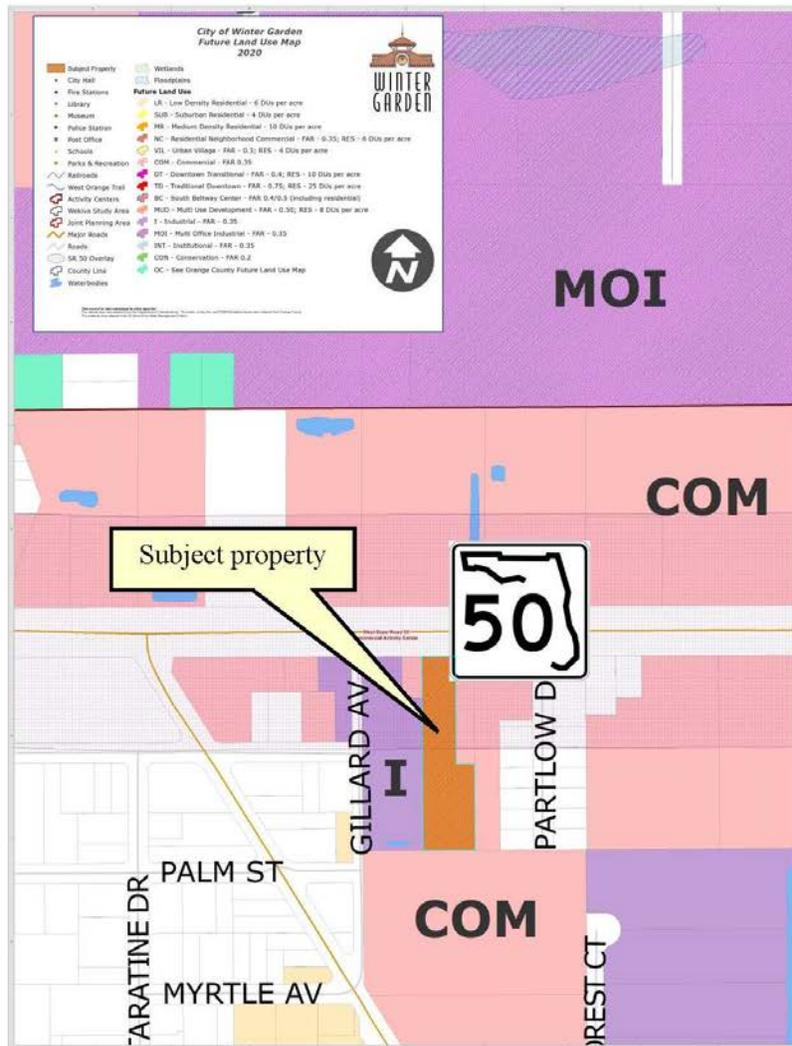
- All work (detailing) shall be done inside.
- No outdoor storage of any vehicles or materials.
- No automobiles can be displayed or sold at this facility.

MAPS/EXHIBITS

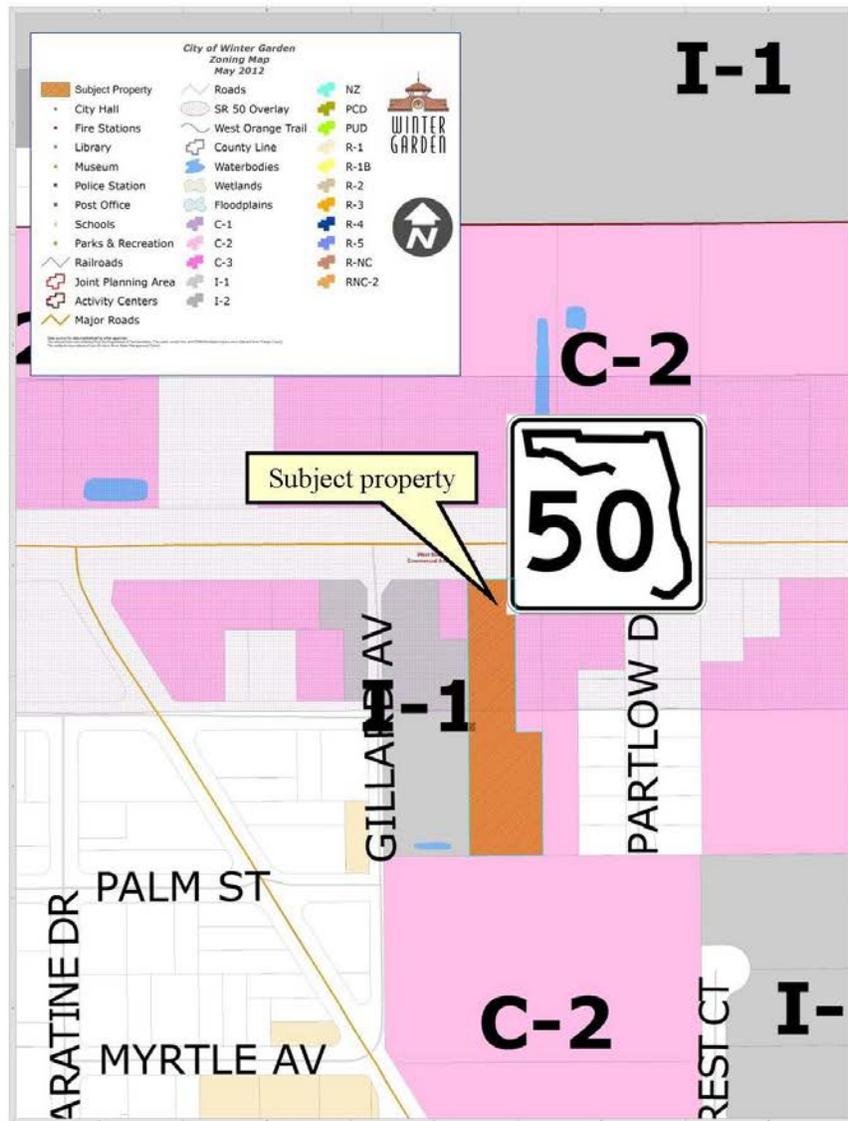
AERIAL PHOTO
12792 W. Colonial Drive



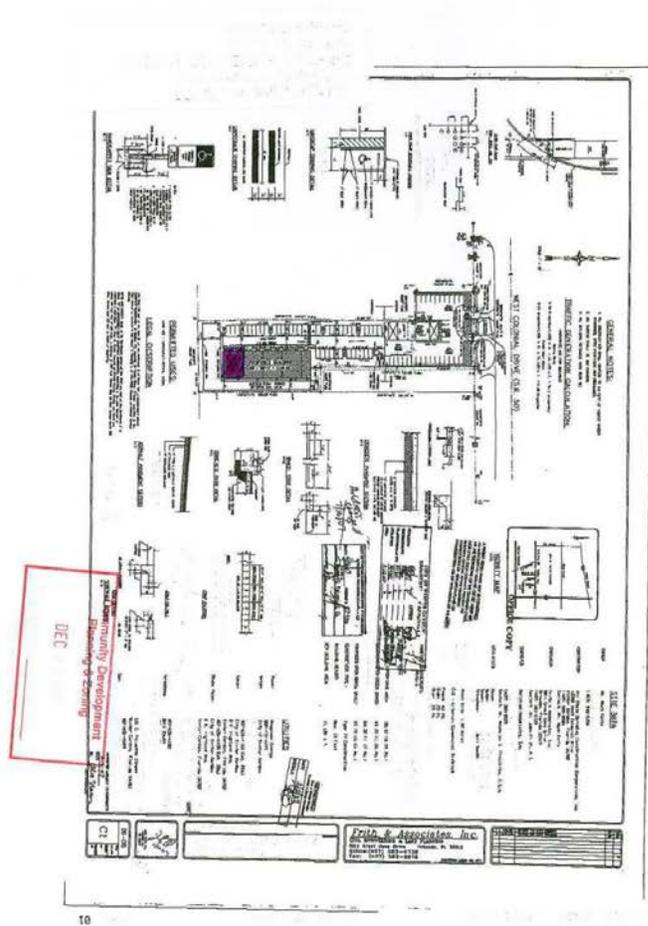
**FUTURE LAND USE MAP
12792 W. Colonial Drive**



ZONING MAP
12792 W. Colonial Drive



**PROPOSED SITE PLAN
12792 W. Colonial Drive**



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 COMMITTEE
PREPARED BY: LAURA SMITH, SENIOR PLANNER
DATE: JANUARY 2, 2013
SUBJECT: FINAL PLAT
Covington Chase Phase 2B (25.2+/- ACRES)
PARCEL ID # 13-22-27-1793-00-008

APPLICANT: JTD Land at Covington Chase, LLC.

INTRODUCTION

The purpose of this report is to evaluate the proposed Final Plat of a portion of Covington Chase phase 2 for compliance with the Preliminary Plat for the Covington Chase Property, the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property located north of E Division Street and south of East Crest Avenue in the Covington Chase PUD subdivision is a 25.2± acre portion of the 114.86 ± acre Covington Chase PUD subdivision. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting approval of Final Plat of the 25.2± acre property to be platted as the Covington Chase Phase 2B for 44 single family residential lots. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation PUD (Planned Unit Development) in the City of Winter Garden. The subject property is designated Low Density Residential on the Future Land Use Map of the Comprehensive Plan. The applicant requests to plat Phase 2 of the project in 2 phases (Phase 2A and Phase 2B). The 25.2± acre site proposed for Final Plat encompasses the entire Phase 2 future development tract of the 114.86+/- acres Covington Chase PUD subdivision, however only 44 lots will be platted through this Final Plat as Phase 2B and an additional 42 lots will be submitted for Final Plat at a later date as Phase 2A.

EXISTING USE

The 114.86± acre Covington Chase PUD subdivision has been partially platted; Phase 1 was platted as Covington Park and contained 177 single family residential lots on approximately 71.5± acres. The remaining 71.4 ± acres of unplatted land are proposed to be platted in multiple phases; the 25.2 ± acre portion of the remaining unplatted land that is located just south of East Crest Avenue is the subject area of the proposed Final Plat and is proposed to be platted for 44 single family residential lots as Covington Chase Phase 2B.

ADJACENT LAND USE AND ZONING

The properties located to the north of the subject property are made up of single family residential homes within subdivisions zoned R-1 (Glenview Estates and Garden Heights). The subject property abuts another R-1 zoned single family residential subdivision on the south and west side (Oak Glen). The properties located to the east of the subject property are part of Phase 1 of the Covington Chase PUD subdivision.

PROPOSED USE

The applicant proposes to plat the 25.2± acre site to construct 44 single family residential homes as Covington Chase Phase 2B.

PUBLIC FACILITY ANALYSIS

The Covington Chase PUD subdivision was approved for 345 single family residential lots to be developed in multiple phases. Infrastructure in the form of roads, water, sewer, and reclaimed water systems have been installed to support the approved subdivision.

SUMMARY

City Staff recommend approval of the proposed Final Plat for Covington Chase Phase 2B.

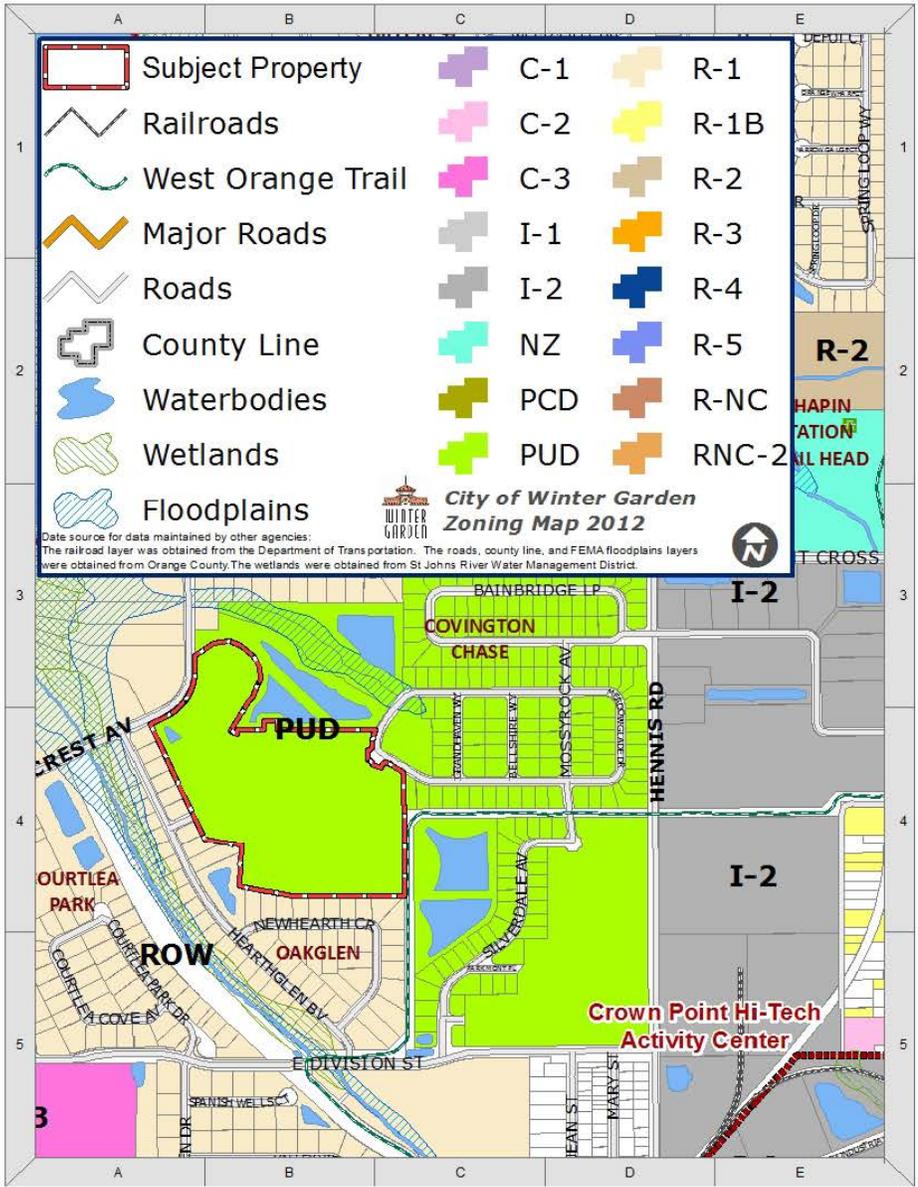
Staff has coordinated with the applicant to ensure that the Final Plat is consistent with the Code of Ordinances regarding Final Plat approval, the property specific PUD Zoning Ordinance and the approved Preliminary Plat. Additionally, staff have worked with the applicant to address concerns related to the subdivision wall located on the north side of the subject property along East Crest Avenue. Due to the ground elevation and location of the existing wall, the applicant has agreed to relocate the existing wall to provide for proper screening/buffering upon development of Phase 2A which will be the remaining portion of Phase 2 after recording of the Final Plat for the subject property.

MAPS

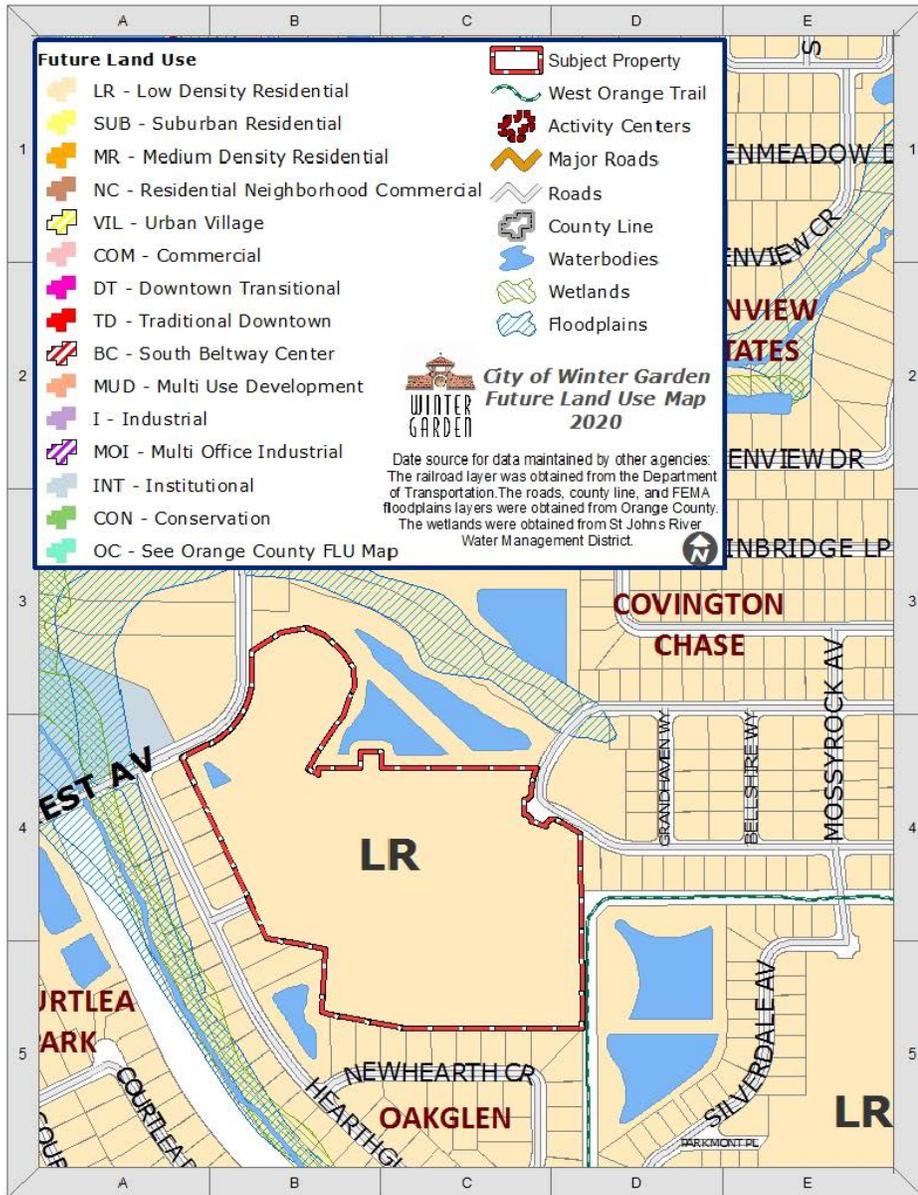
**AERIAL PHOTO
COVINGTON CHASE PHASE 2B**



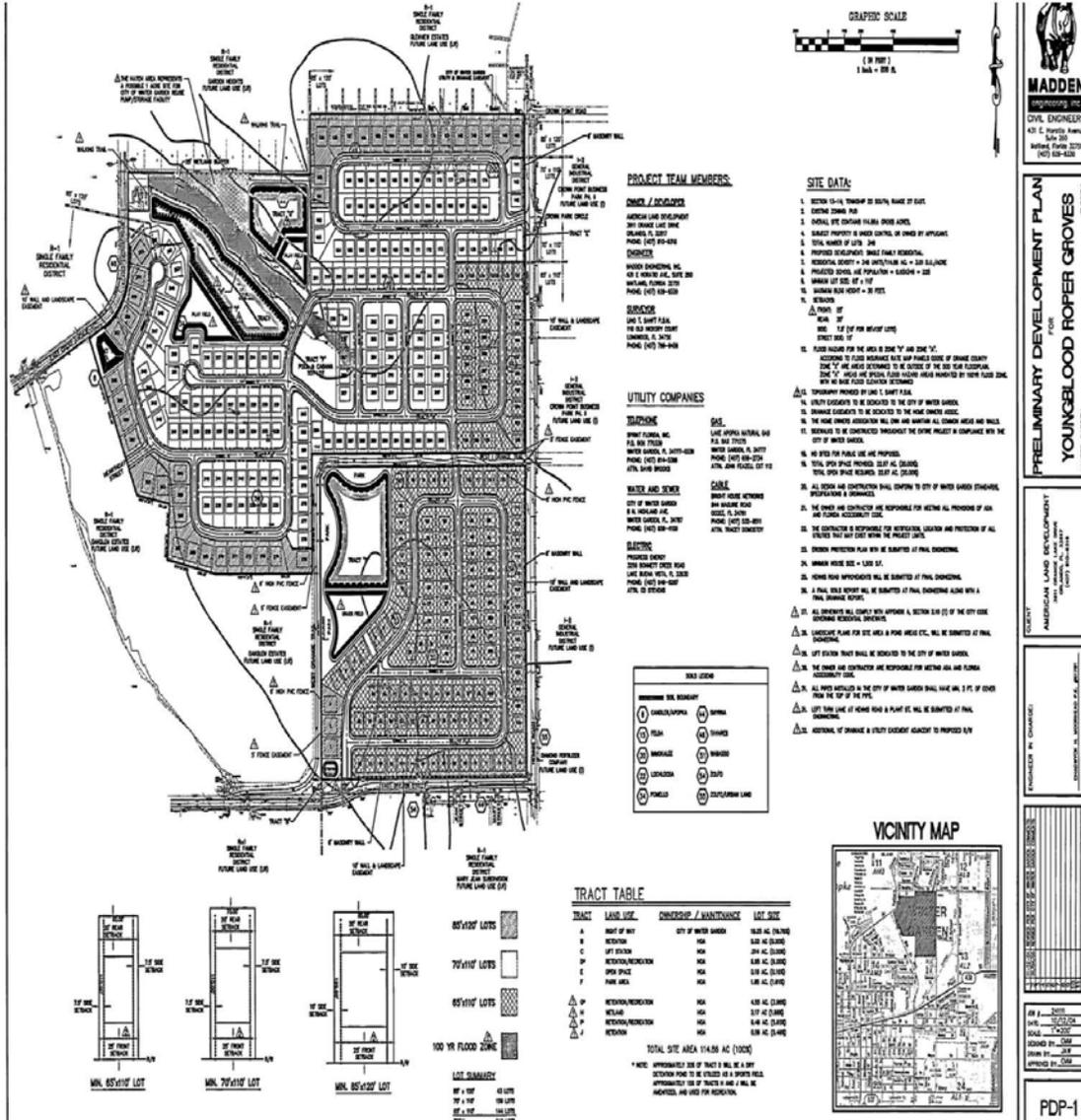
ZONING MAP
Covington Chase Phase 2B



FUTURE LAND USE MAP
Covington Chase Phase 2B



Covington Chase
APPROVED - Preliminary Plat



PROJECT TEAM MEMBERS:

OWNER / DEVELOPER:
 AMERICAN LAND DEVELOPMENT
 301 DUNN LANE, SUITE 200
 CHARLOTTE, NC 28204
 PHONE (704) 393-4300

DESIGNER:
 MADDEN ENGINEERING, INC.
 435 E. HARRIS AVENUE, SUITE 300
 WILMINGTON, NC 28401
 PHONE (704) 761-4400

UTILITY COMPANIES:

WATER:
 WASTE WATER, INC.
 1000 W. 10TH STREET
 WILMINGTON, NC 28401
 PHONE (704) 393-4300

SEWER:
 WASTE WATER, INC.
 1000 W. 10TH STREET
 WILMINGTON, NC 28401
 PHONE (704) 393-4300

ELECTRIC:
 DUKES ENERGY
 200 SOUTH STREET
 WILMINGTON, NC 28401
 PHONE (704) 393-4300

SITE DATA:

- SECTION 21-11, TRACT 10, 20, 30, 40, 50, 60, 70, 80, 90, 100, 110, 120, 130, 140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260, 270, 280, 290, 300, 310, 320, 330, 340, 350, 360, 370, 380, 390, 400, 410, 420, 430, 440, 450, 460, 470, 480, 490, 500, 510, 520, 530, 540, 550, 560, 570, 580, 590, 600, 610, 620, 630, 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 790, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 910, 920, 930, 940, 950, 960, 970, 980, 990, 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1100, 1110, 1120, 1130, 1140, 1150, 1160, 1170, 1180, 1190, 1200, 1210, 1220, 1230, 1240, 1250, 1260, 1270, 1280, 1290, 1300, 1310, 1320, 1330, 1340, 1350, 1360, 1370, 1380, 1390, 1400, 1410, 1420, 1430, 1440, 1450, 1460, 1470, 1480, 1490, 1500, 1510, 1520, 1530, 1540, 1550, 1560, 1570, 1580, 1590, 1600, 1610, 1620, 1630, 1640, 1650, 1660, 1670, 1680, 1690, 1700, 1710, 1720, 1730, 1740, 1750, 1760, 1770, 1780, 1790, 1800, 1810, 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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: JANUARY 2, 2013
SUBJECT: ANNEXATION
14288, 14350 & 14362 SIPLIN ROAD (35.176 +/- ACRES)
PARCEL ID #: 34-22-27-0000-00-007, 34-22-27-0000-00-008
& 34-22-27-0000-00-029
APPLICANT: Eric J. Poole, George H. and Muriel Gemeiner Family Trust & Solomon Family Irrevocable Trust.

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 14288, 14350 & 14362 Siplin Road and is approximately 35.176 ± acres. The map below depicts the proximity of the subject property to the City’s jurisdictional limits:



The applicant has requested annexation of the subject property located at the southwest corner of Siplin Road and Sunridge Boulevard into the City of Winter Garden. The subject property is bordered on the north, east and west sides by properties which are within the City of Winter Garden and to the south by land located in Unincorporated Orange County.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexation furthers the goals, objectives, and policies of the City's Comprehensive Plan.

EXISTING USE

The subject property is primarily vacant unimproved land; however there is one existing single family residential structure located on the portion of the property addressed at 14362 Siplin Road. Additionally, the properties addressed at 14288 & 14362 contain wetlands which total approximately 3.63 acres.

ADJACENT LAND USE AND ZONING

The property located to the north of the subject property is the new school site of Sunridge Middle School and Sunridge Elementary School which opened last year in the City. The properties located to the west are vacant properties located within the City of Winter Garden, one containing an Orange Grove and the other is owned by the City of Winter Garden. The properties located to the south include vacant unimproved land located in Unincorporated Orange County and a Single Family Residential structure also located in Unincorporated Orange County. The property to the east is primarily vacant land, zoned R-2 and located in the City.

PROPOSED USE

The owner(s) are currently requesting annexation and propose to submit application in the future to rezone and amend the future land use designation of the property for residential development.

PUBLIC FACILITY ANALYSIS

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

In conjunction with rezoning and/or future land use map amendment for the property, the owner and/or applicant will be required to submit a traffic study and participate in agreements for any improvements to road, utility and other infrastructure improvements, extensions and/or expansions necessary to support development of the property.

SUMMARY

Annexation of the subject property will provide a more efficient delivery of services to the property and further the goals and objectives of the City of Winter Garden's Comprehensive Plan

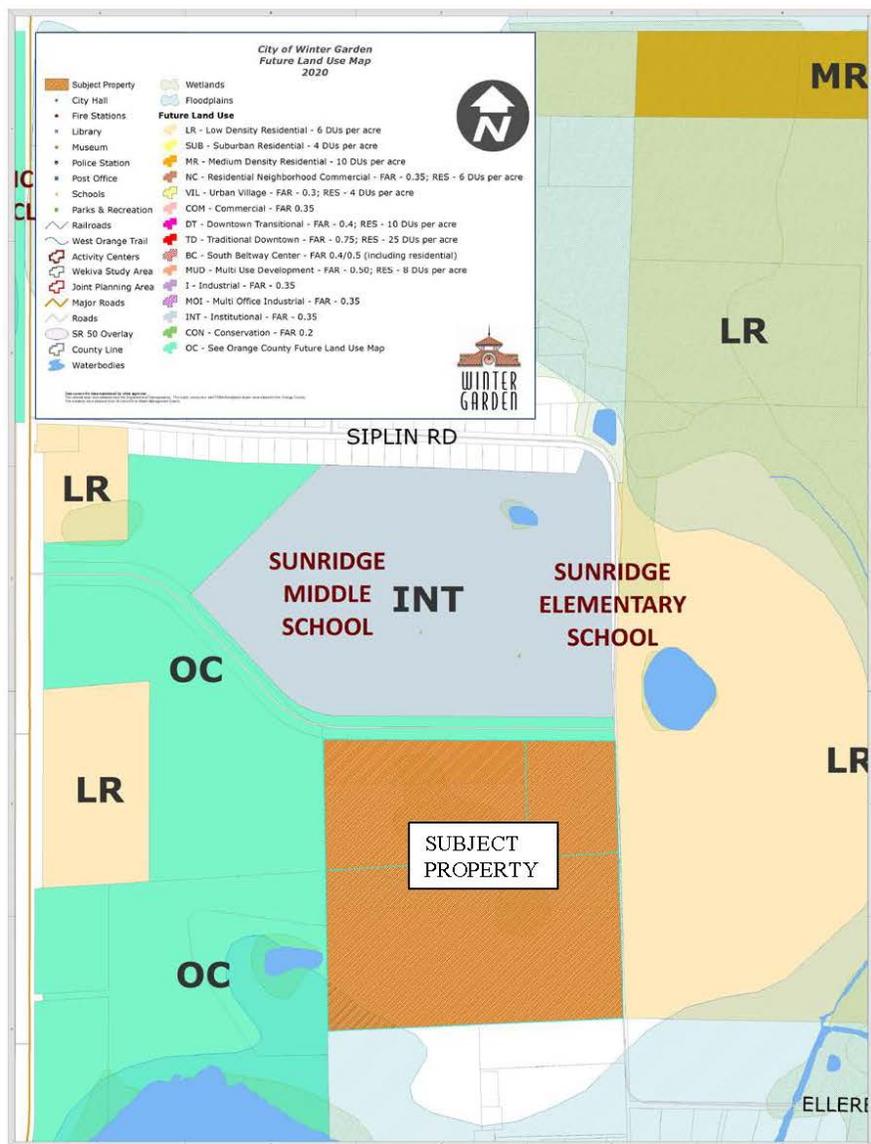
to eliminate enclaves. City Staff recommends approval of the proposed Ordinance subject to the condition that prior to rezoning and/or future land use map amendment for the property, the owner and/or applicant shall participate in agreement(s) for improvements to road, utility and other infrastructure improvements, extensions and/or expansions necessary to support development of the property.

MAPS

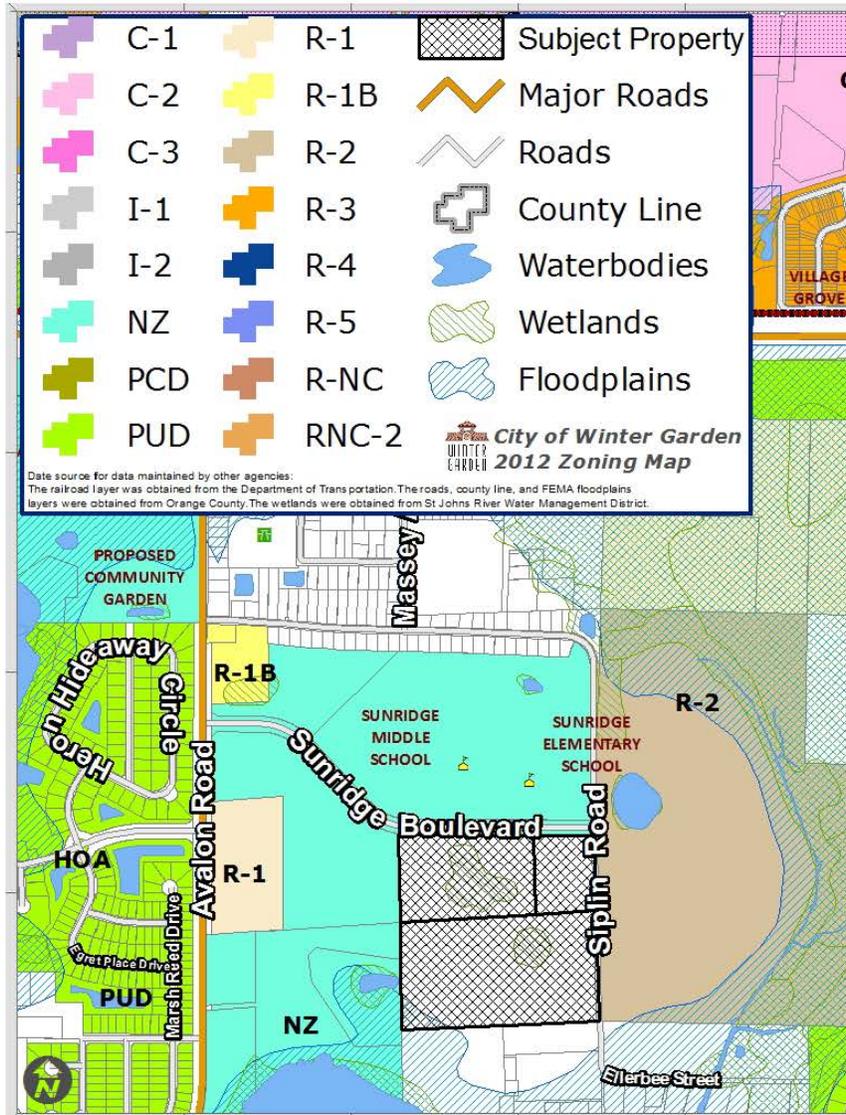
**AERIAL PHOTO
14288, 14350 & 14362 SIPLIN ROAD (35.176 +/- ACRES)**



FUTURE LAND USE MAP
14288, 14350 & 14362 SIPLIN ROAD (35.176 +/- ACRES)



ZONING MAP
14288, 14350 & 14362 SIPLIN ROAD (35.176 +/- ACRES)



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

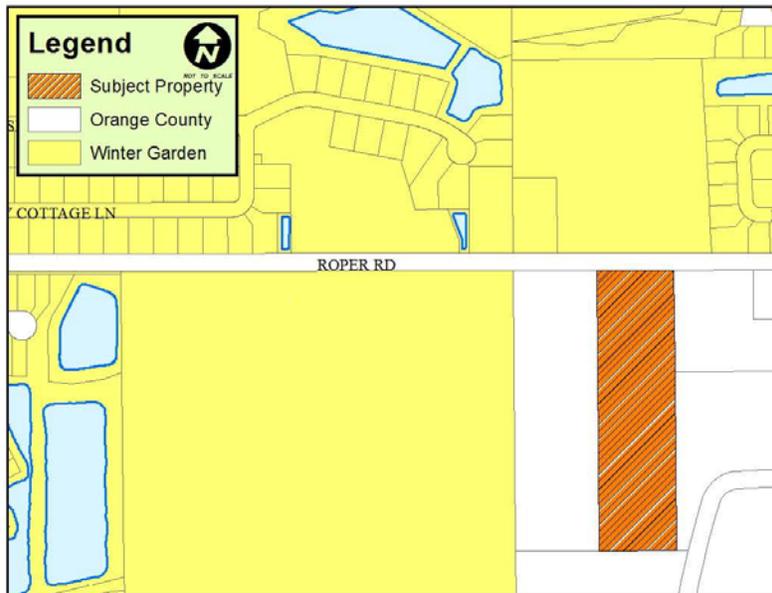
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: DECEMBER 30, 2012
SUBJECT: ANNEXATION – ZONING – FLU AMENDMENT
12900 ROPER ROAD (6 +/- ACRES)
PARCEL ID#: 36-22-27-0000-00-011
APPLICANT: GLENDA LOEW, ET AL

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 12900 Roper Road and is approximately 6 ± acres. The map below depicts the proximity of the subject property to the City’s jurisdictional limits:



The applicant has requested annexation into the City, amendment to the Future Land Use Map (FLUM) of the City's Comprehensive Plan to designate the property as Low Density Residential, and rezoning the property to R-1B Single-Family Residential District.

In accordance with the City's Comprehensive Plan, permitted uses within the Low Density Residential land use include single family homes and churches and schools. The zoning classifications that are consistent with the Low Density Residential land use designation include PUD, R-1A, R-1, R-2, R-1B, and INT.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexation furthers the goals, objectives, and policies of the City's Comprehensive Plan.

EXISTING USE

The subject property is currently vacant. However, the property does contain approximately a 0.05 acre portion of the 0.78 acre wetland/pond which is located largely on the adjoining property to the west of the subject property.

ADJACENT LAND USE AND ZONING

The properties located to the north are several single-family homes on large tracts and two subdivisions, zoned R-1, R-1B, and PUD, and located in the City. There are two properties located to the east and one is developed with a single-family house, zoned A-1 and located in Orange County; the other is owned by Orange County Public Works. The property to the south is owned by Orange County, used by their Public Works Department for storage, zoned R-1 and located in the County. The property to the west is developed with a one story manufactured home, a trailer, five sheds, a barn, and was just annexed into the City with a proposed zoning of R-1B.

PROPOSED USE

The applicant intends to annex the property and sell it to a developer who will submit plans to build a subdivision once the annexation, FLU, and zoning process is complete.

PUBLIC FACILITY ANALYSIS

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

In conjunction with application for development of the property, the owner and/or developer will be required to submit a traffic analysis and participate in agreement(s) for any improvements to road, utility and other infrastructure improvements, extensions and/or expansions necessary to support development of the property.

SUMMARY

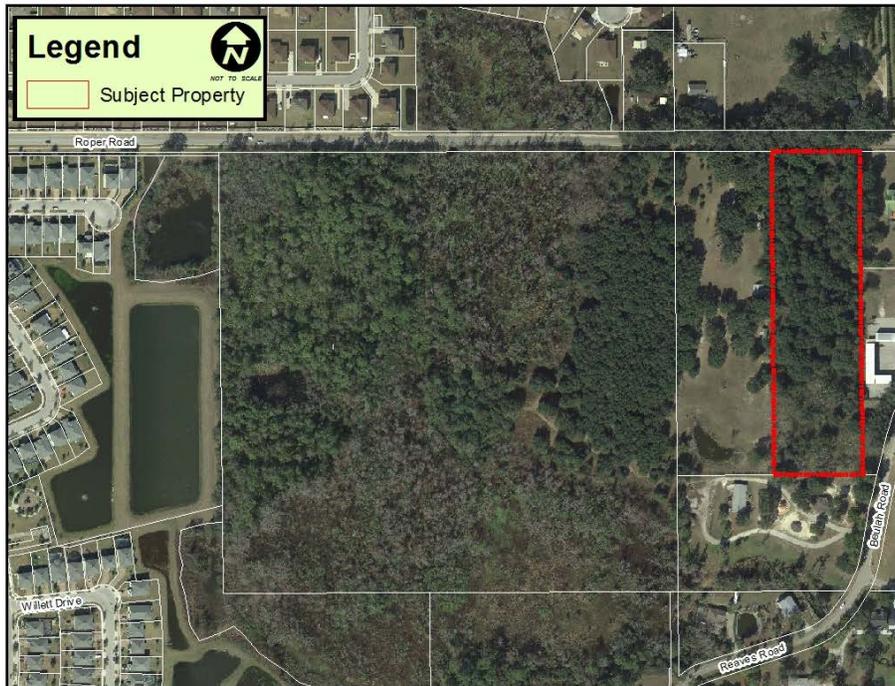
Annexation will provide a more efficient delivery of services to the property and further the goals and objectives of the City of Winter Garden’s Comprehensive Plan to eliminate enclaves. City Staff recommends approval of the proposed Ordinances subject to the following conditions:

1. Future development plans for the property will be reviewed by staff and the board to ensure consistency with the surrounding area.
2. In conjunction with application for preliminary development of the property, the owner and/or developer shall submit a traffic analysis and participate in agreement(s) for improvements to road, utility and other infrastructure improvements, extensions and/or expansions necessary to support development of the property.

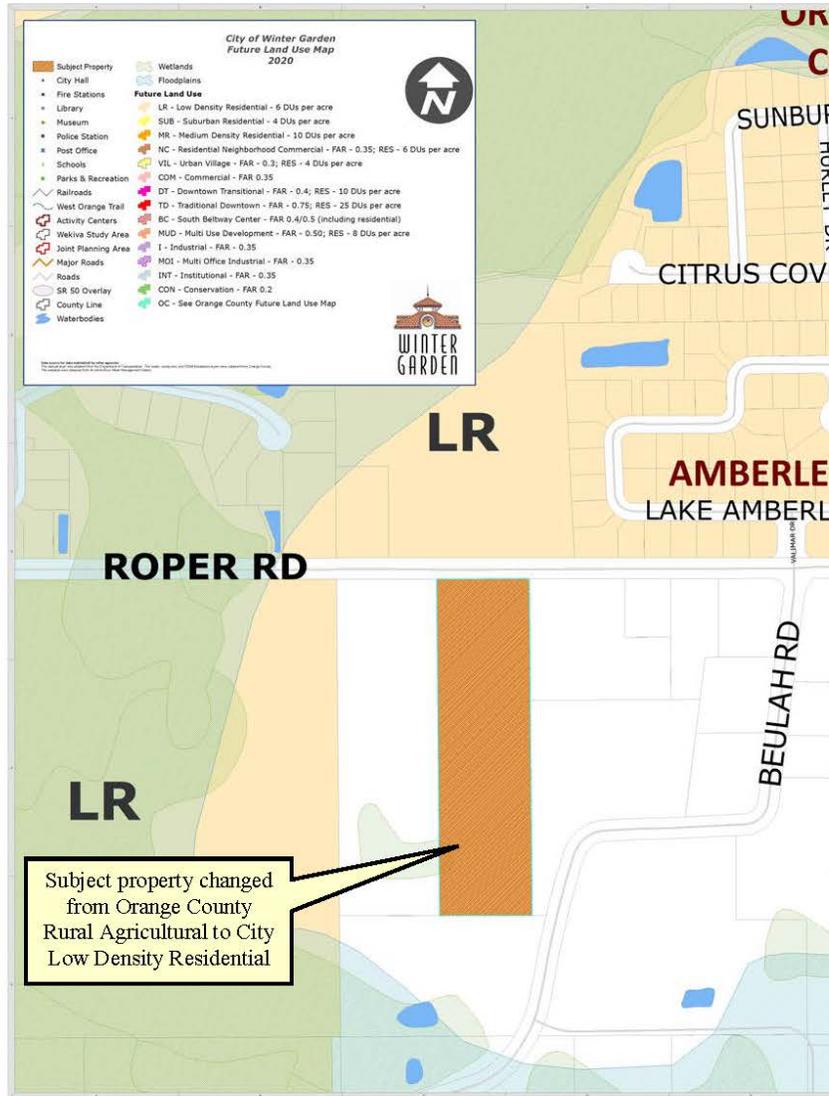
MAPS

AERIAL PHOTO

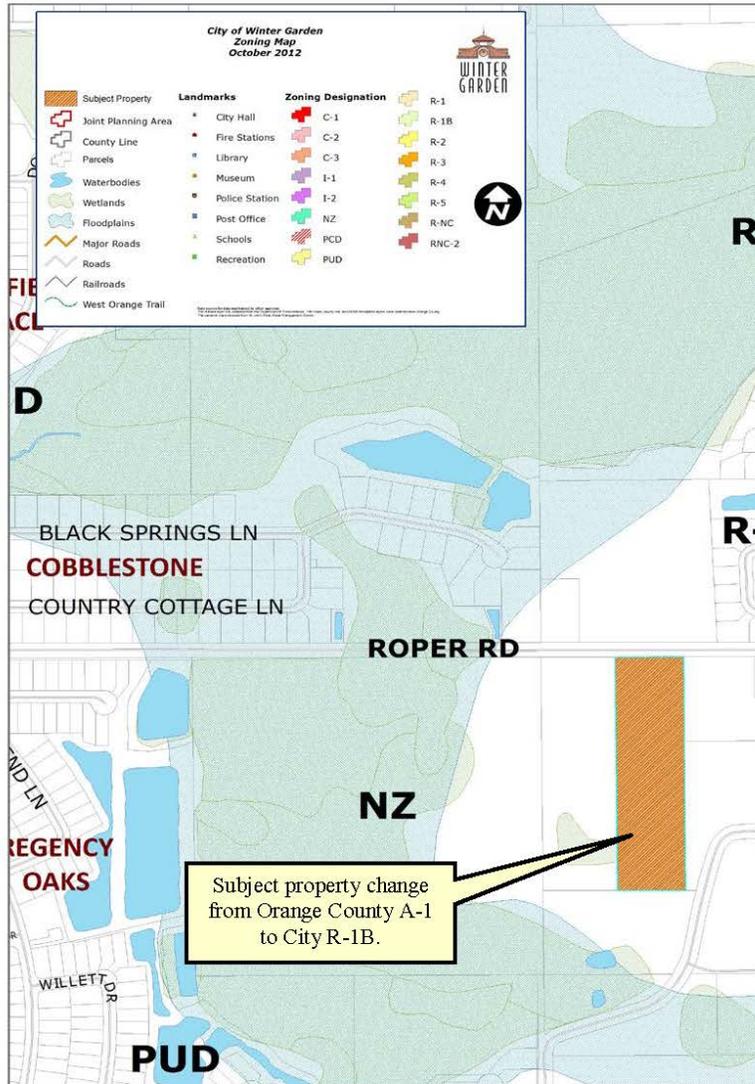
12900 Roper Road



FUTURE LAND USE MAP
12900 Roper Road



ZONING MAP
12900 Roper Road



END OF STAFF REPORT

THE CITY OF WINTER GARDEN

PLANNING AND ZONING BOARD AGENDA ITEM

ITEM # 4 (Public Hearing)

DATE: January 28, 2013 **MEETING DATE:** February 4, 2013

SUBJECT: 1089 Walker Street (VARIANCE)

PROJECT NAME AutoZone

PARCEL ID# 23-22-27-8104-00-331

PARCEL ID# 23-22-27-8104-00-470

PARCEL ID# 23-22-27-8104-00-460

PARCEL ID# 23-22-27-8104-00-332

PARCEL ID# 23-22-27-8104-00-341

PARCEL ID# 23-22-27-8104-00-360

ISSUE: The applicant is requesting a Variance to the side yard setback and landscape buffer around a building. The request is for a 6.86 foot side yard setback in lieu of the required 10 foot side yard setback and for a variance to the minimum required 10 foot wide landscaped area around a building to allow no landscaping in portions (over 50%) of the area around the building.

SUPPLEMENTAL MATERIAL/ANALYSIS:

OWNER/APPLICANT: George & Maria Bori

CURRENT ZONING: C-2 Arterial Commercial District

PROPOSED ZONING: N/A

CURRENT FLU: Commercial

PROPOSED FLU: N/A

SUMMARY:

The applicant is seeking a variance to the minimum side yard and setback and a variance to the minimum landscape requirement around a building. The variances would allow construction of a new AutoZone auto parts store at a side yard setback of 6.86 foot in lieu of the minimum required 10 foot side yard setback and no landscaping in portions (over 50%) of the required landscape area around a building.

STAFF RECOMMENDATION(S):

City Staff recommends denial of the variances, as the proposed building is new construction and can be designed to fit on the property they have decided to purchase. The proposed development is "over building" the site and should be designed to meet the West State Road 50 Overlay requirements and all city codes. The applicant is "creating" his own need for variances in violation of review standards.

NEXT STEP(S):

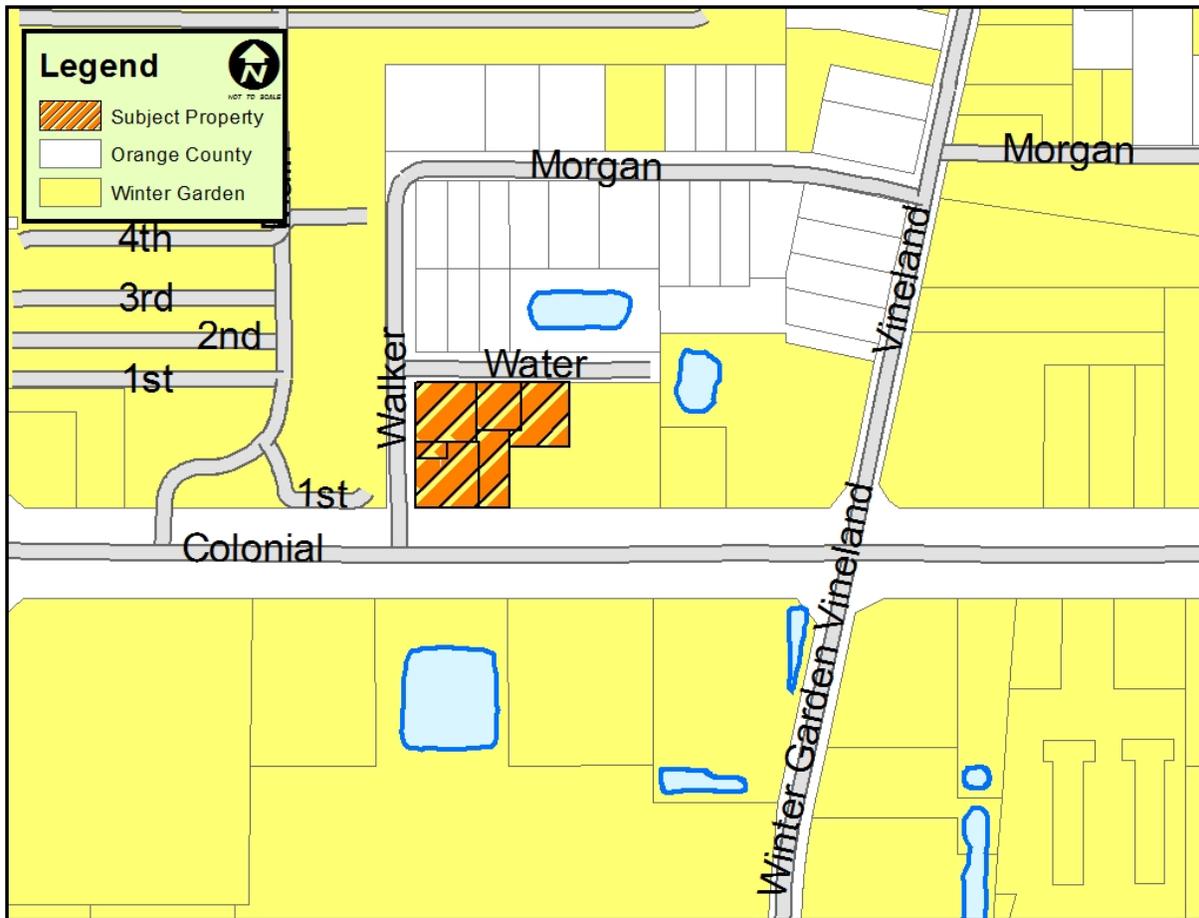
Design the building and site to meet code requirements, then submit for Site Plan Review.

ATTACHMENT(S):

Location Map
Staff Report

LOCATION MAP

1089 Walker Street
Parcel ID #(s):
23-22-27-8104-00-331
23-22-27-8104-00-470
23-22-27-8104-00-460
23-22-27-8104-00-332
23-22-27-8104-00-341
23-22-27-8104-00-360



CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

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STAFF REPORT

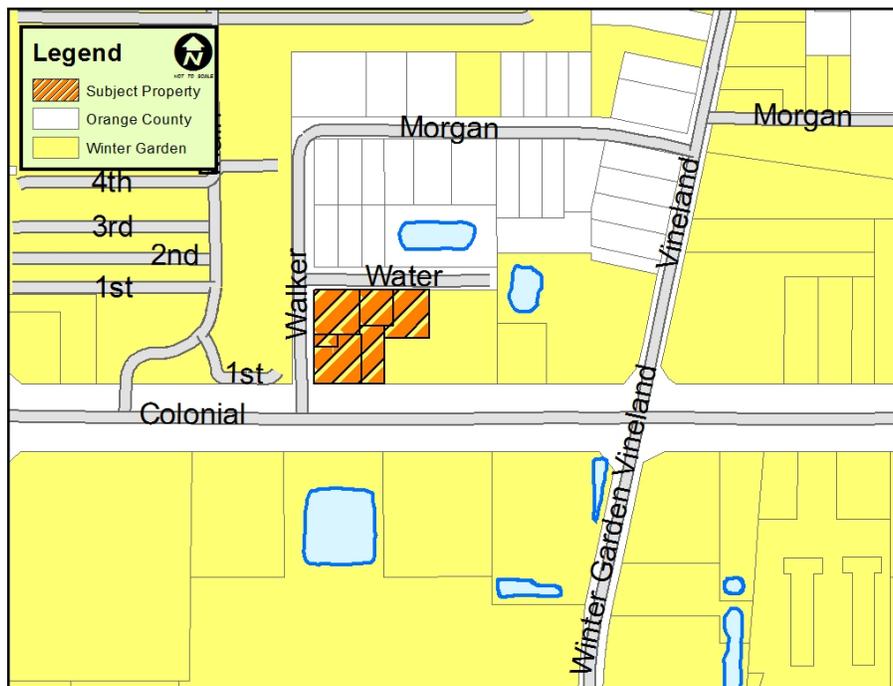
TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 29, 2013
SUBJECT: VARIANCE
1089 Walker Street
PARCEL ID # 23-22-27-8104-00-331, 23-22-27-8104-00-470, 23-22-27-8104-00-460, 23-22-27-8104-00-332, 23-22-27-8104-00-341, 23-22-27-8104-00-360

APPLICANT: George L. & Maria P. Bori

INTRODUCTION

The purpose of this report is to evaluate the request for a side yard setback and landscape area variance for a proposed development on property located at 1089 Walker Street in Winter Garden, Florida. The request is for a 6.86 foot side yard setback in lieu of the required 10 foot side yard setback and for a variance to the minimum required 10 foot wide landscaped area around a building to allow no landscaping in portions (over 50%) of the area around the building. If approved, these variances will allow a new AutoZone auto parts store to be built.

The subject property, located on Walker Street is approximately a 0.98 ± acre lot at the intersection of Walker Street and West Colonial Drive. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The subject property carries the zoning designation C-2 (Arterial Commercial District) and is designated COM (Commercial) on the Future Land Use Map of the City's Comprehensive Plan.

EXISTING USE

The subject property contains a 1,936 square foot single family home and an 812 square foot single-family home.

ADJACENT LAND USE AND ZONING

The property located to the north is a single family house, zoned R-2 and located in Orange County. The property located to the east is developed with an auto parts store, zoned C-2 and located in the City of Winter Garden. The properties to the south are developed as commercial buildings, zoned C-2 in the City. The property to the west is the Orlando Winter Garden RV Resort, zoned C-2 in the City.

PROPOSED USE

The applicant would like to demolish the existing homes and build a new AutoZone auto parts store. The proposed building still needs to submit for site plan review to build the AutoZone, but the applicant wanted to apply for these variances prior to site plan review..

CODE REFERENCE

Sec. 118-1441 (b) of the City Code of Ordinances addresses minimum yard requirements within the West State Road 50 Commercial Corridor. This section states in part that the minimum yard requirements are “*side: 10 feet.*”

Sec. 118-1522 (1) of the City Code of Ordinances addresses landscape design standards in the West State Road 50 Overlay. This section states that “a minimum ten-foot wide landscape area shall be located around all buildings. A five-foot sidewalk may be included in this buffer area.”

The applicant is seeking a variance to the minimum side yard and a variance to the minimum landscape area around the building to construct a new AutoZone auto parts store.

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.

(1) 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 proposed building and site development are new construction. Approving new

construction to develop without meeting the code requirements will cause interference with the reasonable enjoyment of nearby and adjacent property owners. In addition, allowing new development to design the site without meeting code and get variances will negatively impact the standard of living of the citizens of the city.

- (2) *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 variances are not in character with other properties in the same zoning category. Staff requires new development to meet the minimum requirements of the code as new construction should be designed around the code requirements.

- (3) *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;*

The City's objective is to maintain orderly development of the properties within the city. Allowing new development on property specifically purchased for a business to be done without meeting code would not benefit any City objectives.

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

The variances requested are not consistent with the provisions of the City's Comprehensive Plan relating to commercial development or the goal of the West State Road 50 Commercial Corridor. Policy 1-2.10.2 of the Comprehensive Plan specifically states, "the City shall use the West SR 50 overlay regulations to control and enhance landscaping, signage, architectural design, buffers, setbacks, pedestrian connection, vehicle access and parking, and site design." The proposed design does not meet setbacks or landscaping requirements.

- (5) *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 variances requested are not the minimum variances that will make reasonable use of the land. The proposed structure is one of two standard buildings that AutoZone builds and the site they have decided to purchase does not accommodate their buildings. Therefore, the building and site plan needs to be redesigned to meet code requirements where they want to develop.

SUMMARY

City Staff recommends denial of a variance to Section 118-1441 (b) to allow a 6.86 foot side yard setback in lieu of the required 10 foot side yard setback and denial of a variance to Section 118-1522 (1) to allow no landscaping in over 50% of the required landscape area around a building to allow for the construction of a new AutoZone auto parts store.

NEXT STEP

Design the site to meet code and submit for Site Plan Review.

ATTACHMENTS

- Aerial Photos
- Survey
- Site Photos

AERIAL PHOTO
1089 Walker Street



Site Photos
1089 Walker Street





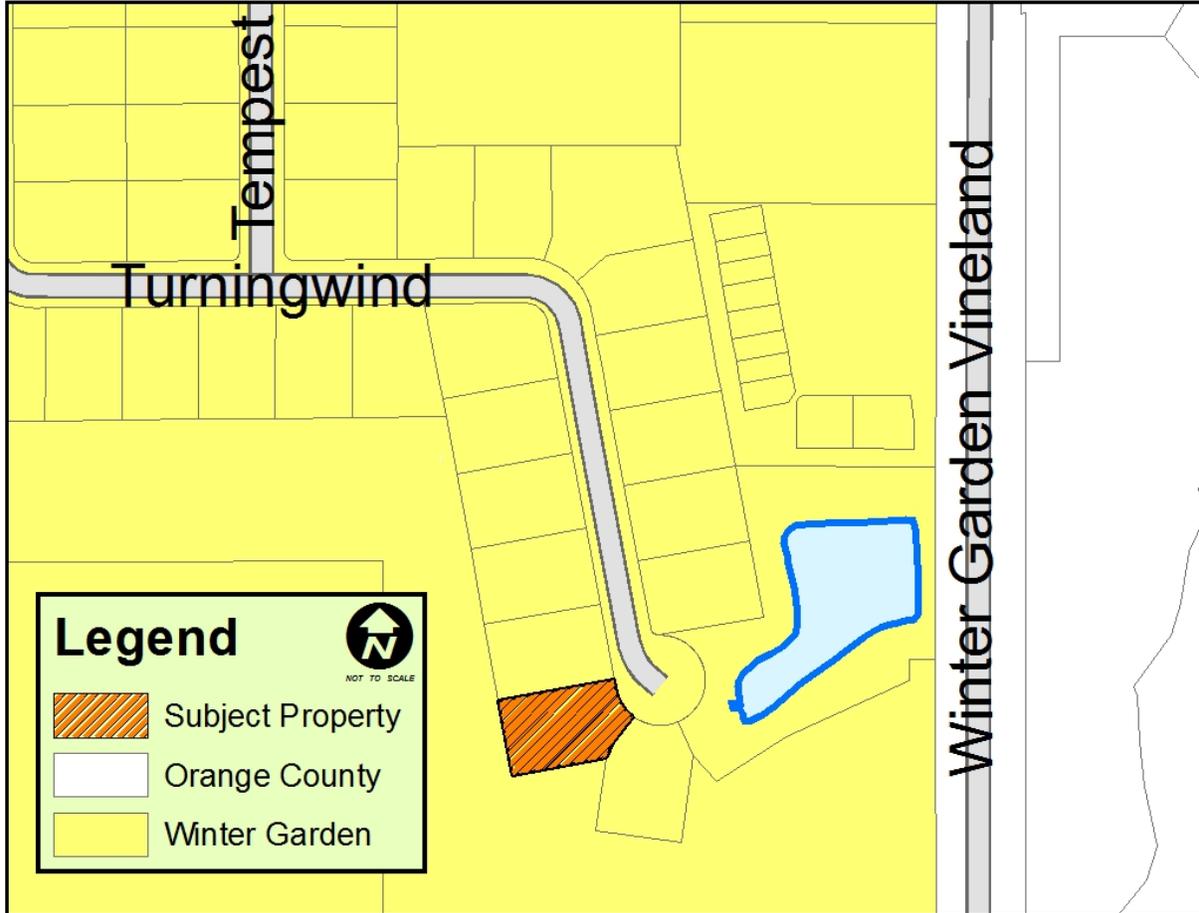




END OF STAFF REPORT

LOCATION MAP

3638 Turningwind Lane
Parcel ID #: 11-23-27-9167-00-220



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STAFF REPORT

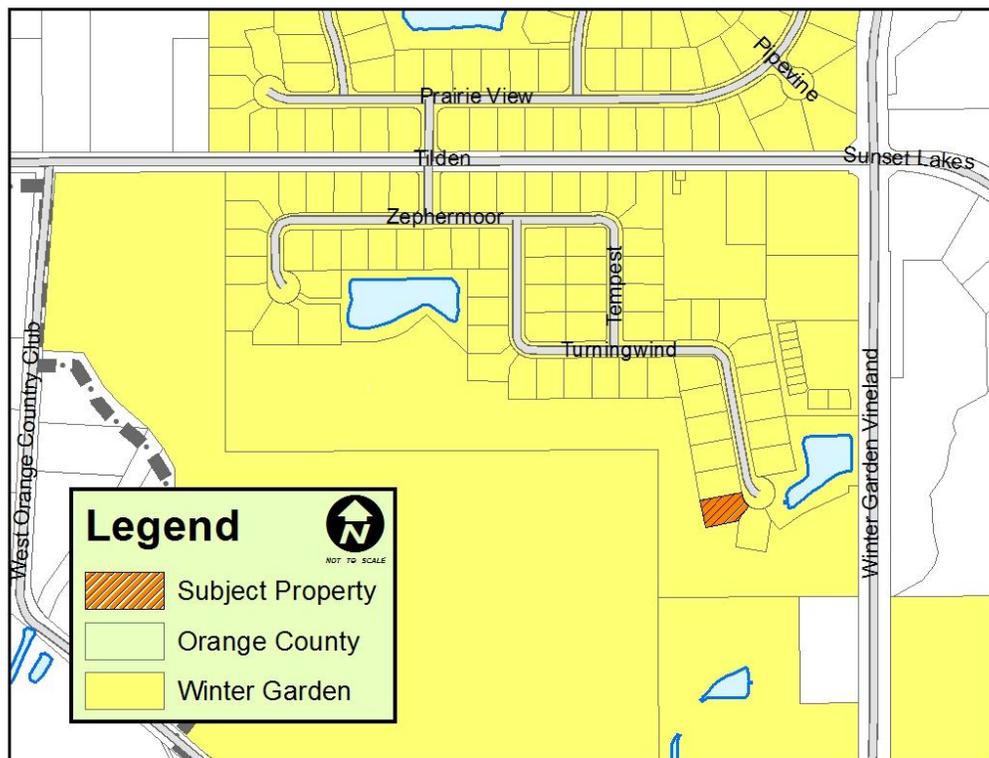
TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 31, 2013
SUBJECT: VARIANCE
3638 Turningwind Lane (0.25+/- ACRES)
PARCEL ID # 11-23-27-9167-00-220

APPLICANT: Paul Wallace

INTRODUCTION

The purpose of this report is to evaluate the request for a rear yard setback variance for property located at 3638 Turningwind Lane in Winter Garden, Florida. The request is for a 16.2 foot rear yard setback in lieu of the required 26 foot rear yard setback. If approved, this variance will allow an addition to the house that will contain a screen room with a solid roof.

The subject property, located on Turningwind Lane is approximately a 0.25± acre lot in the Windward Cay subdivision. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The subject property carries the zoning designation R-1 (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 2,687 square foot single-family residential home with a screened pool positioned to the south of the proposed addition.

ADJACENT LAND USE AND ZONING

The adjacent properties to the north and west of the subject property are single-family residential homes, have the zoning designation R-1 (Single-Family Residential District) and the future land use designation of LR (Low Density Residential). The property to the south and west is a conservation tract for the Windward Cay neighborhood, with a zoning designation of R-1 (Single-Family Residential District) and the future land use designation of LR (Low Density Residential).

The property to the north has a swimming pool with a screened room that is located at a similar setback to the proposed structure on the subject property without the solid roof.

PROPOSED USE

The applicant would like to build an addition onto the existing home and screen room consisting of additional screened area with a solid roof.

CODE REFERENCE

Sec. 118-308 (1) c of the City Code of Ordinances addresses minimum yard requirements. This section states in part that the minimum yard requirements in the R-1 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 rear yard setback to allow the proposed addition to be built with a 16.2 foot rear yard setback. The application for variance does not include any removal of trees on the property.

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.

(1) *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 proposed addition located 16.2 feet from the rear property line should not negatively

impact or interfere with the reasonable enjoyment of adjacent or nearby property owners as there is a conservation tract to the west, no adjacent neighbor to the south, and the neighbor to the north has a pool and screen room in their back yard.

- (2) *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 16.2 foot rear yard setback in lieu of the required 26 foot rear yard setback will allow reasonable use of the property. The request is consistent with the existing screen room, with the exception of the proposed addition having a solid roof. The property to the north has a screen room located +/- 10 feet from the rear property line and many of the homes in this neighborhood have pools with screen rooms located close to the rear property line, non oof which have or required variances.

- (3) *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, does not expand the home any futher into the setbacks than the existing screen room already sits, and does not exceed the maximum impervious surface allowed in the R-1 zoning district (50%).

- (4) *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.

- (5) *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 the minimum variance that will make reasonable use of the land. The existing screen room is already located at a rear yard setback of 16.2 feet. The proposed addition adds a covered screen area but does not impact the neighbors and is consistent with the screen room setbacks enjoyed by many other property owners in this neighborhood. Denying this variance does not benefit the property owner or the City.

SUMMARY

City Staff recommends approval of a variance to Sections 118-308(1)c to allow a 16.2 foot rear yard setback in lieu of the required 26 foot rear yard setback to allow for the construction of the proposed screen room addition subject to the following condition:

1. The screen room cannot be enclosed with windows or solid walls.

NEXT STEP

Apply for the appropriate Building Permits.

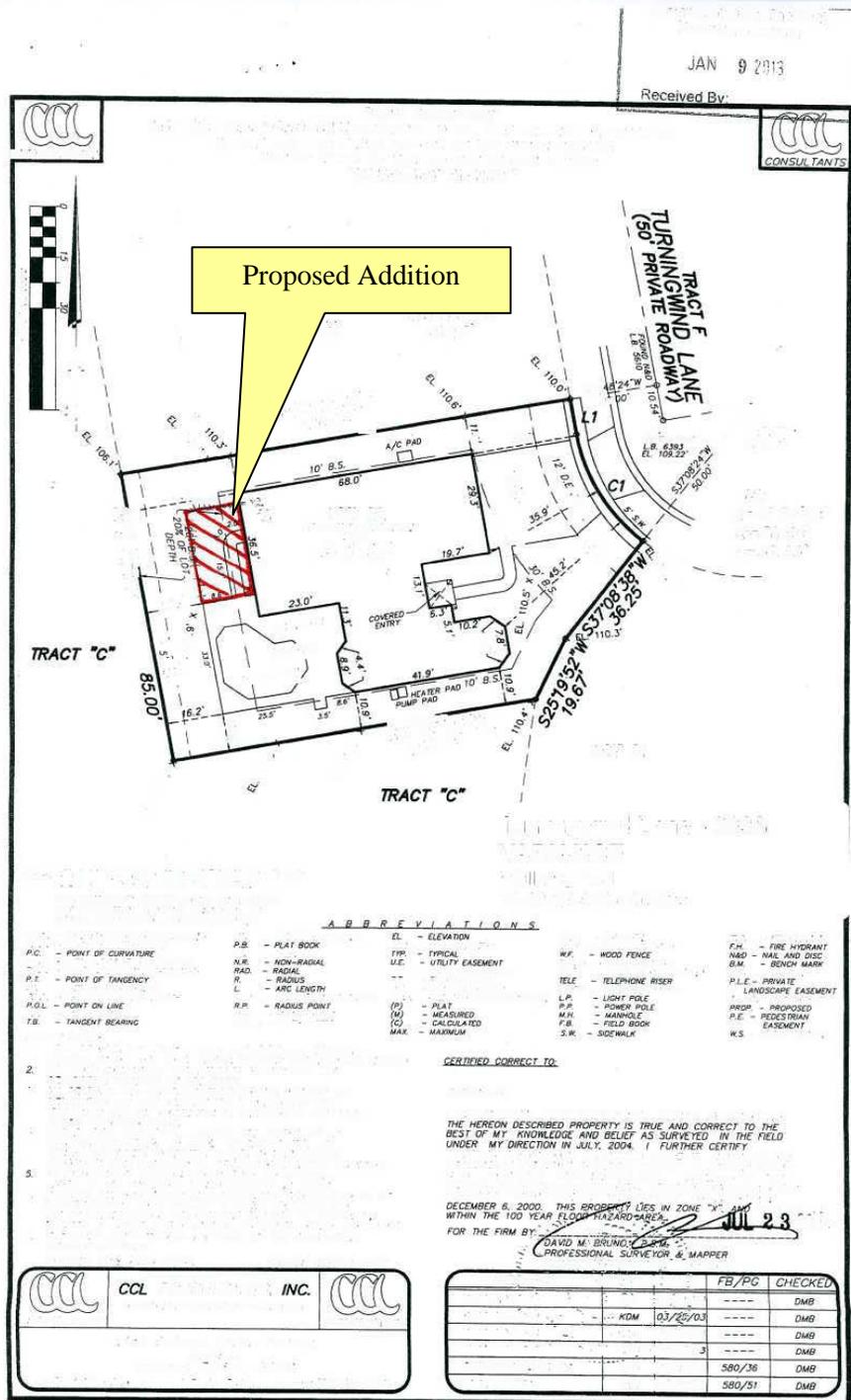
ATTACHMENTS

- Aerial Photos
- Survey
- Site Photos

AERIAL PHOTO
3638 Turningwind Lane



SURVEY (SITE PLAN)
3638 Turningwind Lane



SITE PHOTOS
3638 Turningwind Lane





END OF STAFF REPORT

THE CITY OF WINTER GARDEN
PLANNING AND ZONING BOARD AGENDA ITEM

ITEM # 6 (Public Hearing)

DATE: January 24, 2013 **MEETING DATE:** February 4, 2013

SUBJECT: 12792 West Colonial Drive, Suite 100 & 120
(SPECIAL EXCEPTION PERMIT)
PROJECT NAME Howards Hot Rod Shop
PARCEL ID# 12-22-27-6496-23-005

ISSUE: The applicant is requesting a Special Exception Permit for the property located at 12792 West Colonial Drive, Suite 100 & 120 to allow for the use of an automobile service facility in a C-2 zoning district.

SUPPLEMENTAL MATERIAL/ANALYSIS:

OWNER/APPLICANT: 12788 W. Colonial, LLC/Howards Hot Rod Shop

CURRENT ZONING: C-2 Arterial Commercial District

PROPOSED ZONING: N/A

CURRENT FLU: Commercial

PROPOSED FLU: N/A

SUMMARY:

The applicant proposes to use the 1,500 square foot suite (100) as a showroom and the 2,500 square foot suite (120) to work on custom cars.

STAFF RECOMMENDATION(S):

Staff recommends approval of the proposed automobile service facility subject to the following conditions:

1. No outdoor work can occur on this property.
2. No outdoor storage of any materials.
3. No sale of any merchandise can occur at this location.

NEXT STEP(S):

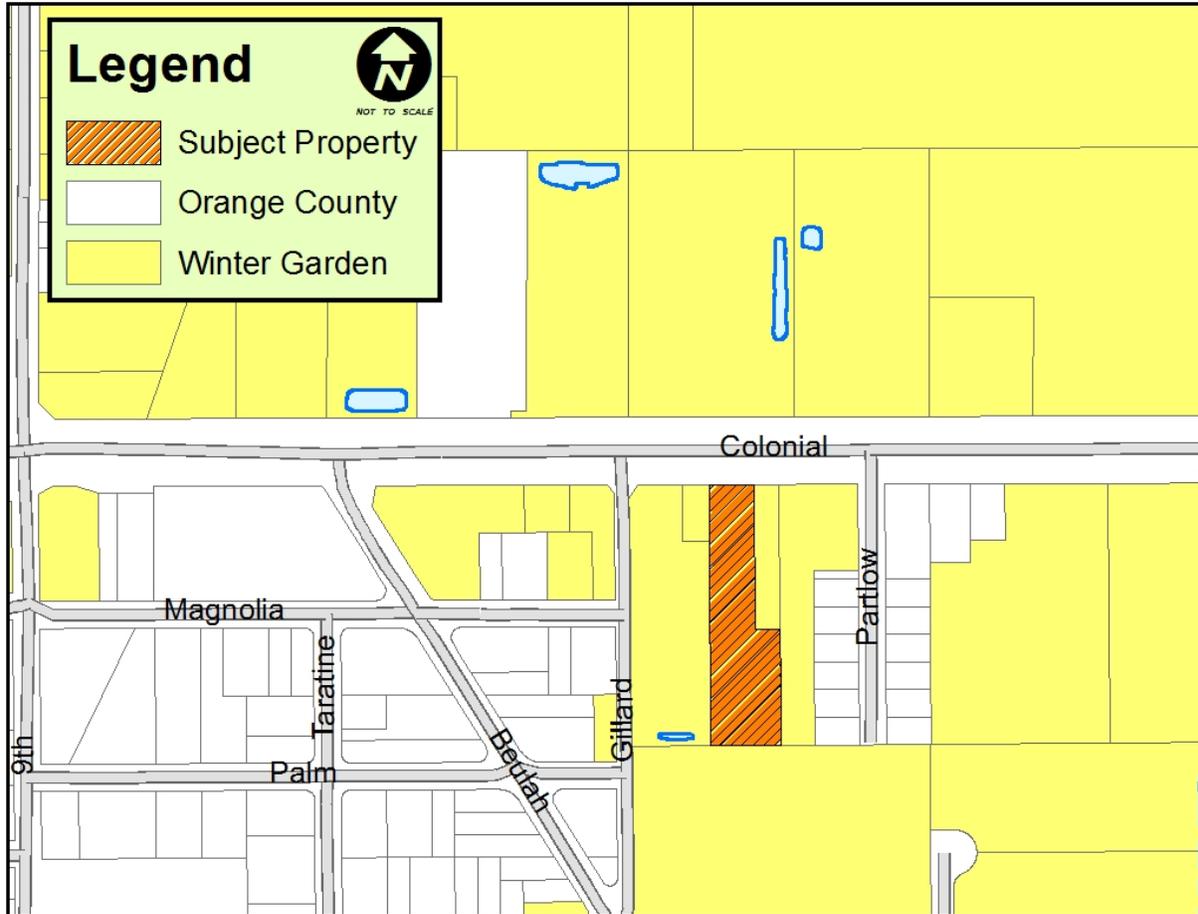
The applicant needs to submit for any building permits needed to make alterations to the interior of the suite, apply for a Business Tax Receipt, and pay any additional impact fees that may be associated to the proposed use.

ATTACHMENT(S):

Location Map
Staff Report

LOCATION MAP

12792 W. Colonial Drive – Suite 100 & 200
Master Parcel Address (12788 W. Colonial Drive)
Howards Hot Rod



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PLANNING & ZONING DIVISION

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STAFF REPORT

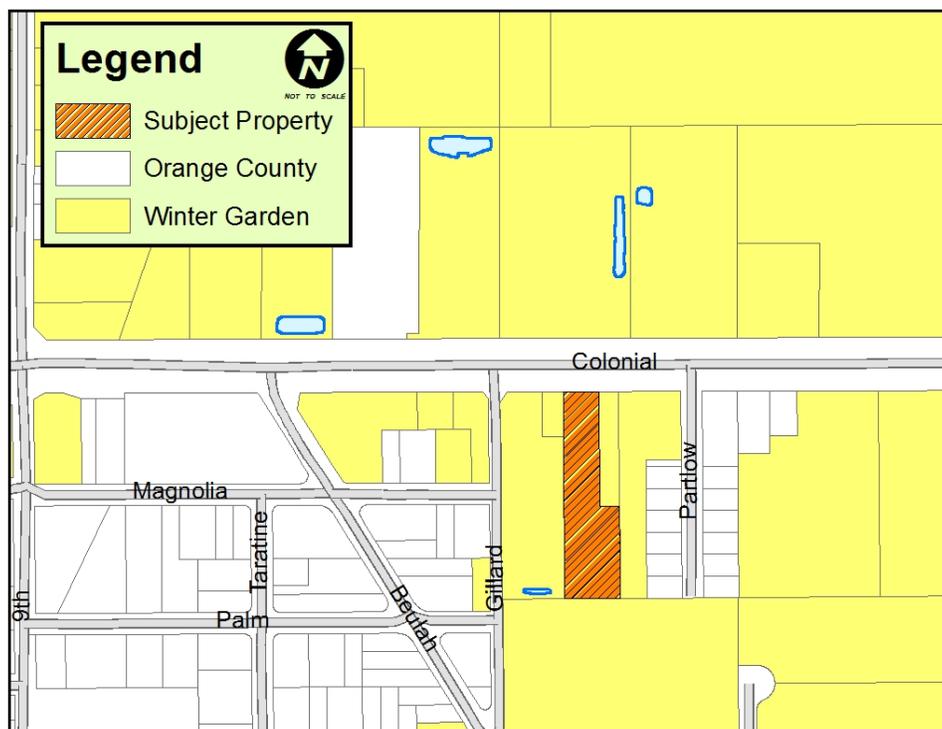
TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 31, 2013
SUBJECT: SPECIAL EXCEPTION PERMIT
12792 West Colonial Drive, Suite 100 & 120 (Howards Hot Rod Shop)
PARCEL ID # 12-22-27-6496-23-005

APPLICANT: Howards Hot Rod Shop

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 12792 West Colonial Drive, Suite 100 and 120 and is approximately 1.66 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant is requesting a Special Exception to allow an auto service facility in a C-2 zoning district, which will do custom work on classic cars. The subject property is located within the City of Winter Garden municipal limits, carries the zoning designation C-2, and is within the West State Road 50 Overlay. The subject property is designated Commercial on the Future Land Use Map of the Comprehensive Plan.

EXISTING USE

The subject property contains approximately 72,108 square feet of building area in two buildings. The front building is used as a Pawn Shop and was recently approved for a Special Exception to allow automobile sales. The building in the back (where the current use is proposed) contains five suites ranging in size from 1,500 square feet to 2,500 square feet. Last month the Planning and Zoning Board approved two Special Exceptions in this building to allow a manufacturing facility and an automobile detailing business.

ADJACENT LAND USE AND ZONING

The properties located to the north contain an RV sales facility, a gas station, and a retirement home, are zoned C-2 and in the City. The property located to the east is developed with a car wash and zoned C-2 in the City. The property to the south is vacant, zoned C-2 in the City. The property to the west is a wood working mill/manufacturing business and zoned I-1 in the City.

PROPOSED USE

The property was recently sold and the new owner is pursuing businesses to move into the building. Last month the board approved two applications for Special Exception to operate businesses within this building which are appropriate for the way the building was constructed, but required Special Exception to be allowed in the C-2 zoning district. The applicant owns an automobile service business which refurbishes classic cars. The applicant is requesting Special Exception to use two suites for this business. Suite 100 is 1,500 square feet and will be used to display cars that have already been restored and suite 120 which is 2,500 square feet will be used as the automobile service facility to restore the cars. The code allows for automobile sales and service facilities through Special Exception. As proposed, staff believes this type of activity (specialty services on cars) is consistent with the surrounding area and will not have a negative impact on the area.

SUMMARY

City Staff recommends approval of the proposed automobile service facility with the following conditions:

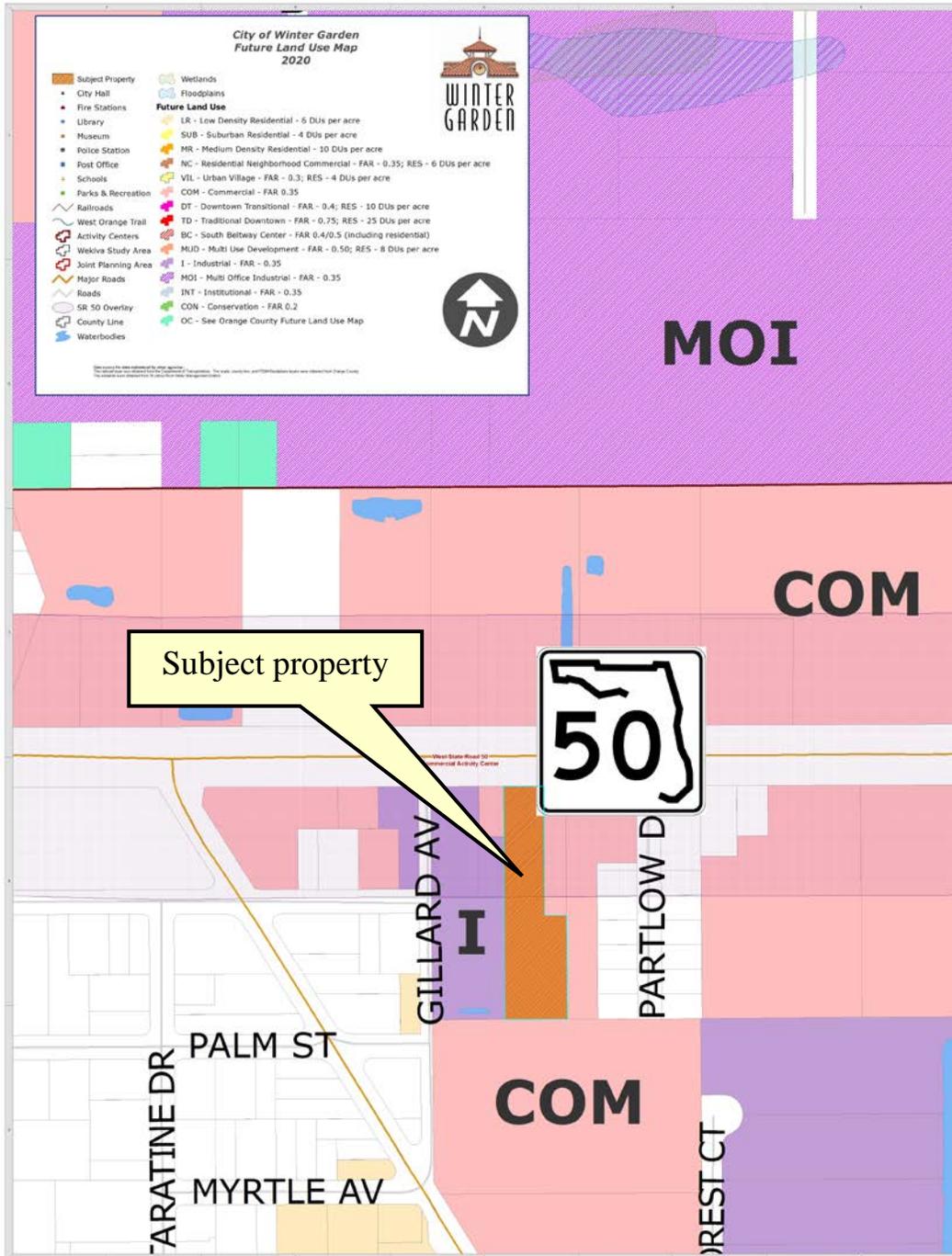
- All work shall be done inside.
- No outdoor storage of any vehicles or materials.
- No automobiles can be sold at this facility.

MAPS/EXHIBITS

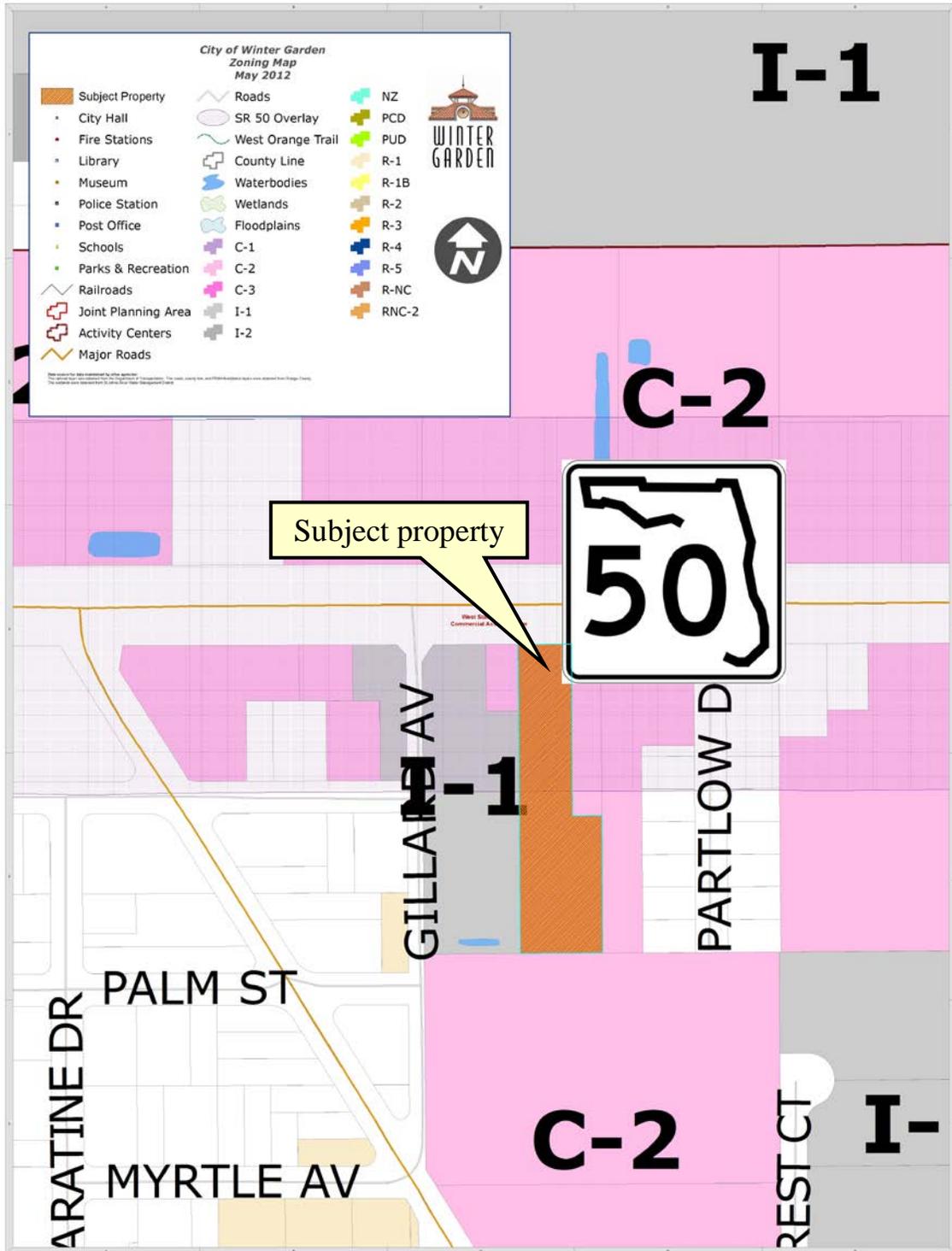
AERIAL PHOTO
12792 W. Colonial Drive



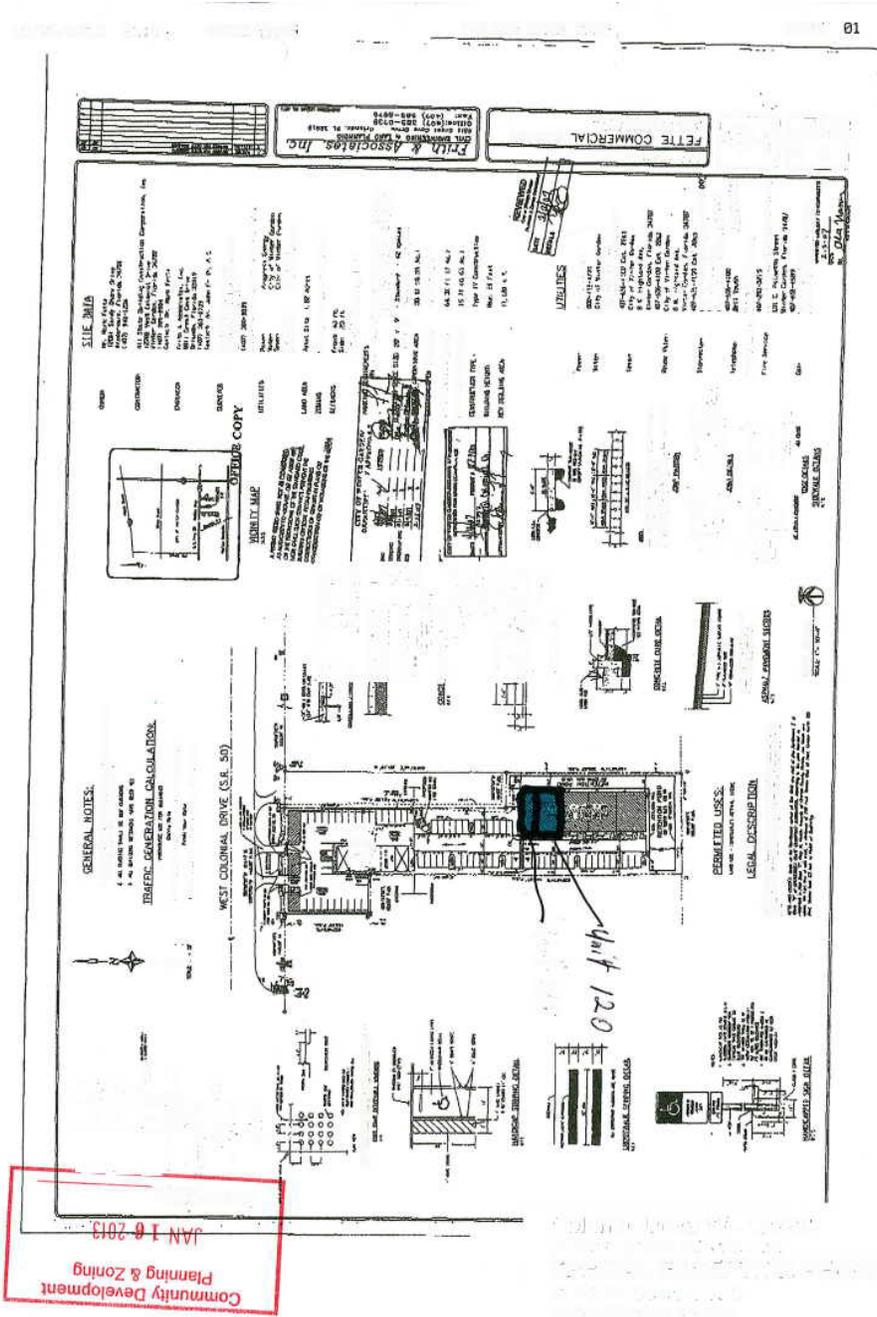
FUTURE LAND USE MAP 12792 W. Colonial Drive



ZONING MAP
12792 W. Colonial Drive



**PROPOSED SITE PLAN
12792 W. Colonial Drive**



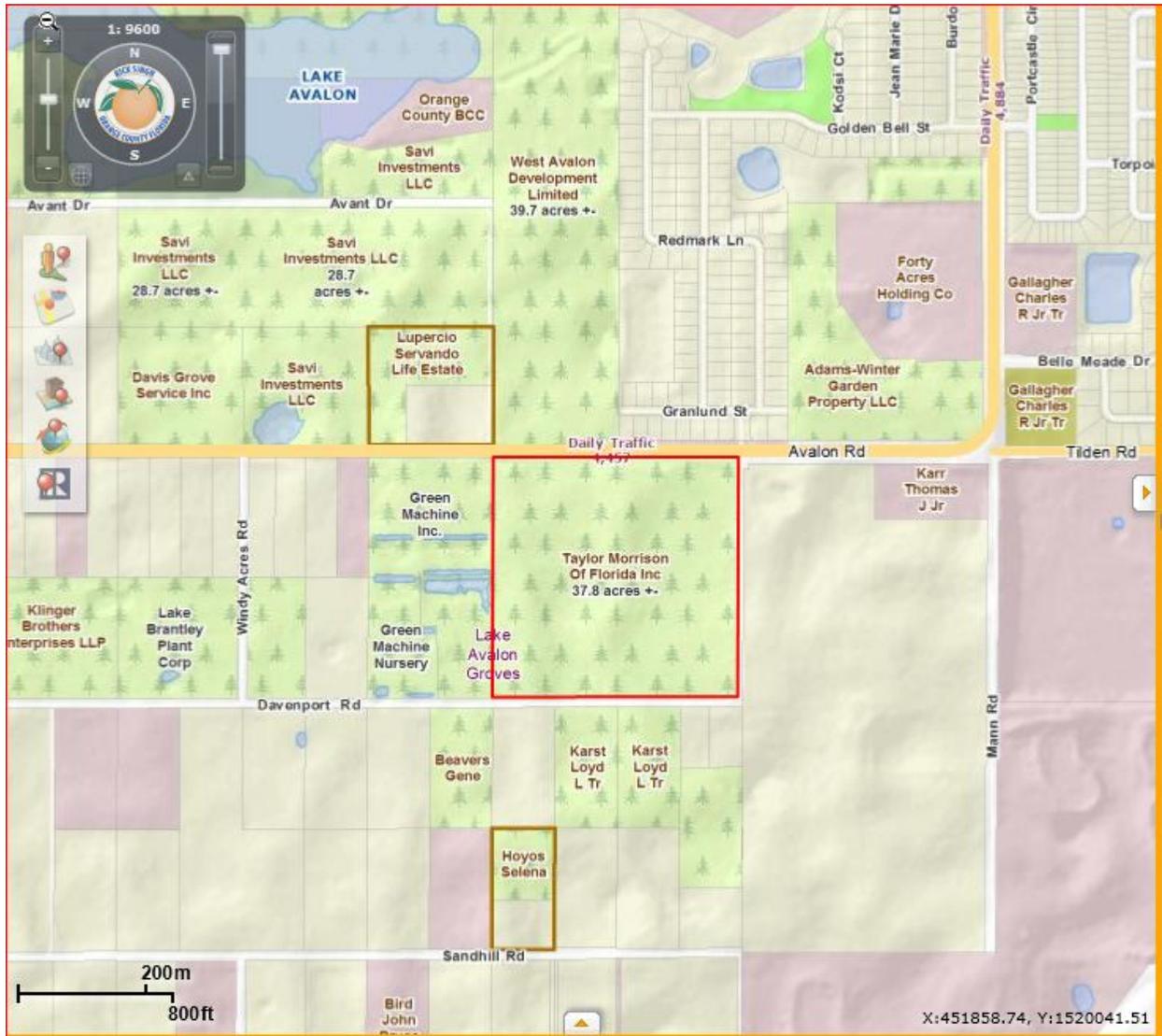
END OF STAFF REPORT

LOCATION MAP

Carriage Pointe Reserve

2911 Avalon Road

Parcel ID # 06-23-27-4284-04-010



X:451858.74, Y:1520041.51

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STAFF REPORT

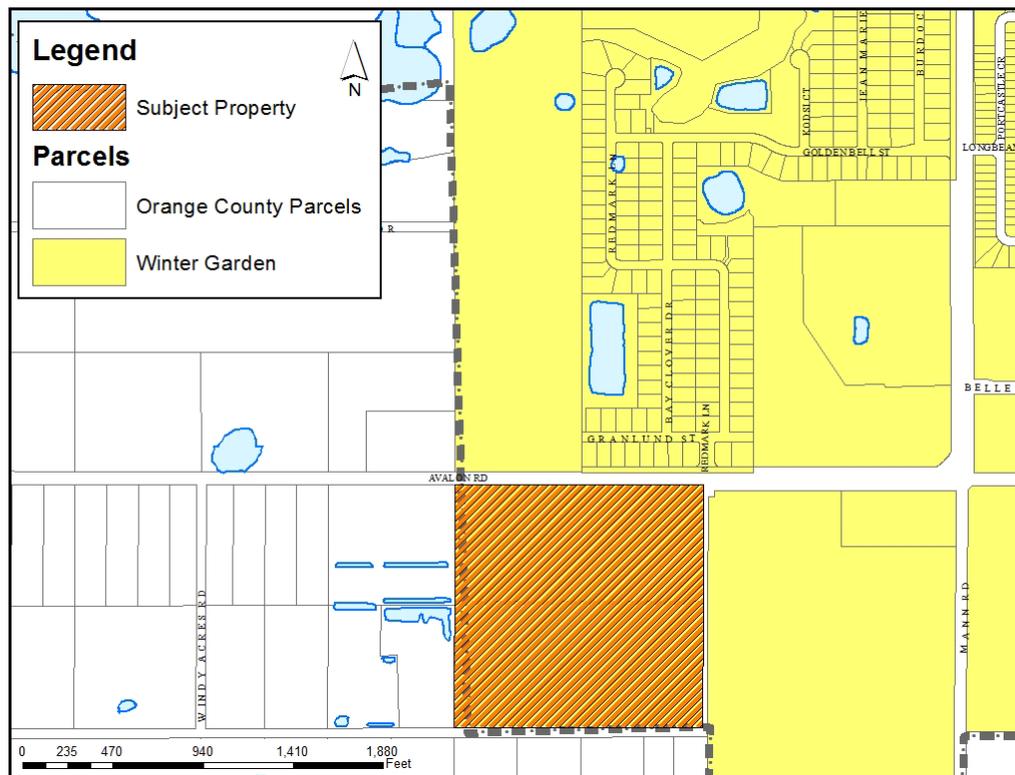
TO: PLANNING AND ZONING COMMITTEE
PREPARED BY: LAURA SMITH, SENIOR PLANNER
DATE: JANUARY 31, 2013
SUBJECT: FINAL PLAT
Reserve at Carriage Pointe Phase 1 (37.01± ACRES)
PARCEL ID #06-23-27-4284-04-010

APPLICANT: Taylor Morrison of Florida, Inc.

INTRODUCTION

The purpose of this report is to evaluate the proposed Final Plat of the Reserve at Carriage Pointe Phase 1 for compliance with the Preliminary Plat for the Reserve at Carriage Pointe Property, the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The 37.01 ± acre subject property is located on the southwest cornerer of the intersection of Avalon Road and Davenport Road. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting approval of Final Plat of the first phase of the 37.01± acre property to be platted as the Reserve at Carriage Pointe Phase 1 for 60 single family residential lots. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation PUD (Planned Unit Development) in the City of Winter Garden. The subject property is designated Suburban Residential on the Future Land Use Map of the Comprehensive Plan. The applicant requests to plat the project in 2 phases (Phase 1 and Phase 2). The 37.01± acre site proposed for Final Plat encompasses the entire property of the subdivision, however only 60 lots of the 90 lots approved by the PUD zoning will be platted through this Final Plat as Phase 1 and an additional 30 lots will be submitted for Final Plat at a later date as Phase 2.

EXISTING USE

The preliminary plat for the 37.01± acre Reserve at Carriage Pointe PUD was approved by the Planning and Zoning Board on June 4, 2012; Construction Plans for the subdivision were approved by the City Commission on June 14, 2012. Site work for the subdivision is currently underway.

ADJACENT LAND USE AND ZONING

The properties located to the north are a vacant property of 39.45 ± acres zoned NZ in the City and Carriage Pointe PUD. The properties located to the south are in unincorporated Orange County and are large-lot (e.g., 1 to 5 acres) single-family homes and vacant properties currently zoned A-1. The property to the east is Alexander Ridge, an undeveloped PUD with 72.54 ± acres. The properties to the west are Green Machine with 9.55 ± acres and Hodges Green Houses, Inc with 4.86 ± acres.

The subject property as well as some of the surrounding properties are 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 dated January 24, 2007.

PROPOSED USE

The applicant proposes to plat the 37.01± acre site to construct 60 single family residential homes as Reserve at Carriage Pointe Phase 1.

PUBLIC FACILITY ANALYSIS

The Reserve at Carriage Pointe PUD subdivision was approved for 90 single family residential lots to be developed in two phases. Infrastructure in the form of roads, water, sewer, and reclaimed water systems are being installed to support the approved subdivision.

SUMMARY

City Staff recommend approval of the proposed Final Plat for Reserve at Carriage Pointe Phase 1.

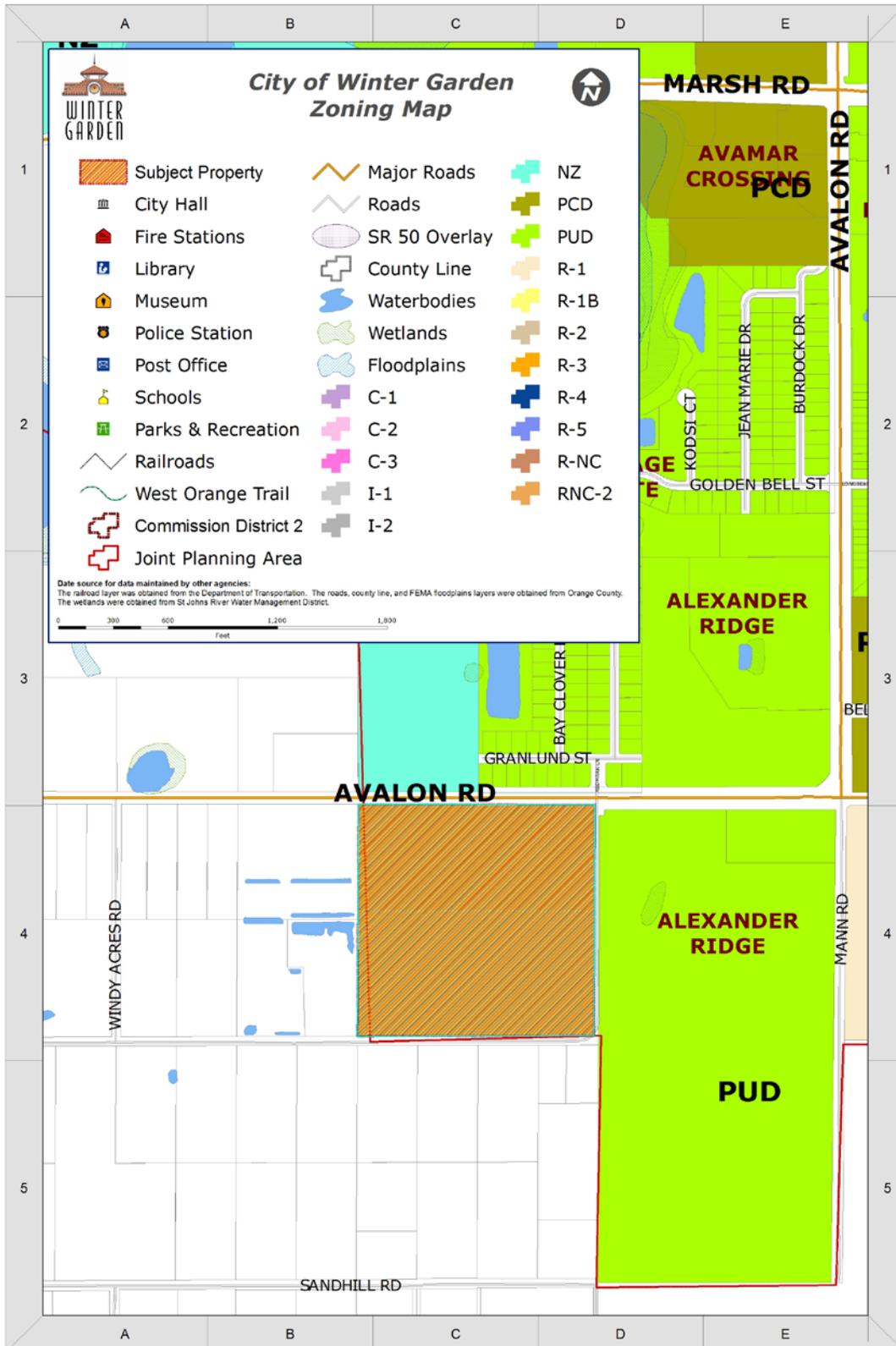
Staff has coordinated with the applicant to ensure that the Final Plat is consistent with the Code of Ordinances regarding Final Plat approval, the property specific PUD Zoning Ordinance and the approved Preliminary Plat.

MAPS

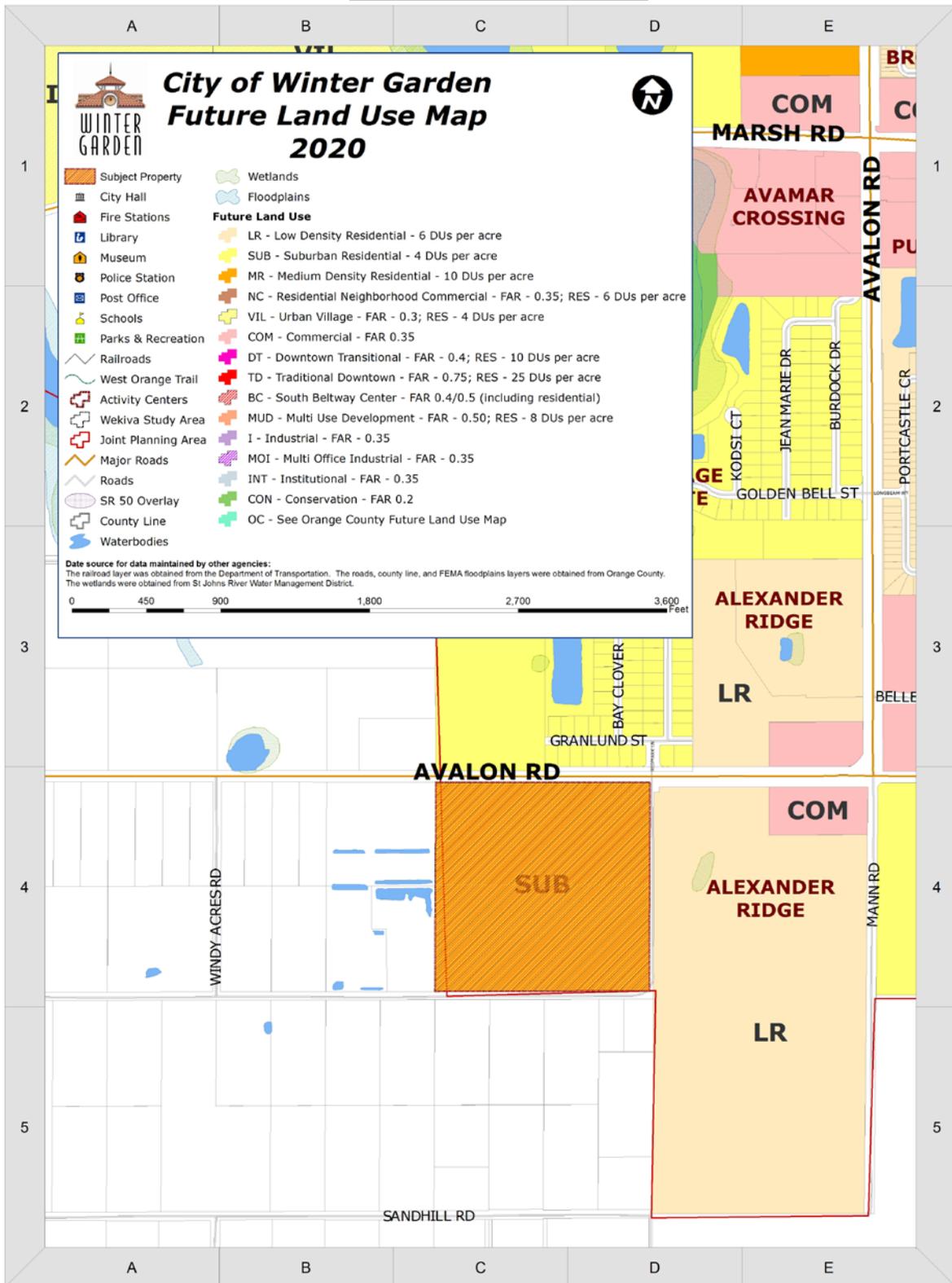
AERIAL PHOTO
RESERVE AT CARRIAGE POINTE



ZONING MAP
Reserve at Carriage Pointe



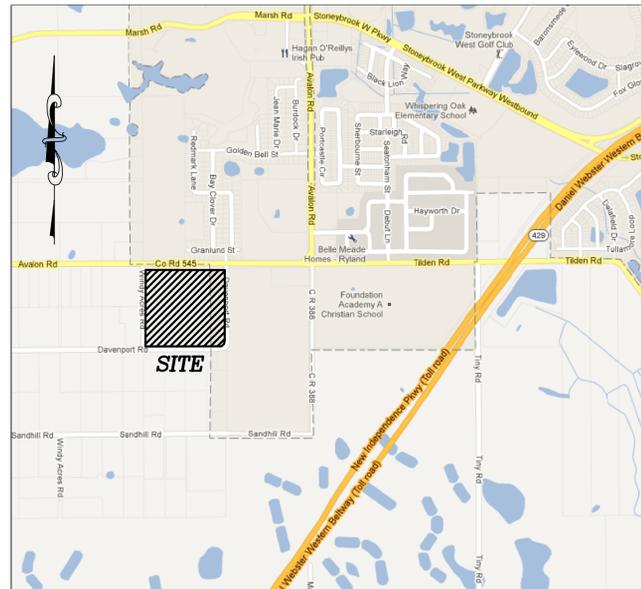
FUTURE LAND USE MAP
Reserve at Carriage Point



RESERVE AT CARRIAGE POINTE PHASE 1
LOCATED IN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA
BEING A REPLAT OF A PORTION OF LOTS 1D, 2D, 16D, & ALL OF 15D, LAKE AVALON GROVES, PLAT BOOK
H, PAGE 24, LOCATED IN SECTION 8, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

SURVEY NOTES:

- BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA AS BEING N00°11'44"E.
- NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN THE AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.
- UNLESS OTHERWISE INDICATED, A UTILITY AND DRAINAGE EASEMENT BEING 10.00 FEET WIDE AT THE FRONT OF ALL LOTS AND TRACTS ABUTTING ROAD RIGHTS-OF-WAY (PUBLIC OR PRIVATE), IS HEREBY DEDICATED TO THE CITY OF WINTER GARDEN, PUBLIC UTILITY SERVICE PROVIDERS AND THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC. (SEE TYPICAL LOT DETAIL SHEET 2 OF 5). THE CITY OF WINTER GARDEN AND PUBLIC UTILITY SERVICE PROVIDERS ARE RESPONSIBLE ONLY FOR THE MAINTENANCE OF THEIR RESPECTIVE UTILITIES PLACED WITHIN THE UTILITY AND DRAINAGE EASEMENT. THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC. SHALL BE RESPONSIBLE FOR THE MAINTENANCE, REPAIR AND REPLACEMENT OF ANY AND ALL DRAINAGE IMPROVEMENTS AND SWALES WITHIN THE DRAINAGE AND UTILITY AND DRAINAGE EASEMENT.
- UNLESS OTHERWISE INDICATED, A UTILITY AND DRAINAGE EASEMENT BEING 5.00 FEET WIDE ALONG THE SIDES OF ALL LOTS AND TRACTS, IS HEREBY DEDICATED TO THE CITY OF WINTER GARDEN, PUBLIC UTILITY SERVICE PROVIDERS AND THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC. (SEE TYPICAL LOT DETAIL SHEET 2 OF 5). THE CITY OF WINTER GARDEN AND PUBLIC UTILITY SERVICE PROVIDERS ARE RESPONSIBLE ONLY FOR THE MAINTENANCE OF THEIR RESPECTIVE UTILITIES PLACED WITHIN THE UTILITY AND DRAINAGE EASEMENT. THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC. SHALL BE RESPONSIBLE FOR THE MAINTENANCE, REPAIR AND REPLACEMENT OF ANY AND ALL DRAINAGE IMPROVEMENTS AND SWALES WITHIN THE DRAINAGE AND UTILITY AND DRAINAGE EASEMENT.
- TRACT A (FUTURE RESIDENTIAL DEVELOPMENT) IS TO BE RETAINED BY TAYLOR MORRISON OF FLORIDA, INC., AS THE FEE SIMPLE OWNER THEREOF.
- TRACT "F" (LIFT STATION) SHALL BE CONVEYED TO THE CITY OF WINTER GARDEN BY SEPARATE INSTRUMENT.
- THE FOLLOWING TRACTS SHALL BE CONVEYED TO THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC., AS REQUIRED BY CHAPTER 720 OF THE FLORIDA STATUTES:
 TRACTS "C" (STORM WATER RETENTION AREA), "I" (STORM WATER RETENTION AREA), AND "O" (STORM WATER RETENTION AREA)
 TRACT "D" (50' PRIVATE ROAD RIGHT-OF-WAY)
 TRACT "E" (OPEN SPACE/PARK)
 TRACTS "B" (WALL, LANDSCAPE & DRAINAGE) AND "M" (WALL, LANDSCAPE & DRAINAGE)
 TRACTS "G" (OPEN SPACE) AND "H" (OPEN SPACE)
 TRACTS "J" (OPEN SPACE/TRAIL) & "L" (OPEN SPACE/TRAIL)
 TRACT "K" (DRAINAGE/EMERGENCY ACCESS)
 TRACT "N" (DRAINAGE/ACCESS)
- THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC., AS THE OWNER OF THE SUBDIVISION INFRASTRUCTURE NOT OTHERWISE DEDICATED TO THE PUBLIC USE OR THE CITY OF WINTER GARDEN, COMMON PROPERTIES, AND AMENITIES, AND THE INDIVIDUAL LOT OWNERS TO EXTENT OF THEIR INTEREST IN THE FOREGOING, SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD THE CITY OF WINTER GARDEN, OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES HARMLESS FROM ANY AND ALL COSTS, EXPENSES, SUITS, DEMANDS, LIABILITIES, DAMAGES, INJURIES (INCLUDING DEATH), OR OTHERWISE, INCLUDING ATTORNEY'S FEES AND COSTS OF SUIT, IN CONNECTION WITH THE REASONABLE USE OF SAID SUBDIVISION INFRASTRUCTURE, COMMON AREAS, OR AMENITIES, OR SAID PARTIES' MAINTENANCE THEREOF, OR SAID PARTIES' EXERCISE OF RIGHTS PERMITTED IN THE SUBJECT DECLARATION OF THE HOMEOWNERS ASSOCIATION, THIS PLAT, OR AS OTHERWISE PERMITTED BY LAW.
- THE CITY OF WINTER GARDEN SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO ACCESS, MAINTAIN, REPAIR, REPLACE AND/OR OTHERWISE CARE FOR OR CAUSE TO BE CARED FOR, ANY AND ALL PRIVATE AREAS, DRAINAGE SYSTEMS, INCLUDING WITHOUT LIMITATION, THE RETENTION/DETENTION AREAS AND UNDERDRAINS, COMMON PROPERTIES, PRIVATE ROADS, SCREENING WALLS, AND SUCH OTHER SUBDIVISION INFRASTRUCTURE NOT OTHERWISE DEDICATED TO THE PUBLIC USE OR THE CITY OF WINTER GARDEN, INCLUDING, WITHOUT LIMITATION, TRACTS "B" (WALL, LANDSCAPE & DRAINAGE), "C" (STORM WATER RETENTION AREA), "D" (50' PRIVATE ROAD RIGHT-OF-WAY), "E" (OPEN SPACE/PARK), "G" (OPEN SPACE), "H" (OPEN SPACE), "I" (STORM WATER RETENTION AREA), "J" (OPEN SPACE/TRAIL), "K" (DRAINAGE/EMERGENCY ACCESS), "L" (OPEN SPACE/TRAIL), "M" (WALL, LANDSCAPE & DRAINAGE), TRACT "N" (DRAINAGE/ACCESS), AND "O" (STORM WATER RETENTION AREA), IMPROVEMENTS AND RIGHTS-OF-WAYS DEPICTED ON THIS PLAT. IN THE EVENT ANY OR ALL OF THE SAID AREAS, SYSTEMS, IMPROVEMENTS, OR AREAS ARE NOT MAINTAINED, REPAIRED, OR REPLACED IN ACCORDANCE WITH THE STANDARDS OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES, GOOD ENGINEERING PRACTICES, OR BECOME A NUISANCE, OR IN THE EVENT THE CITY OF WINTER GARDEN EXERCISES ITS AFOREMENTIONED RIGHT, EACH OF THE LOT OWNERS OF THE SUBDIVISION ARE HEREBY ULTIMATELY RESPONSIBLE FOR PAYMENT OF THE COST OF MAINTENANCE, REPAIR, REPLACEMENT AND CARE PROVIDED BY THE CITY OF WINTER GARDEN OR ITS CONTRACTORS AND AGENTS, PLUS ADMINISTRATIVE COSTS AND ATTORNEYS' FEES AND COSTS INCURRED BY THE CITY OF WINTER GARDEN. IF SAID COSTS ARE NOT PAID WITHIN 15 DAYS OF INVOICING, THEN SAID COSTS SHALL CONSTITUTE A LIEN ON THE PROPERTY OF THE OWNERS WHICH FAIL TO PAY SUCH COSTS AND MAY BE ENFORCED, WITHOUT LIMITATION, BY FORECLOSURE, SPECIAL ASSESSMENTS, OR AS MAY OTHERWISE BE PERMITTED BY LAW. THIS RIGHT, AND THE CITY OF WINTER GARDEN'S EXERCISE OF SAID RIGHT, SHALL NOT IMPOSE ANY OBLIGATION ON THE CITY OF WINTER GARDEN TO MAINTAIN, REPAIR, REPLACE, OR OTHERWISE CARE FOR SAID PRIVATE AREAS, DRAINAGE SYSTEMS, INCLUDING WITHOUT LIMITATION, THE RETENTION/DETENTION AREAS AND UNDERDRAINS, COMMON PROPERTIES, PRIVATE ROADS, SCREENING WALLS, AND SUCH OTHER SUBDIVISION INFRASTRUCTURE NOT OTHERWISE DEDICATED TO THE PUBLIC USE OR THE CITY OF WINTER GARDEN, INCLUDING, WITHOUT LIMITATION, TRACTS "B" (OPEN SPACE), "C" (STORM WATER RETENTION AREA), "D" (50' PRIVATE ROAD RIGHT-OF-WAY), "E" (OPEN SPACE/PARK), "G" (OPEN SPACE), "H" (OPEN SPACE), "I" (STORM WATER RETENTION AREA), "J" (OPEN SPACE/TRAIL), "K" (DRAINAGE/EMERGENCY ACCESS), "L" (OPEN SPACE/TRAIL), "M" (WALL, LANDSCAPE & DRAINAGE), TRACT "N" (DRAINAGE/ACCESS), AND "O" (STORM WATER RETENTION AREA), AND THE IMPROVEMENTS THEREON.
- THE LOTS WITHIN THIS SUBDIVISION ARE GOVERNED BY A MANDATORY HOMEOWNERS ASSOCIATION REQUIRING THE PAYMENT OF FEES AND WITH THE POWER TO ASSESS THE LOTS. THE HOMEOWNERS ASSOCIATION IS THE OWNER OF AND/OR RESPONSIBLE FOR THE MAINTENANCE, REPAIR, AND REPLACEMENT OF ALL PRIVATE AREAS, DRAINAGE SYSTEMS, INCLUDING WITHOUT LIMITATION, THE RETENTION/DETENTION AREAS AND UNDERDRAINS, COMMON PROPERTIES, PRIVATE ROADS, SCREENING WALLS, AND SUCH OTHER SUBDIVISION INFRASTRUCTURE NOT OTHERWISE DEDICATED TO THE PUBLIC USE OR THE CITY OF WINTER GARDEN, INCLUDING, WITHOUT LIMITATION, TRACTS "B" (WALL, LANDSCAPE & DRAINAGE), "C" (STORM WATER RETENTION AREA), "D" (50' PRIVATE ROAD RIGHT-OF-WAY), "E" (OPEN SPACE/PARK), "G" (OPEN SPACE), "H" (OPEN SPACE), "I" (STORM WATER RETENTION AREA), "J" (OPEN SPACE/TRAIL), "K" (DRAINAGE/EMERGENCY ACCESS), "L" (OPEN SPACE/TRAIL), "M" (WALL, LANDSCAPE & DRAINAGE), TRACT "N" (DRAINAGE/ACCESS), AND "O" (STORM WATER RETENTION AREA), AND THE IMPROVEMENTS THEREON. EVERY LOT OWNER WITHIN THIS SUBDIVISION MUST BE A MEMBER OF THE HOMEOWNERS ASSOCIATION. FAILURE TO PAY SUCH FEES OR ASSESSMENTS SHALL RESULT IN THE ATTACHMENT OF A LIEN ON THE PROPERTY OF THE OWNER WHICH FAILS TO PAY SUCH FEES OR ASSESSMENTS BY THE HOMEOWNERS ASSOCIATION, WHICH MAY RESULT IN THE FORECLOSURE OF SAID PROPERTY.
- PURSUANT TO SECTION 177.091 (28), FLORIDA STATUTES, AS AMENDED; ALL PLATTED UTILITY EASEMENTS SHALL PROVIDE THAT SUCH EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES; PROVIDED, HOWEVER, NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES SHALL INTERFERE WITH THE FACILITIES AND SERVICES OF AN ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC UTILITY. IN THE EVENT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. THIS SECTION SHALL NOT APPLY TO THOSE PRIVATE EASEMENTS GRANTED TO OR OBTAINED BY A PARTICULAR ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC UTILITY. SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION SHALL COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION.
- UNLESS OTHERWISE NOTED, THE GRASS AND LANDSCAPING WITHIN ALL UTILITY AND DRAINAGE EASEMENTS LOCATED UPON INDIVIDUAL LOTS AND/OR TRACTS SHALL BE MAINTAINED BY THE FEE SIMPLE OWNER OF SAID LOTS AND/OR TRACTS.
- THE PROPERTY SHOWN HEREON IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE RESERVE AT CARRIAGE POINTE AND ALL EXHIBITS THERETO, AND THE ARTICLES OF INCORPORATION FOR THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC., ALL OF THE FOREGOING OF WHICH ARE RECORDED IN OFFICIAL RECORDS BOOK _____, PAGE(S) _____, INCLUSIVE, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.
- ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THE CITY OF WINTER GARDEN LAND DEVELOPMENT CODE, AS AMENDED FROM TIME TO TIME, AND ALL FEDERAL, STATE, COUNTY AND CITY RULES, REGULATIONS, ORDINANCES, PROVISIONS AND APPROVALS. NOTHING THEREIN SHALL BE CONSTRUED TO WAIVE ANY PROVISION OF THE WINTER GARDEN LAND DEVELOPMENT CODE.
- ANY AND ALL GRASS AND LANDSCAPING WITHIN TRACTS "B" (WALL, LANDSCAPE & DRAINAGE) AND "M" (WALL, LANDSCAPE & DRAINAGE) ON THE ADJACENT LOT SIDE OF ANY CONSTRUCTED WALL SHALL BE MAINTAINED BY THE OWNERS OF SAID ADJACENT LOTS AND IS HEREBY SUBJECT TO AN EASEMENT FOR INGRESS AND EGRESS IN FAVOR OF THE RESERVE AT CARRIAGE POINTE HOMEOWNERS ASSOCIATION, INC. OR ITS REPRESENTATIVE, FOR INSTALLATION AND MAINTENANCE OF SAID WALL.
- THERE IS HEREBY GRANTED AND DEDICATED TO THE CITY OF WINTER GARDEN AND OTHER PUBLIC SERVICE AND EMERGENCY SERVICE PROVIDERS, A NON-EXCLUSIVE EASEMENT OVER AND TROUGH TRACT D (PRIVATE RIGHT-OF-WAY), TRACT K (DRAINAGE/EMERGENCY ACCESS) AND ANY OTHER PRIVATELY OWNED INTERNAL ROADS, PAVED AREAS AND SIDEWALKS FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS ACCESS FOR THE PURPOSE OF PROVIDING PUBLIC AND EMERGENCY SERVICES TO THE SUBDIVISION, INCLUDING BUT NOT LIMITED TO, POSTAL, FIRE PROTECTION, POLICE PROTECTION, EMERGENCY MEDICAL TRANSPORTATION, CODE ENFORCEMENT, GARBAGE, UTILITIES AND OTHER PUBLIC AND EMERGENCY SERVICES.



VICINITY MAP
(NOT TO SCALE)

LEGAL DESCRIPTION:

A PORTION OF TRACTS ONE-D, TWO-D, SIXTEEN-D, AND ALL OF TRACT FIFTEEN-D, LAKE AVALON GROVES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK H, PAGE 24, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE EAST 1/4 CORNER OF SECTION 8, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA; THENCE N00°11'44"E, ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 8, A DISTANCE OF 1352.21 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH RIGHT-OF-WAY LINE OF DAVENPORT ROAD (A 50.00 FOOT RIGHT-OF-WAY) ALSO BEING THE SOUTH LINE OF TRACT 16D, LAKE AVALON GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK H, PAGE 24, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE S89°52'42"W, ALONG SAID LINE, A DISTANCE OF 77.65 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S89°52'42"W, ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE SOUTH LINE OF SAID TRACT 16D AND THE SOUTH LINE OF TRACT 15D, SAID LAKE AVALON GROVES, A DISTANCE OF 1244.70 FEET, TO THE SOUTHWEST CORNER OF SAID TRACT 15D; THENCE N00°13'39"E, ALONG THE WEST LINE OF SAID TRACT 15D AND THE WEST LINE OF SAID TRACT 1D, SAID LAKE AVALON GROVES, A DISTANCE OF 1245.76 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 35.00 FEET OF SAID TRACT 2D; THENCE S89°58'04"E, ALONG SAID SOUTH LINE AND THE SOUTH LINE OF THE NORTH 35.00 FEET OF TRACT 1D, SAID LAKE AVALON GROVES, A DISTANCE OF 1296.64 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 1D; THENCE S00°11'44"W, ALONG THE EAST LINE OF SAID TRACT 1D AND THE EAST LINE OF AFORESAID TRACT 16D, A DISTANCE OF 1119.91 FEET; THENCE DEPARTING SAID EAST LINE OF SAID TRACT 16D, RUN S02°21'37"W, A DISTANCE OF 45.36 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 87.00 FEET, A CENTRAL ANGLE OF 53°3'56", A CHORD BEARING OF S29°20'35"W AND A CHORD DISTANCE OF 78.95 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 81.94 FEET TO THE POINT OF TANGENCY; THENCE S56°19'33"W, A DISTANCE OF 15.04 FEET TO THE POINT OF BEGINNING.

SHEET INDEX:

- SHEET 1 - COVER SHEET W/LEGAL DESCRIPTION & NOTES
- SHEET 2 - KEY MAP, LEGEND AND ABBREVIATIONS
- SHEETS 3-6 - PLAT DETAIL SHEETS

CERTIFICATE OF COUNTY COMPTROLLER

I HEREBY CERTIFY that the foregoing plat was recorded in the Orange County Official Records on _____, 2013 as File No. _____, County Comptroller in and for Orange County, Florida.

By: _____ (SEAL)

CERTIFICATE OF APPROVAL BY CITY COMMUNITY DEVELOPMENT DIRECTOR

The foregoing plat has been examined and approved.

City Development Services Director _____ Date _____

PLAT BOOK: _____ PAGE: _____

RESERVE AT CARRIAGE POINTE PHASE 1
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That the entity named below, being the owner in fee simple of the land described in the foregoing caption to this plat, hereby dedicates said lands and plat for the uses and purposes expressed herein; including those easements described in the survey notes, and dedicates those Tracts "B" (Wall, Landscape & Drainage), "C" (Storm Water Retention Area), "E" (Open Space/Park), "G" (Open Space), "H" (Open Space), "I" (Storm Water Retention Area), "J" (Open Space/Trail), "K" (Drainage/Emergency Access), "L" (Open Space/Trail), "M" (Wall, Landscape & Drainage), "N" (Drainage/Access), and "O" (Storm Water Retention Area), along with the interior road rights of ways shown on the plat as Tract "D", commonly known as Sandy Garden Lane and Sandfield Loop, to The Reserve at Carriage Pointe Homeowners Association, Inc.; and DOES NOT dedicate to The Reserve at Carriage Pointe Homeowners Association, Inc., or to any other party or entity, and expressly withholds from the dedication herein, and reserves unto itself, as the fee simple owner, Tract "A" (Future Development).

IN WITNESS WHEREOF, the owner has caused these presents to be signed and attested to by the officer named below and its corporate seal to be affixed hereto on _____, A.D. 2013.

Taylor Morrison of Florida, Inc., a Florida Corporation
 151 Southhall Lane, Suite 200
 Maitland, Florida 32751

BY: Taylor Morrison of Florida, Inc., a Florida Corporation

Name: Maurice Johnson

Signed: _____ (CORPORATE SEAL)
 Title: North Florida Division President

Signed, sealed and delivered in the presence of:

Witness(Signature) _____ Witness(Signature) _____

Witness(Printed) _____ Witness(Printed) _____

State of _____, County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by Maurice Johnson, North Florida Division President of Taylor Morrison of Florida, Inc., on behalf of said entity. He is [] personally known to me or [] has produced his State of Florida driver's license as identification.

Signature of Notary Public _____ (AFFIX NOTARY STAMP OR SEAL)

Printed, Typed or Stamped Notary Name _____

Notary Public, State of _____

Commission No.: _____

My Commission Expires: _____

QUALIFICATION STATEMENT OF SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a licensed and registered land surveyor, does hereby certify that on _____, he completed the survey of the lands as shown in the foregoing plat or plan; that said plat is a true and correct representation of the lands therein described and platted or subdivided; that permanent reference monuments have been placed or shown thereon as required by Chapter 177, Florida Statutes; and that said land is located in the City of Winter Garden, Orange County, Florida.

(Signature) _____ Date: _____ (SEAL)
 WILLIAM D. DONLEY, (PSM) Professional Surveyor and Mapper
 Certificate No. 5381

BOWYER-SINGLETON & ASSOCIATES, INC.
 520 South Magnolia Avenue
 Orlando, Florida 32801
 Certificate of authorization No. (LB) License Business 1221

CERTIFICATE OF APPROVAL BY THE BOARD OF CITY COMMISSIONERS

This is to certify that on _____, 2013, the foregoing plat was approved by the City Commissioners of Winter Garden, Florida.

Mayor of Winter Garden _____ (SEAL)

City Clerk _____

CERTIFICATE OF REVIEW BY CITY SURVEYOR

I HEREBY CERTIFY that I have reviewed the foregoing plat and find that it is in conformity with Chapter 177, Florida Statutes.

City Surveyor _____ Date _____

Printed Name: _____

Company: _____ (SEAL)

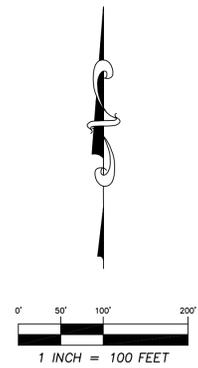
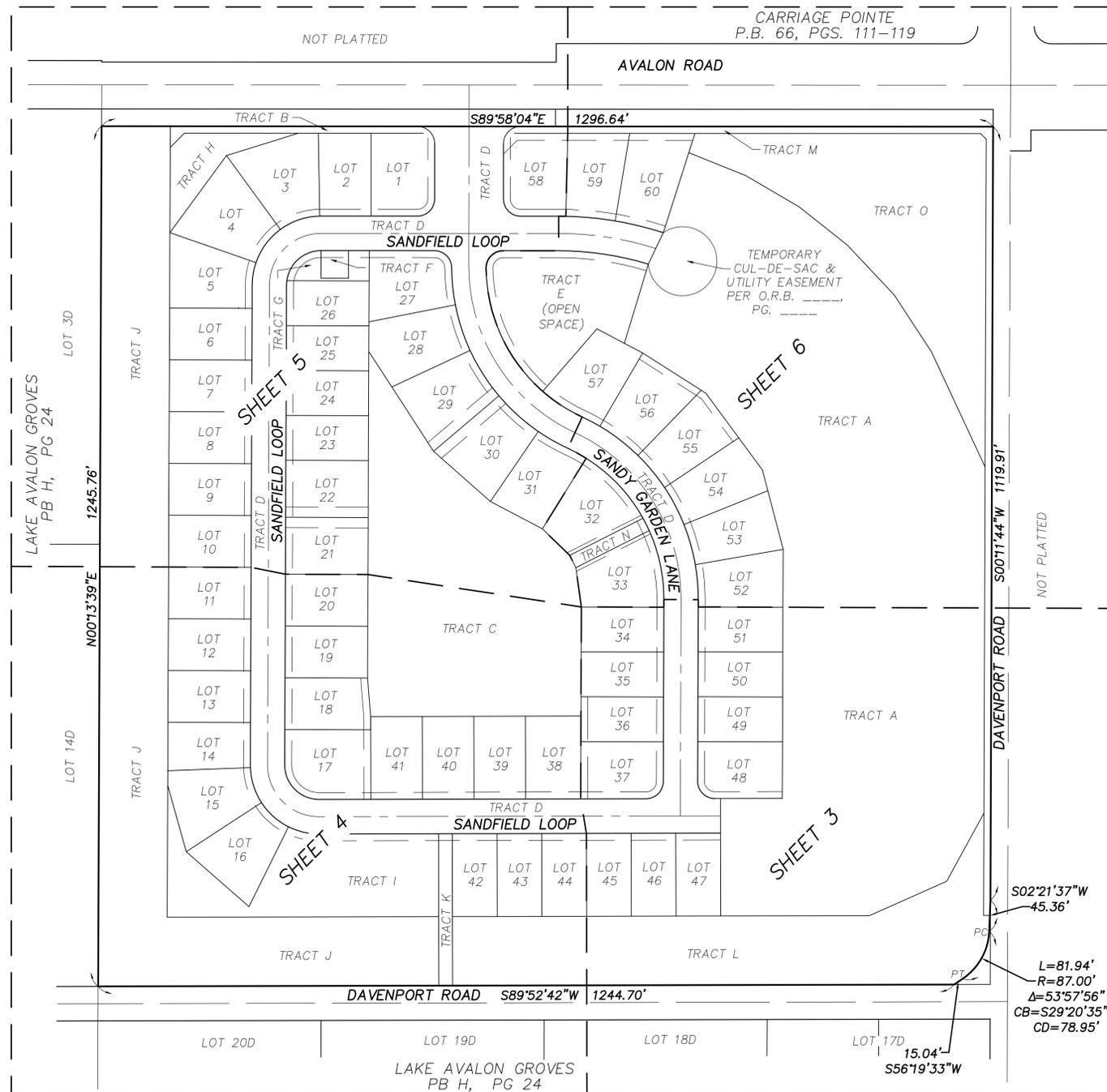
Address: _____

Registration No.: _____

PREPARED BY:
 BOWYER SINGLETON & ASSOCIATES, INC.
 520 SOUTH MAGNOLIA AVENUE
 ORLANDO, FLORIDA 32801
 PHONE: 407.843.5120 FAX: 407.848.9104
 BSA-CIVIL.COM
 CERTIFICATE OF AUTHORIZATION No. LB 1221

RESERVE AT CARRIAGE POINTE PHASE 1
 LOCATED IN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA
 BEING A REPLAT OF A PORTION OF LOTS 1D, 2D, 16D, & ALL OF 15D, LAKE AVALON GROVES, PLAT BOOK
 H, PAGE 24, LOCATED IN SECTION 8, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

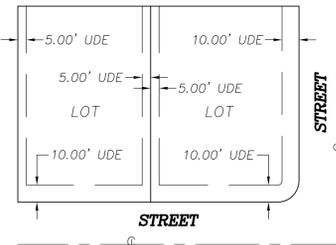
PLAT BOOK: PAGE:



LEGEND AND ABBREVIATIONS:

- AC ACRES
- CL CENTER LINE
- CB CHORD BEARING
- CCR CERTIFIED CORNER RECORD
- CD CHORD DISTANCE
- CM CONCRETE MONUMENT
- DE DRAINAGE EASEMENT
- FND FOUND
- ID IDENTIFICATION
- IP IRON PIPE
- IPC IRON PIPE & CAP
- IR IRON ROD
- IRC IRON ROD & CAP
- L LENGTH
- LB LICENSED BUSINESS
- M.B. MAP BOOK
- N/D NAIL & DISK
- NO NUMBER
- (NR) NON-RADIAL
- O.R.B. OFFICIAL RECORDS BOOK
- (P) PLAT
- P.B. PLAT BOOK
- PCP PERMANENT CONTROL POINT
- PG(S) PAGE/PAGES
- PLS PROFESSIONAL LAND SURVEYOR
- PRM PERMANENT REFERENCE MONUMENT
- PSM PROFESSIONAL SURVEYOR MAPPER
- R/W RIGHT OF WAY
- (R) RADIAL
- R RADIUS
- REC RECOVERED
- SEC SECTION-TOWNSHIP-RANGE
- (TYP) TYPICAL
- UE UTILITY EASEMENT
- UDE UTILITY & DRAINAGE EASEMENT
- W/ WITH
- Δ CENTRAL ANGLE
- BREAK LINE
- FOUND 4"x4" CM (AS NOTED)
- SET 4"x4" CM (PRM BSA LB 1221)
- SET N/D (PCP LB 1221)
- SET 5/8" IRC (BSA LB 1221)
- FOUND IRON ROD (AS NOTED)

TYPICAL LOT DETAIL
(UNLESS NOTED OTHERWISE) (NOT TO SCALE)



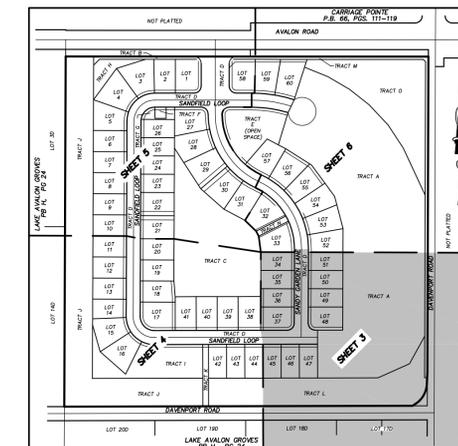
KEY SHEET
(SCALE: 1"=100')

BOWYER SINGLETON
 LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
 PLANNING | SURVEYING & MAPPING

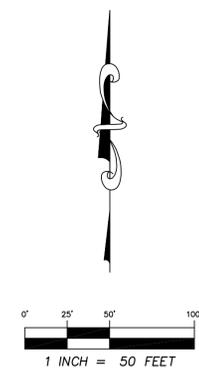
PREPARED BY:
BOWYER SINGLETON & ASSOCIATES, INC.
 520 SOUTH MAGNOLIA AVENUE
 ORLANDO, FLORIDA 32801
 PHONE: 407.843.5120 FAX: 407.648.9104
 BSA-CIVIL.COM
 CERTIFICATE OF AUTHORIZATION No. LB 1221

RESERVE AT CARRIAGE POINTE PHASE 1
 LOCATED IN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA
 BEING A REPLAT OF A PORTION OF LOTS 1D, 2D, 16D, & ALL OF 15D, LAKE AVALON GROVES, PLAT BOOK
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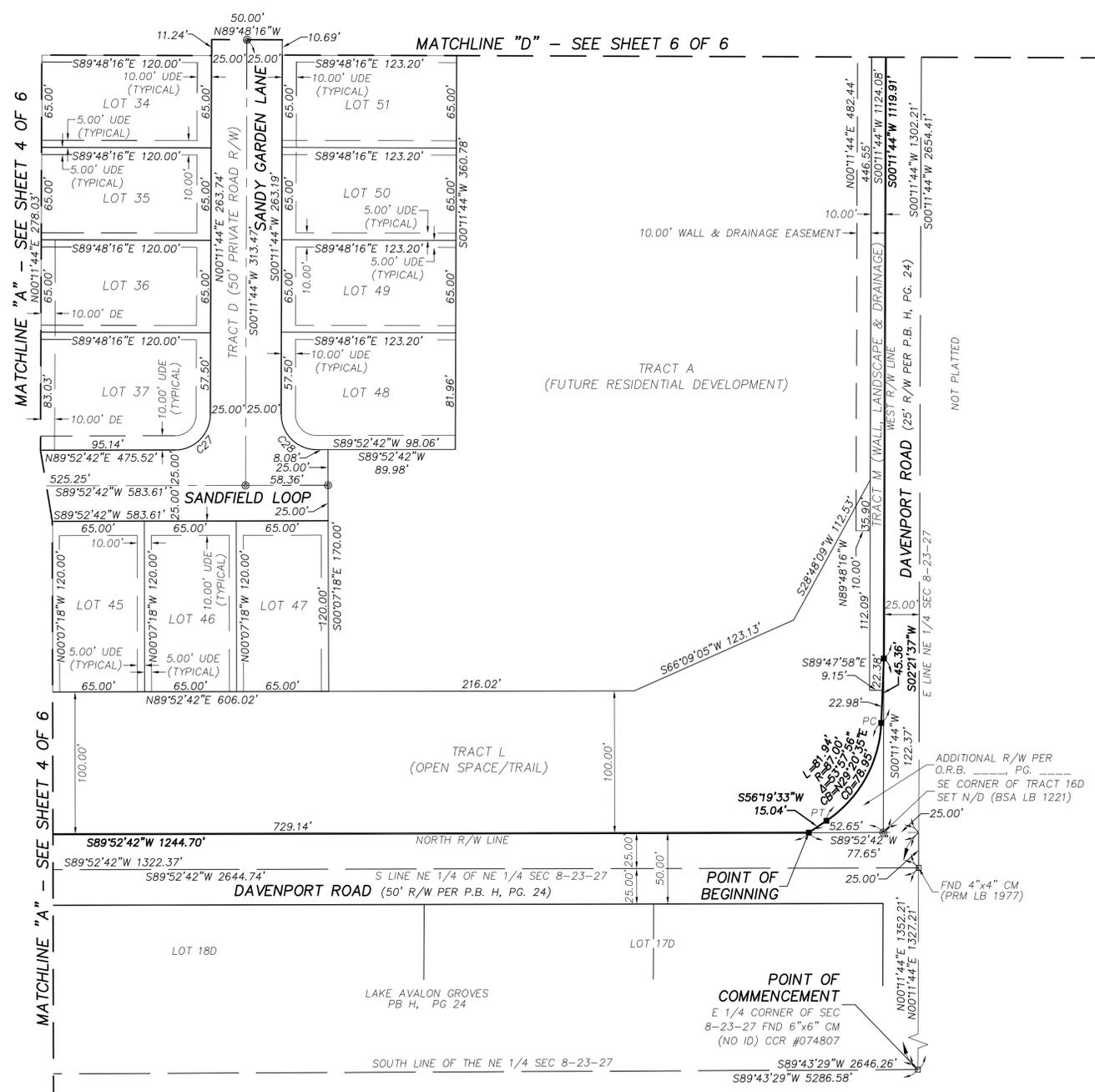
PLAT BOOK: PAGE:



KEY SHEET
(SCALE: 1"=300')



CURVE TABLE					
#	LENGTH	RADIUS	DELTA	BEARING	LENGTH
C27	39.13'	25.00'	89°40'58"	N45°02'13"E	35.26'
C28	39.41'	25.00'	90°19'02"	S44°57'47"E	35.45'



ADDITIONAL R/W PER
 O.R.B. PG. ---
 SE CORNER OF TRACT 16D
 SET N/D (BSA LB 1221)
 25.00'

FND 4"x4" CM
 (PRM LB 1977)
 25.00'

POINT OF COMMENCEMENT
 E 1/4 CORNER OF SEC
 8-23-27 FND 6"x6" CM
 (NO ID) CCR #074807

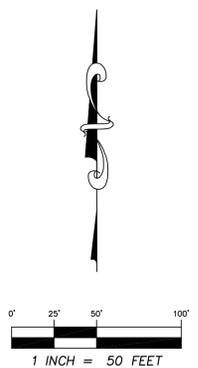
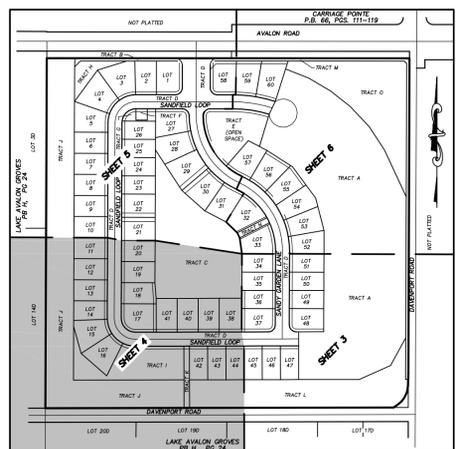
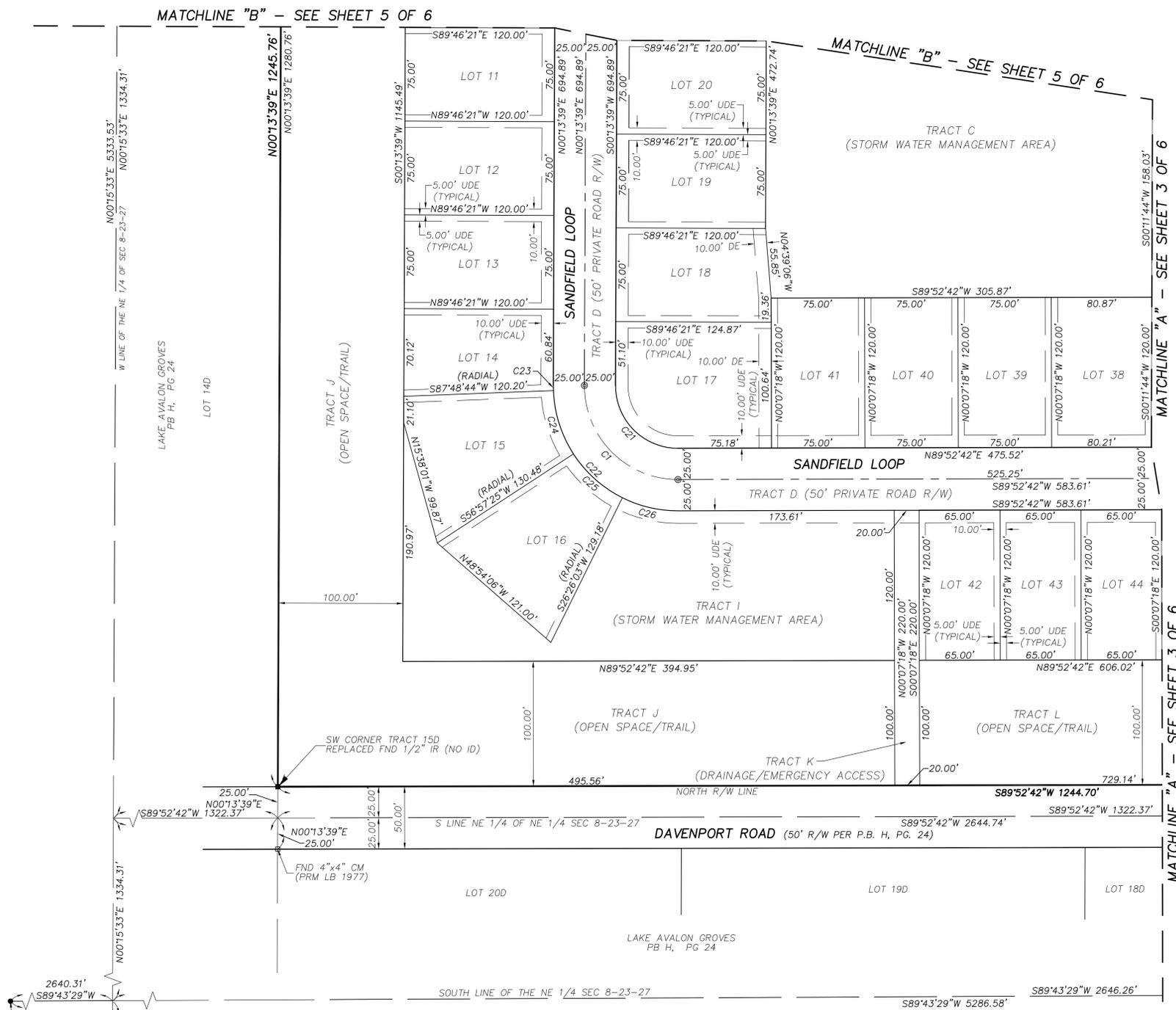
BOWYER SINGLETON

LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
 PLANNING | SURVEYING & MAPPING

PREPARED BY:
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PLAT BOOK: PAGE:



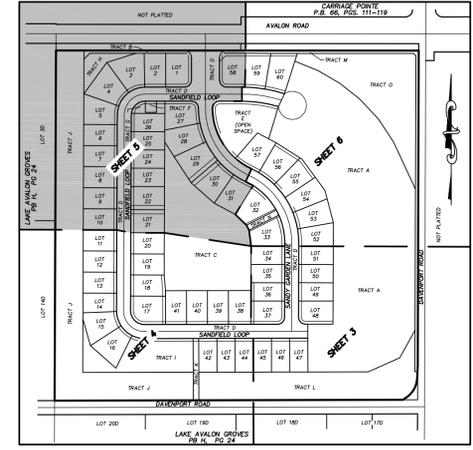
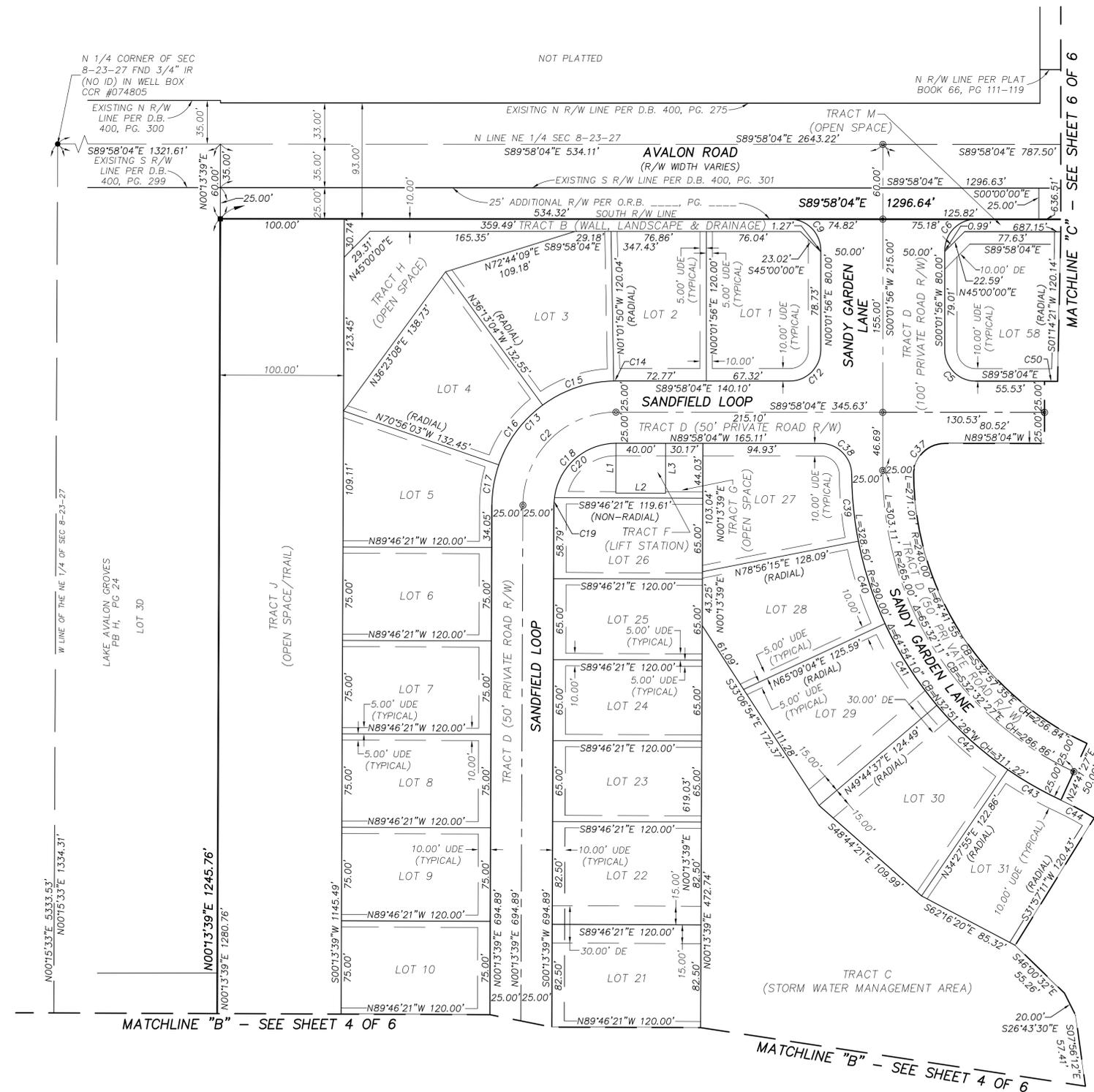
#	LENGTH	RADIUS	DELTA	BEARING	LENGTH
C1	118.27'	75.00'	90°20'57"	N44°56'50"W	106.39'
C21	78.84'	50.00'	90°20'57"	S44°56'50"E	70.93'
C22	157.69'	100.00'	90°20'57"	N44°56'50"W	141.85'
C23	4.22'	100.00'	2°24'55"	S00°58'49"E	4.22'
C24	53.85'	100.00'	30°51'19"	S17°36'56"E	53.20'
C25	53.27'	100.00'	30°31'23"	S48°18'16"E	52.64'
C26	46.35'	100.00'	26°33'21"	S76°50'38"E	45.93'

BOWYER SINGLETON
 LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
 PLANNING | SURVEYING & MAPPING

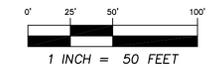
PREPARED BY:
 BOWYER SINGLETON & ASSOCIATES, INC.
 520 SOUTH MAGNOLIA AVENUE
 ORLANDO, FLORIDA 32801
 PHONE: 407.843.5120 FAX: 407.648.9104
 BSA-CIVIL.COM
 CERTIFICATE OF AUTHORIZATION NO. LB 1221

RESERVE AT CARRIAGE POINTE PHASE 1
 LOCATED IN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA
 BEING A REPLAT OF A PORTION OF LOTS 1D, 2D, 16D, & ALL OF 15D, LAKE AVALON GROVES, PLAT BOOK H, PAGE 24, LOCATED IN SECTION 8, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

PLAT BOOK: PAGE:



KEY SHEET
(SCALE: 1"=300')



LINE TABLE		
#	BEARING	DISTANCE
L1	S00°01'56"W	40.00'
L2	S89°58'04"E	40.00'
L3	N00°01'56"E	40.00'

CURVE TABLE					
#	LENGTH	RADIUS	DELTA	BEARING	LENGTH
C2	117.55'	75.00'	89°48'17"	N45°07'47"E	105.89'
C5	39.27'	25.00'	90°00'00"	S44°58'04"E	35.36'
C6	39.27'	25.00'	90°00'00"	S45°01'56"W	35.36'
C9	39.27'	25.00'	90°00'00"	N44°58'04"W	35.36'
C12	39.27'	25.00'	90°00'00"	N45°01'56"E	35.36'
C13	156.74'	100.00'	89°48'17"	N45°07'47"E	141.18'
C14	1.85'	100.00'	1°03'46"	S89°30'03"W	1.85'
C15	61.41'	100.00'	35°11'14"	S71°22'33"W	60.45'
C16	60.59'	100.00'	34°42'59"	S36°25'27"W	59.67'
C17	32.88'	100.00'	18°50'19"	S09°38'48"W	32.73'
C18	78.37'	50.00'	89°48'17"	S45°07'47"W	70.59'
C19	6.23'	50.00'	7°08'03"	N03°47'40"E	6.22'
C20	72.14'	50.00'	82°40'14"	N48°41'49"E	66.05'
C37	39.55'	25.00'	90°38'33"	S44°42'39"W	35.55'
C38	39.08'	25.00'	89°33'41"	N45°11'14"W	35.22'
C39	53.94'	290.00'	10°39'22"	S05°44'04"E	53.86'
C40	69.78'	290.00'	13°47'11"	S17°57'20"E	69.61'
C41	77.98'	290.00'	15°24'27"	S32°33'10"E	77.75'
C42	77.33'	290.00'	15°16'42"	S47°53'44"E	77.10'
C43	49.47'	290.00'	9°46'27"	S60°25'19"E	49.41'
C44	30.42'	240.00'	7°15'43"	S61°40'41"E	30.40'
C50	10.53'	500.00'	1°12'26"	N89°21'52"W	10.53'

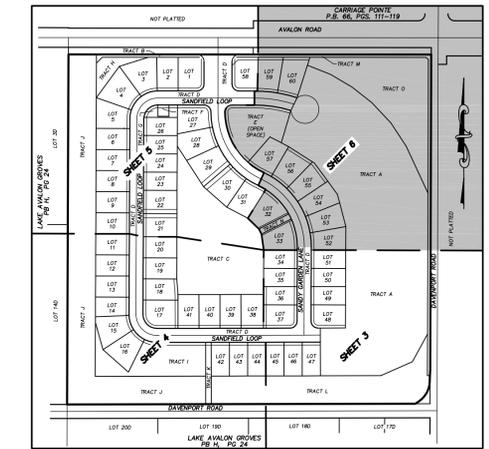
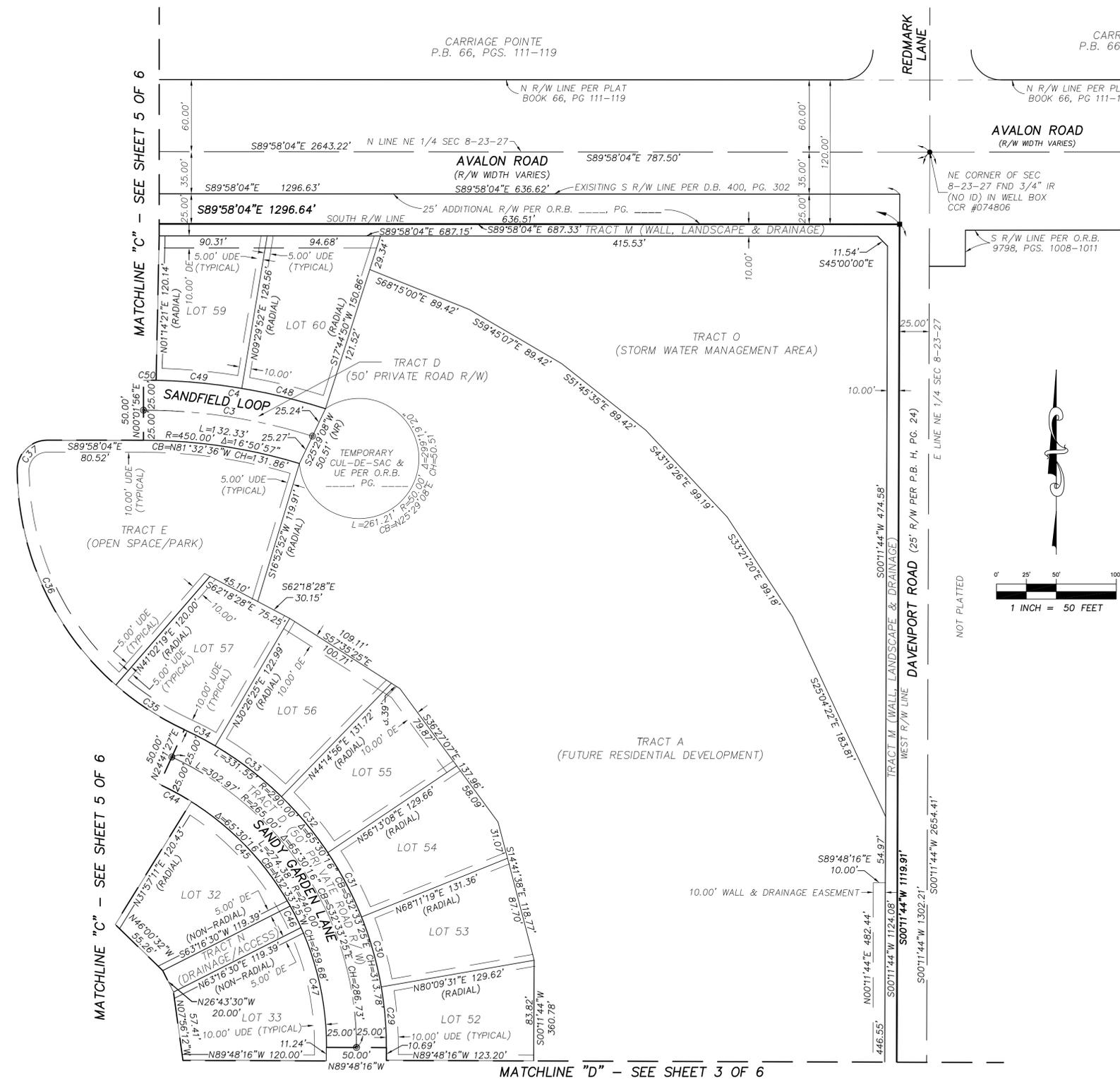
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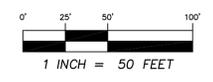
LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
 PLANNING | SURVEYING & MAPPING

RESERVE AT CARRIAGE POINTE PHASE 1
 LOCATED IN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA
 BEING A REPLAT OF A PORTION OF LOTS 1D, 2D, 16D, & ALL OF 15D, LAKE AVALON GROVES, PLAT BOOK H, PAGE 24, LOCATED IN SECTION 8, TOWNSHIP 23 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

PLAT BOOK: PAGE:



KEY SHEET
(SCALE: 1"=300')



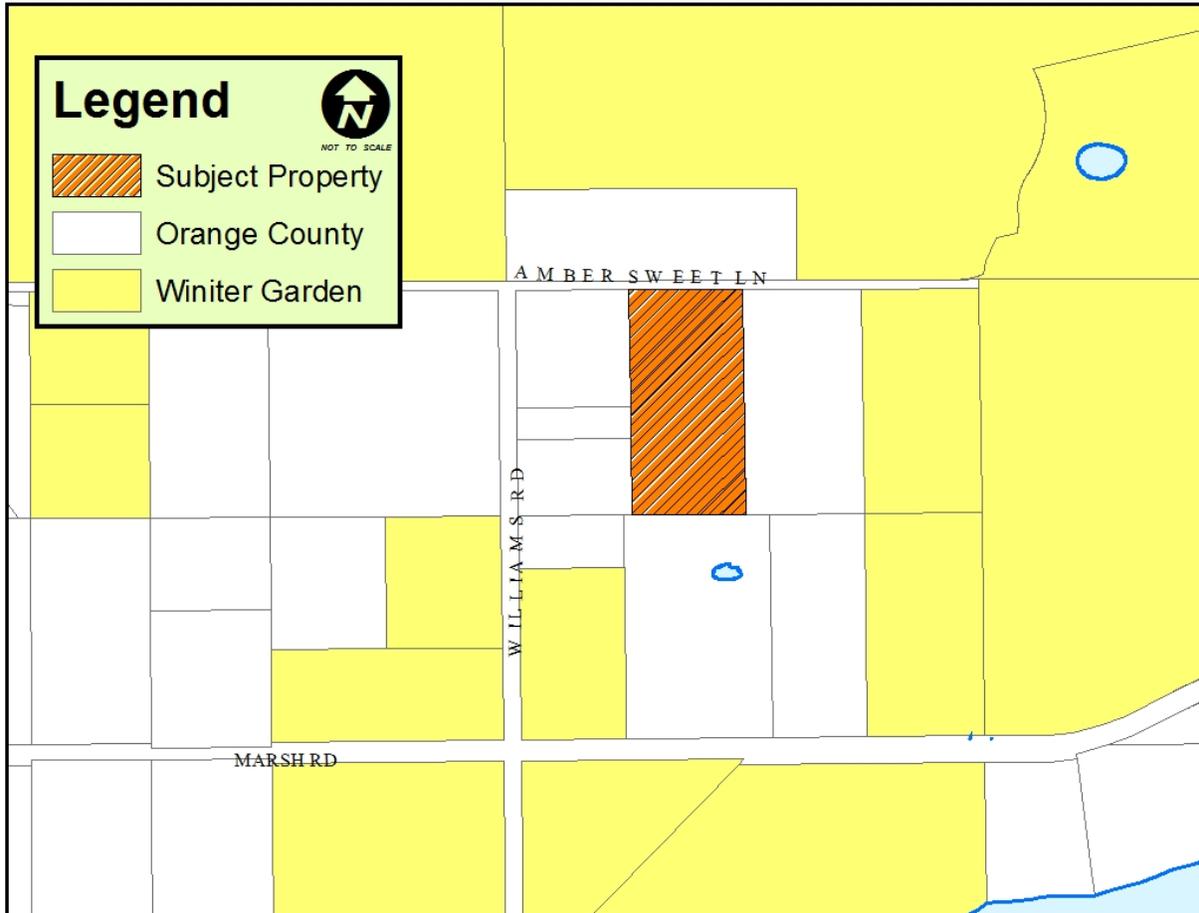
CURVE TABLE					
#	LENGTH	RADIUS	DELTA	BEARING	LENGTH
C3	143.46'	475.00'	17°18'18"	S81°18'55"E	142.92'
C4	154.59'	500.00'	17°42'54"	S81°06'37"E	153.98'
C29	50.80'	290.00'	10°02'13"	N04°49'23"W	50.74'
C30	60.59'	290.00'	11°58'12"	N15°49'35"W	60.48'
C31	60.59'	290.00'	11°58'12"	N27°47'46"W	60.48'
C32	60.59'	290.00'	11°58'12"	N39°45'58"W	60.48'
C33	69.89'	290.00'	13°48'31"	N52°39'20"W	69.72'
C34	29.10'	290.00'	5°44'57"	N62°26'04"W	29.09'
C35	68.48'	240.00'	16°20'51"	N57°08'07"W	68.24'
C36	202.53'	240.00'	48°21'04"	N24°47'09"W	196.58'
C37	39.55'	25.00'	90°38'33"	N44°42'39"E	35.55'
C44	30.42'	240.00'	7°15'43"	S61°40'41"E	30.40'
C45	121.20'	240.00'	28°56'03"	S43°34'48"E	119.92'
C46	20.01'	240.00'	4°46'34"	S26°43'30"E	20.00'
C47	102.76'	240.00'	24°31'57"	S12°04'15"E	101.98'
C48	71.99'	500.00'	8°14'58"	N76°22'39"W	71.93'
C49	72.07'	500.00'	8°15'30"	N84°37'54"W	72.01'
C50	10.53'	500.00'	1°12'26"	N89°21'52"W	10.53'

BOWYER SINGLETON
 LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
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 CERTIFICATE OF AUTHORIZATION NO. LB 1221

LOCATION MAP

17416 Amber Sweet Lane
Ordinance #: 13-09 and 13-10
Parcel ID # 06-23-27-4288-08-221



ORDINANCE 13-09

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 4.6 ± ACRES LOCATED AT 17416 AMBER SWEET LANE ON THE SOUTH SIDE OF AMBER SWEET LANE, EAST OF WILLIAMS ROAD INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of the land, generally described as approximately 4.6 ± acres located on the south side of Amber Sweet Lane, east of Williams Road and legally described in Section 2 of this Ordinance, which land is reasonably compact and contiguous to the corporate limits of the City of Winter Garden, Florida (“City”), has, pursuant to the prerequisites and standards set forth in § 171.044, Fla. Stat., petitioned the City Commission for voluntary annexation;

WHEREAS, the petition for voluntary annexation referenced herein bears the signatures of all owners of the property or properties described in Section 2 of this Ordinance (*i.e.*, the property or properties to be annexed); and

WHEREAS, the City has determined that the property described in Section 2 of this Ordinance is located in an unincorporated area of the County and that annexation of such property will not result in the creation of an enclave.

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

SECTION 1: *Annexation.* That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, Fla. Stat. and has held a public hearing and said petition and made certain findings.

SECTION 2: *Description of Area Annexed.* That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT “A” and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida.

SECTION 3: *Effect of Annexation.* That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all territory had been part of said City at

the time of the passage of such laws, ordinances, and resolutions.

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

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

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

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

FIRST READING AND PUBLIC HEARING: _____, 2013.

SECOND READING AND PUBLIC HEARING: _____, 2013.

ADOPTED this _____ day of _____, 2013, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

PARCEL ID#: 06-23-27-4288-08-221

THE EAST HALF OF TRACT 22-H, LAKE AVALON GROVES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK H, PAGE 81, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 23 SOUTH, RANGE 27 EAST.

ORDINANCE 13-10

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 4.6 ± ACRES LOCATED AT 17416 AMBER SWEET LANE ON THE SOUTH SIDE OF AMBER SWEET LANE, EAST OF WILLIAMS ROAD FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13th of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden, and on the 24th of June, 2010, the City Commission of the City of Winter Garden adopted Ordinance 10-19 readopting and amending the Comprehensive Plan for the City of Winter Garden;

WHEREAS, the owner of that certain real property generally described as 6 ± acres of land located at 17416 Amber Sweet Lane on the south side of Amber Sweet Lane, east of Williams Road, and legally described in ATTACHMENT "A" (the "Property") has petitioned the City to amend the Winter Garden Comprehensive Plan to change the Future Land Use classification from Orange County Village to City Urban Village; and

WHEREAS, the City of Winter Garden's Local Planning Agency and City Commission have conducted the prerequisite advertised public hearings pursuant to Chapter 163, Florida Statutes, regarding the adoption of this ordinance; now, therefore,

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

SECTION I. *FLUM Amendment.* The City of Winter Garden hereby amends the Future Land Use Map of the City of Winter Garden Comprehensive Plan by designating the aforesaid Property to Urban Village as set forth in ATTACHMENT "B".

SECTION II. *Effective Date.* Provided that the Property described herein is annexed into the City of Winter Garden pursuant to Ordinance 13-09, this Ordinance shall become effective 31 days after adoption, unless the Ordinance is timely challenged pursuant to § 163.3187(5), Fla. Stat., in which case, the Ordinance shall not be effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that the adopted Ordinance is in compliance.

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

FIRST READING AND PUBLIC HEARING: _____, 2013.

SECOND READING AND PUBLIC HEARING: _____, 2013.

ADOPTED this _____ day of _____, 2013, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

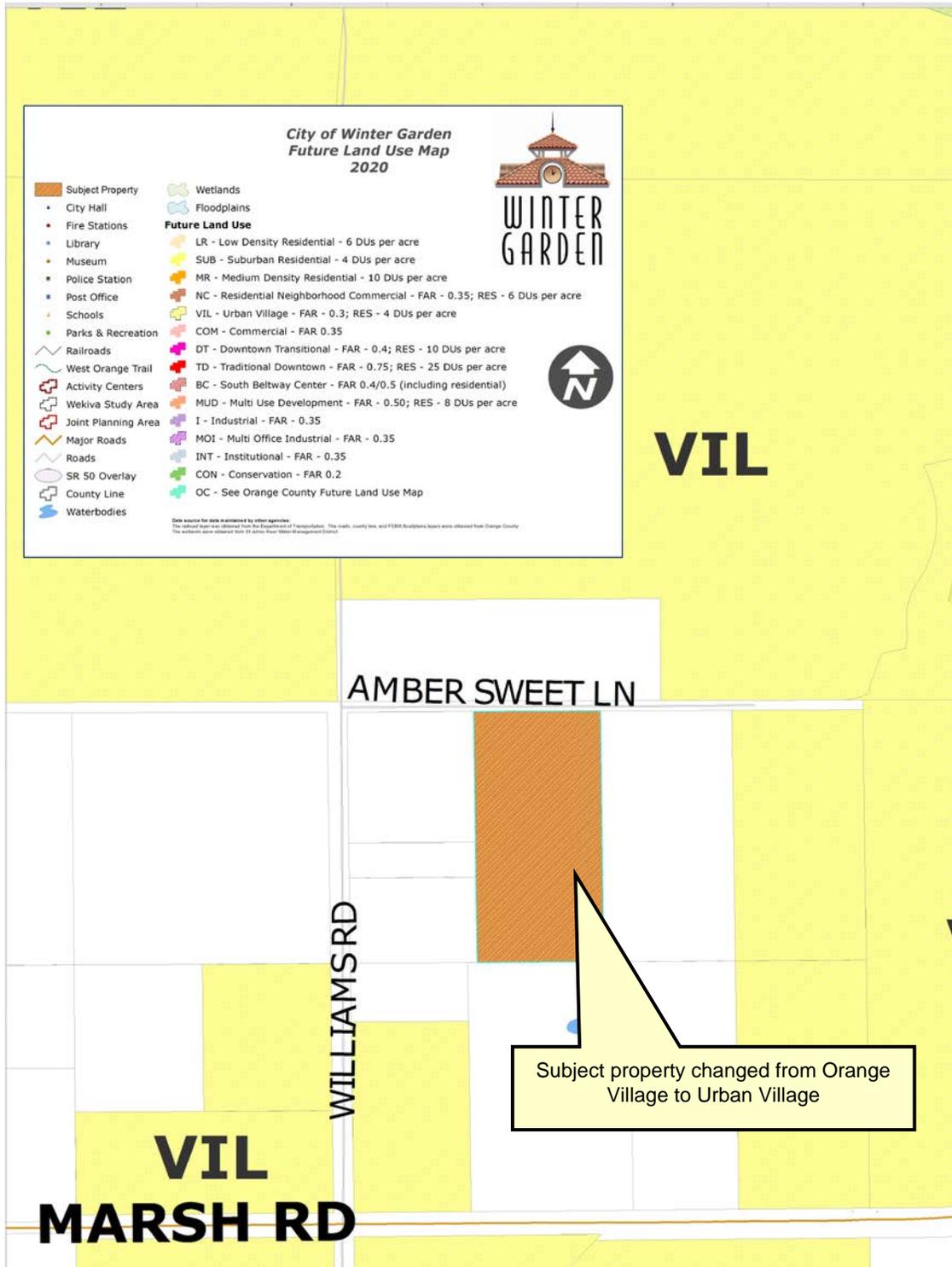
PARCEL ID#: 06-23-27-4288-08-221

THE EAST HALF OF TRACT 22-H, LAKE AVALON GROVES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK H, PAGE 81, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 23 SOUTH, RANGE 27 EAST.

ATTACHMENT "B"

FUTURE LAND USE MAP

17416 Amber Sweet Lane



CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

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

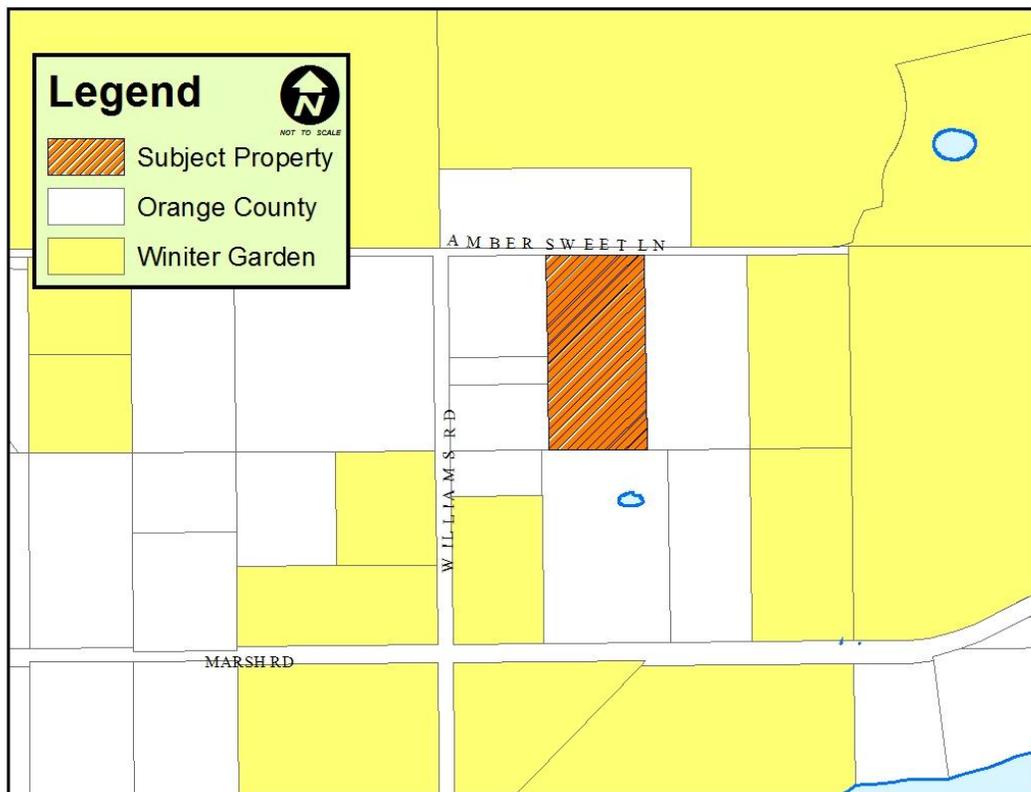
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 31, 2013
SUBJECT: ANNEXATION – ZONING – FLU AMENDMENT
17416 AMBER SWEET LANE (4.62 +/- ACRES)
PARCEL ID #: 06-23-27-4288-08-221
APPLICANT: JPR FAMILY HOLDINGS, LLP

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 17416 Amber Sweet Lane and is approximately 4.62 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant has requested annexation into the City, amendment to the Future Land Use Map (FLUM) of the City's Comprehensive Plan to designate the property as Urban Village. At this time, no zoning designation will be applied to the property as they will be required to submit for a Urban Village Planned Unit Development when they redevelop the property.

In accordance with the City's Comprehensive Plan, permitted uses within the Urban Village land use include residential, commercial, and natural land. The zoning classifications that are consistent with the Urban Village land use designation include UVPUD and INT.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexation furthers the goals, objectives, and policies of the City's Comprehensive Plan.

EXISTING USE

The subject property is currently developed with a single-family house and an out building. The property has been used as a home and a construction business operation. The new owners are using it for agricultural purposes to operate a fernery along with the property to the north and intend to always use it for this purpose.

ADJACENT LAND USE AND ZONING

The property located to the north is developed as a fernery (agricultural use) with a large green house, and currently annexing into the City. The property located to the east is developed with a single-family house, zoned A-1 and located in Orange County. The property to the south is developed with a single-family house, zoned A-1 and located in Orange County. The property to the west is developed with a single-family house, zoned A-1 and located in Orange County.

PROPOSED USE

The applicant intends to annex the property and continue using it for the agricultural business. If they ever decide to develop the property, they will be required to submit for an Urban Village Planned Unit Development.

PUBLIC FACILITY ANALYSIS

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

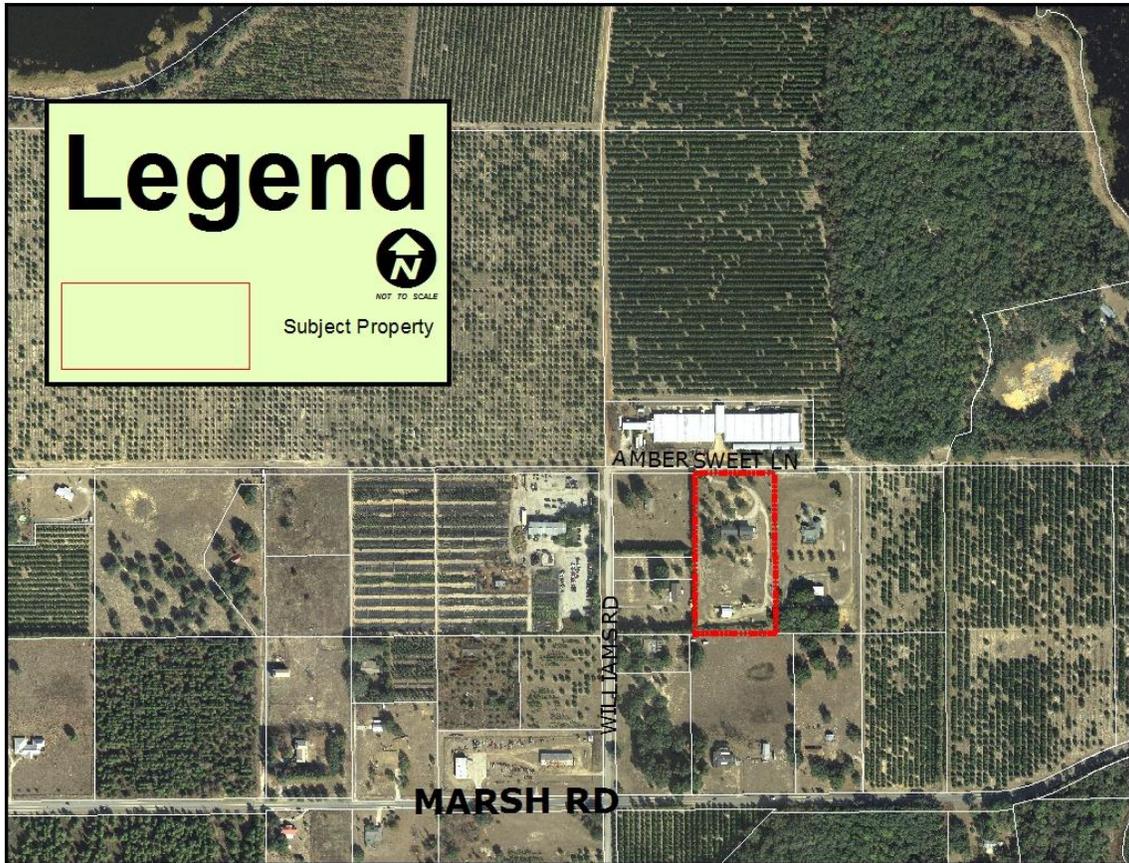
SUMMARY

Annexation will provide a more efficient delivery of services to the property and further the goals and objectives of the City of Winter Garden's Comprehensive Plan to eliminate enclaves. City Staff recommends approval of the proposed Ordinances.

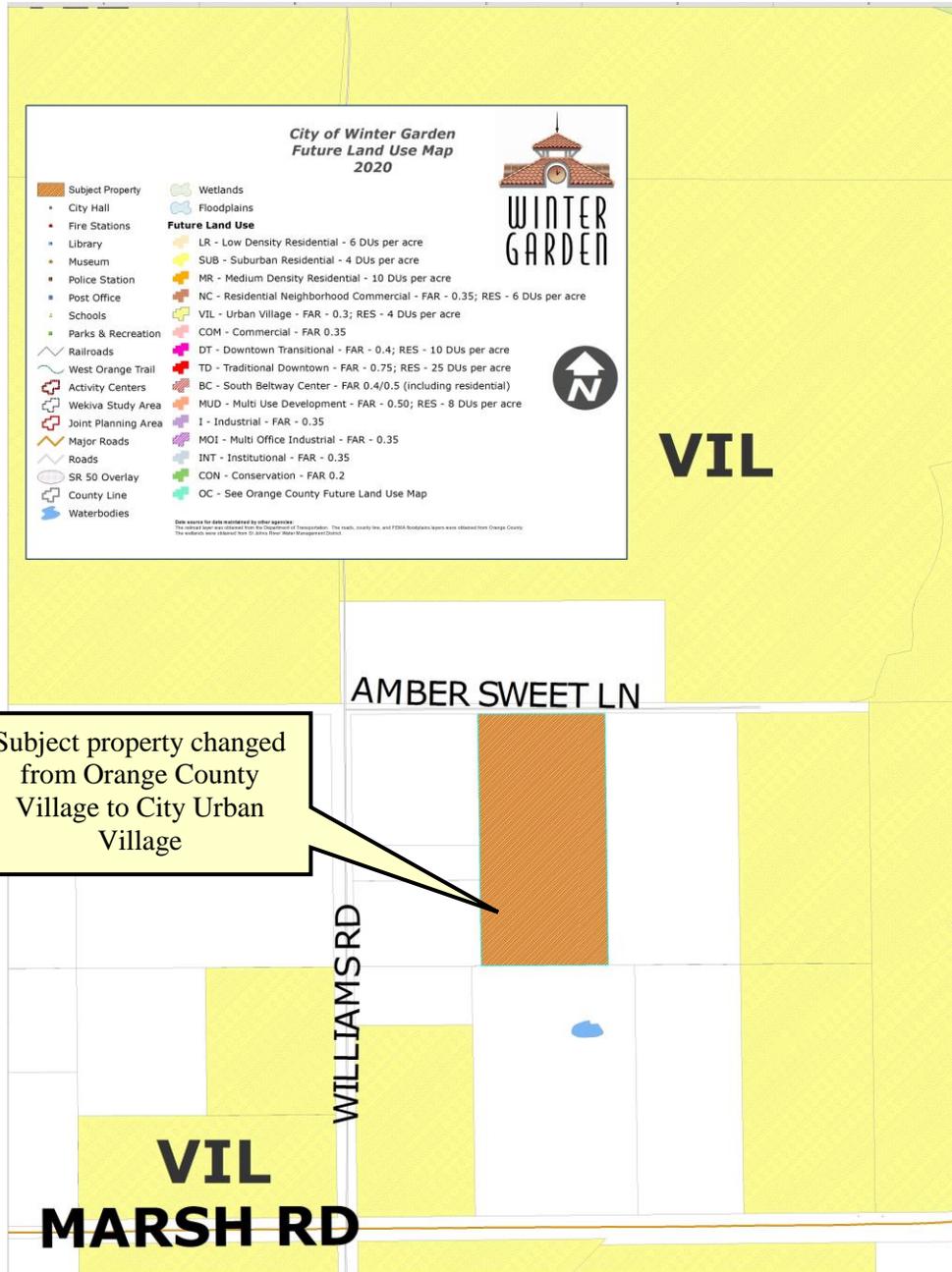
MAPS

AERIAL PHOTO

17416 Amber Sweet Lane



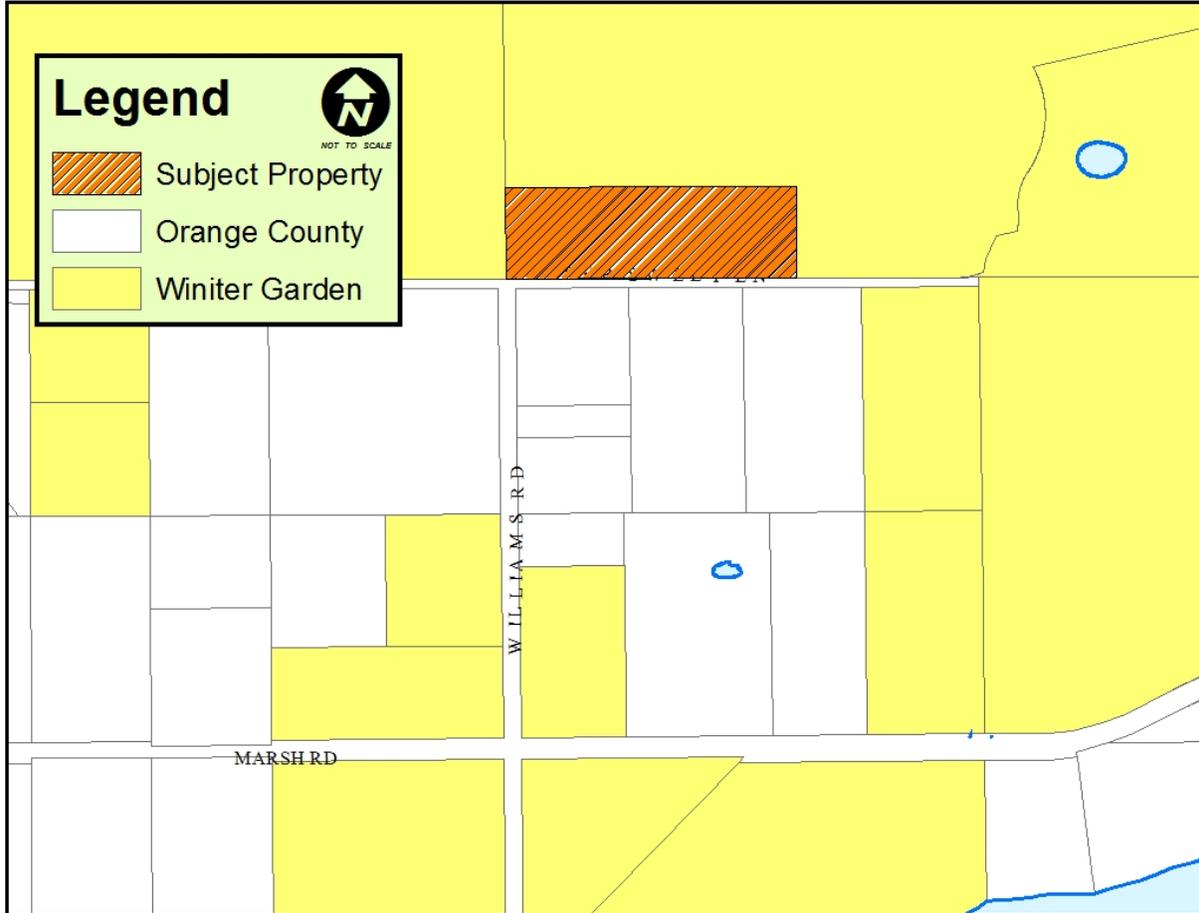
FUTURE LAND USE MAP
17416 Amber Sweet Lane



END OF STAFF REPORT

LOCATION MAP

1751 Williams Road
Ordinance #: 13-07 and 13-08
Parcel ID # 06-23-27-0000-00-007



ORDINANCE 13-07

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 4.82 ± ACRES LOCATED AT 1751 WILLIAMS ROAD AT THE NORTHEAST CORNER OF WILLIAMS ROAD AND AMBER SWEET LANE INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of the land, generally described as approximately 4.82 ± acres located at the northeast corner of Williams Road and Amber Sweet Lane and legally described in Section 2 of this Ordinance, which land is reasonably compact and contiguous to the corporate limits of the City of Winter Garden, Florida (“City”), has, pursuant to the prerequisites and standards set forth in § 171.044, Fla. Stat., petitioned the City Commission for voluntary annexation;

WHEREAS, the petition for voluntary annexation referenced herein bears the signatures of all owners of the property or properties described in Section 2 of this Ordinance (*i.e.*, the property or properties to be annexed); and

WHEREAS, the City has determined that the property described in Section 2 of this Ordinance is located in an unincorporated area of the County and that annexation of such property will not result in the creation of an enclave.

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

SECTION 1: *Annexation.* That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, Fla. Stat. and has held a public hearing and said petition and made certain findings.

SECTION 2: *Description of Area Annexed.* That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT “A” and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida.

SECTION 3: *Effect of Annexation.* That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all territory had been part of said City at

the time of the passage of such laws, ordinances, and resolutions.

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

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

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

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

FIRST READING AND PUBLIC HEARING: _____, 2013.

SECOND READING AND PUBLIC HEARING: _____, 2013.

ADOPTED this _____ day of _____, 2013, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

PARCEL ID#: 06-23-27-0000-00-007

Begin 60 feet North of Southwest corner of Northwest $\frac{1}{4}$ of Northeast $\frac{1}{4}$ East 473 feet North 196.5 feet West 473 feet South 196.5 feet to Point of Beginning & East $\frac{1}{2}$ of Vacated R/W lying on West PER OR 3295/2046 & Begin Southwest corner of Northwest $\frac{1}{4}$ of Northeast $\frac{1}{4}$ East 816 feet North 256.5 feet West 343 feet South 196.5 feet West 473 feet South 60 feet to Point of Beginning & East $\frac{1}{2}$ Vacated R/W lying on West PER OR 3295/2046.

ORDINANCE 13-08

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 4.82 ± ACRES LOCATED AT 1751 WILLIAMS ROAD AT THE NORTHEAST CORNER OF WILLIAMS ROAD AND AMBER SWEET LANE FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13th of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden, and on the 24th of June, 2010, the City Commission of the City of Winter Garden adopted Ordinance 10-19 readopting and amending the Comprehensive Plan for the City of Winter Garden;

WHEREAS, the owner of that certain real property generally described as 4.82 ± acres of land located at 1751 Williams Road at the northeast corner of Williams Road and Amber Sweet Lane, and legally described in ATTACHMENT "A" (the "Property") has petitioned the City to amend the Winter Garden Comprehensive Plan to change the Future Land Use classification from Orange County Village to City Urban Village; and

WHEREAS, the City of Winter Garden's Local Planning Agency and City Commission have conducted the prerequisite advertised public hearings pursuant to Chapter 163, Florida Statutes, regarding the adoption of this ordinance; now, therefore,

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

SECTION I. *FLUM Amendment.* The City of Winter Garden hereby amends the Future Land Use Map of the City of Winter Garden Comprehensive Plan by designating the aforesaid Property to Urban Village as set forth in ATTACHMENT "B".

SECTION II. *Effective Date.* Provided that the Property described herein is annexed into the City of Winter Garden pursuant to Ordinance 13-07, this Ordinance shall become effective 31 days after adoption, unless the Ordinance is timely challenged pursuant to § 163.3187(5), Fla. Stat., in which case, the Ordinance shall not be effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that the adopted Ordinance is in compliance.

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

FIRST READING AND PUBLIC HEARING: _____, 2013.

SECOND READING AND PUBLIC HEARING: _____, 2013.

ADOPTED this _____ day of _____, 2013, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

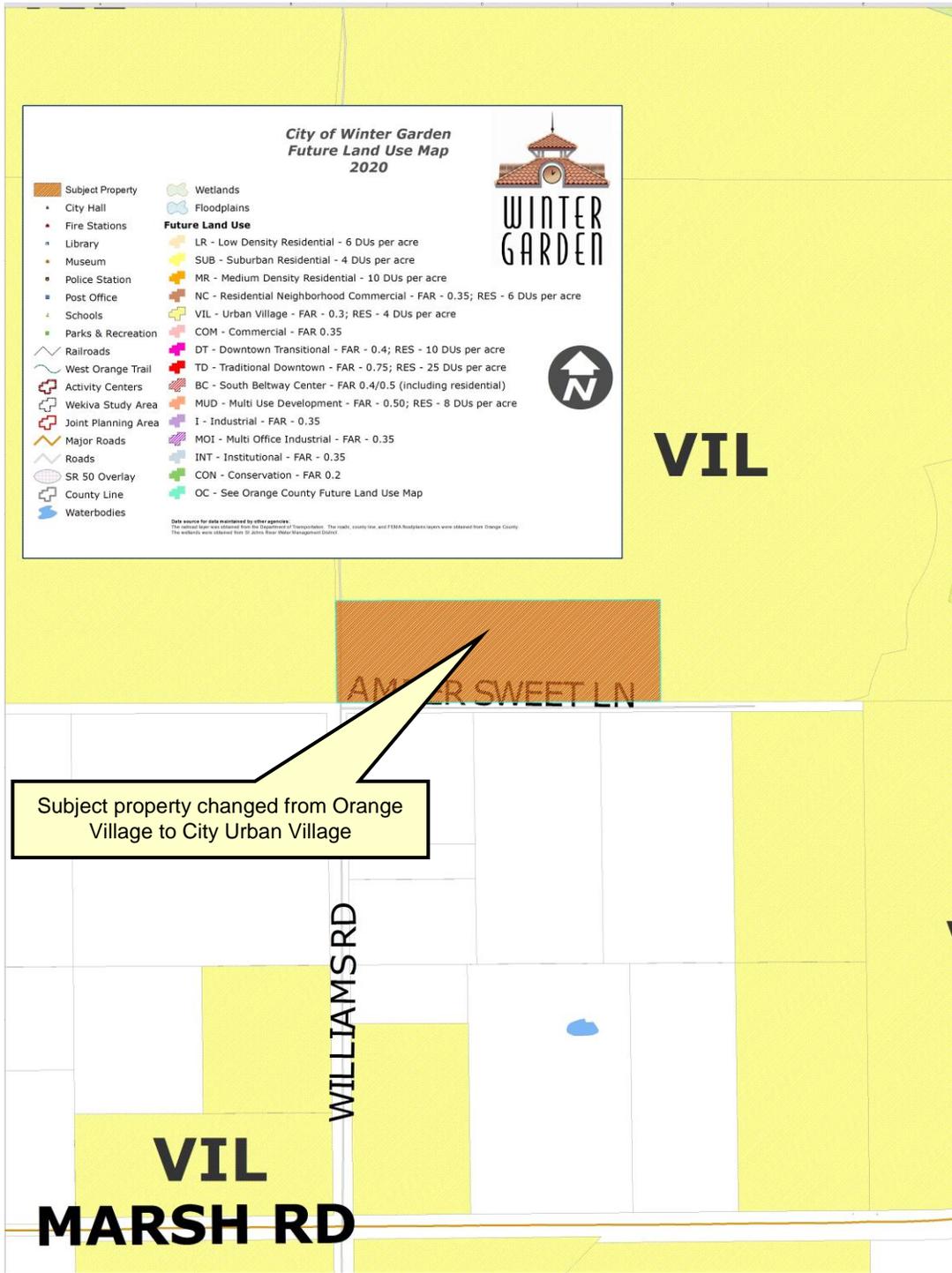
PARCEL ID#: 06-23-27-0000-00-007

Begin 60 feet North of Southwest corner of Northwest $\frac{1}{4}$ of Northeast $\frac{1}{4}$ East 473 feet North 196.5 feet West 473 feet South 196.5 feet to Point of Beginning & East $\frac{1}{2}$ of Vacated R/W lying on West PER OR 3295/2046 & Begin Southwest corner of Northwest $\frac{1}{4}$ of Northeast $\frac{1}{4}$ East 816 feet North 256.5 feet West 343 feet South 196.5 feet West 473 feet South 60 feet to Point of Beginning & East $\frac{1}{2}$ Vacated R/W lying on West PER OR 3295/2046.

ATTACHMENT "B"

FUTURE LAND USE MAP

1751 Williams Road



CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

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

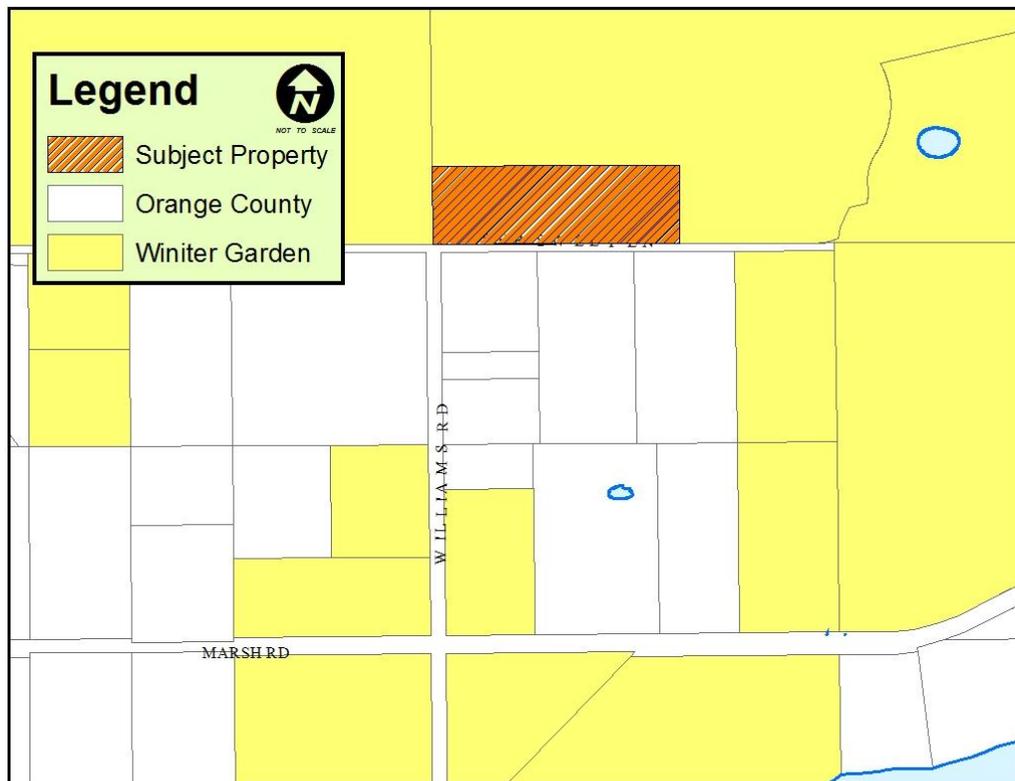
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: JANUARY 31, 2013
SUBJECT: ANNEXATION – ZONING – FLU AMENDMENT
1751 WILLIAMS ROAD (4.82 +/- ACRES)
PARCEL ID #: 06-23-27-0000-00-007
APPLICANT: FOREMOSTCO, 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 1751 Williams Road and is approximately 4.82 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant has requested annexation into the City, amendment to the Future Land Use Map (FLUM) of the City's Comprehensive Plan to designate the property as Urban Village. At this time, no zoning designation will be applied to the property as they will be required to submit for a Urban Village Planned Unit Development when they redevelop the property.

In accordance with the City's Comprehensive Plan, permitted uses within the Urban Village land use include residential, commercial, and natural land. The zoning classifications that are consistent with the Urban Village land use designation include UVPUD and INT.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexation furthers the goals, objectives, and policies of the City's Comprehensive Plan.

EXISTING USE

The subject property is currently developed with a large green house / fernery and the owner intends to always use it for this purpose.

ADJACENT LAND USE AND ZONING

The properties located to the north, east, and west are a citrus farm, with no zoning and located in the City. The property located to the south is developed with a single-family home, used as part of this fernery, and being annexed with this property.

PROPOSED USE

The applicant intends to annex the property and continue using it for the agricultural business. If they ever decide to develop the property, they will be required to submit for an Urban Village Planned Unit Development.

PUBLIC FACILITY ANALYSIS

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

SUMMARY

Annexation will provide a more efficient delivery of services to the property and further the goals and objectives of the City of Winter Garden's Comprehensive Plan to eliminate enclaves. City Staff recommends approval of the proposed Ordinances.

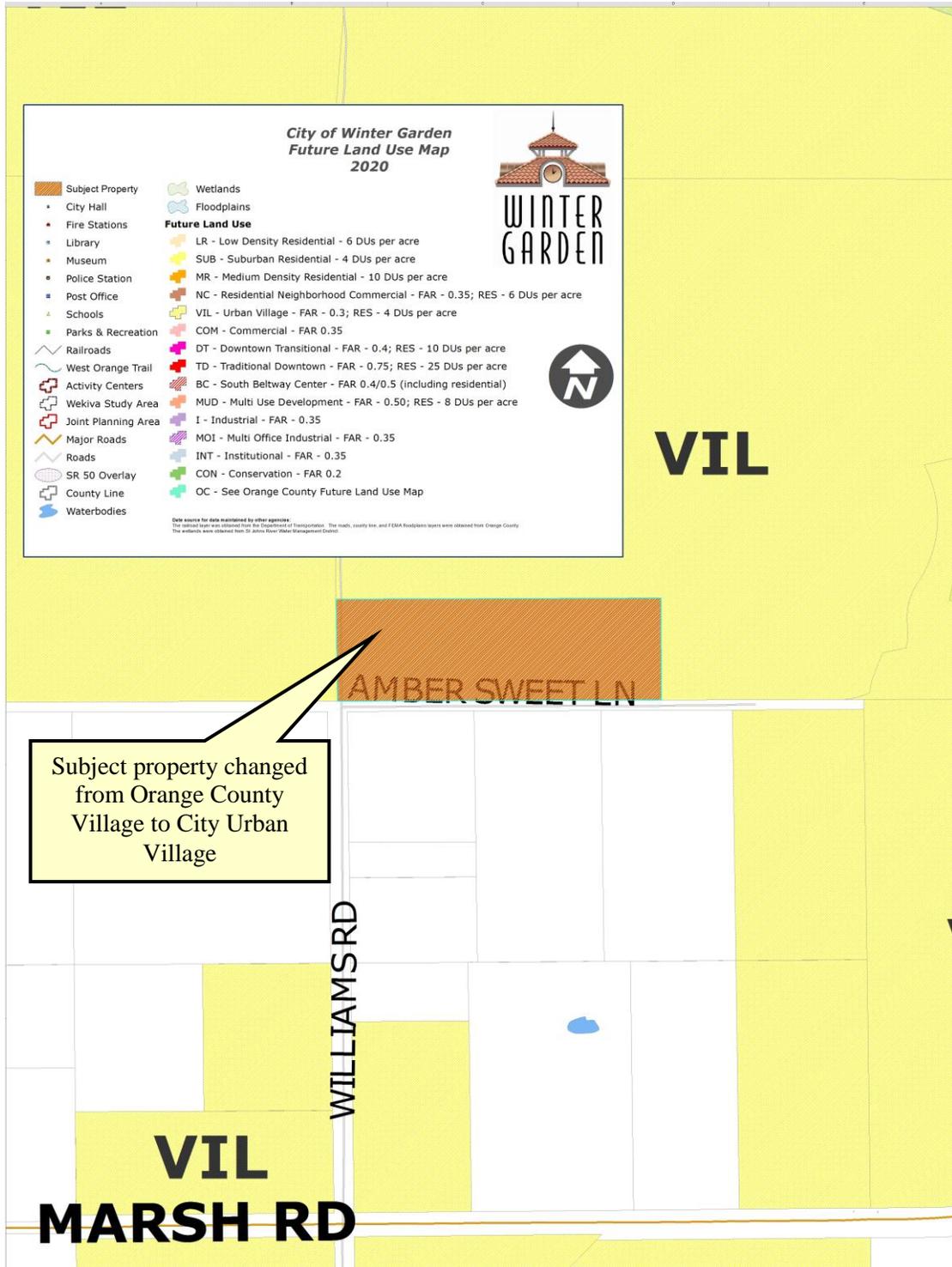
MAPS

AERIAL PHOTO

1751 Williams Road



FUTURE LAND USE MAP
1751 Williams Road



END OF STAFF REPORT

ORDINANCE 13-12

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE III, DIVISION 4 AND 5 OF CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING FINAL PLAT PROCEDURES AND REQUIREMENTS, AND HOA AND COMMUNITY SUBDIVISION INFRASTRUCTURE; RESPONSIBILITY; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission desires to amend the final plat approval procedures and requirements of Chapter 110, City of Winter Garden Code of Ordinances to, among other things, more specifically address a subdivision developer's funding and maintenance responsibilities for community subdivision infrastructure prior to turnover of the subdivision homeowners' association and to provide more specific requirements for performance and maintenance guarantees; and

WHEREAS, the City Commission finds it to be in the best interest of the public health, safety and welfare to revise the final plat approval procedures and requirements of Chapter 110, City of Winter Garden Code of Ordinances in the manner specified in this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:

Section 1: **Authority.** The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

Section 2: **Adoption.** Article III, Division 4 and 5 of Chapter 110 of the City of Winter Garden Code is amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

DIVISION 4. - FINAL PLAT

Sec. 110-151. - Procedure for approval.

(a) The final subdivision plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided that such portion conforms to all requirements of this chapter. Provided, however, that the ~~planning and zoning board~~ or city commission may authorize minor adjustments to street and alley alignments, length, and lot lines where the ~~planning and zoning board~~ or city commission determines such adjustments are consistent with the intent and general layout of the approved preliminary plat. Where the final plat deviates from the approved preliminary plat to the extent that the ~~planning and zoning board~~ or city commission find such deviation to be significant and not consistent with the intent and general layout of the approved preliminary plat, such final plat shall not be approved until it reflects the originally approved preliminary plat, or a new preliminary plat has been approved in accordance with the preliminary plat provisions of this article.

(b) After obtaining conditional approval of the preliminary plat, six copies of the final plat and supplementary material specified in this chapter shall be submitted to the Community Development Director ~~city planner~~, along with an application for final plat approval, for review by the city surveyor, city attorney, and Development Review Committee (DRC).

(c) Following a review by the city surveyor, city attorney and staff DRC of the application, final plat and other materials submitted for conformity to this chapter and such other requirements of the code or law as may be applicable, the negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the completion of all necessary actions by the subdivider as may be required by the code or applicable law and after the subdivider has addressed the ~~city staff's~~ city surveyor's, city attorney's and DRC's comments, and provided any requested additional information or materials, the ~~city planner~~ Community Development Director shall place the subdivider's request for final plat approval, as submitted or as modified, on the next available ~~planning and zoning board~~ city commission agenda. ~~Thereafter, the planning and zoning board shall express its approval and shall state the conditions, if any, of such approval, or, if disapproved, shall express its disapproval and its reasons therefor.~~

(d) ~~After the planning and zoning board has approved the final plat, it shall transmit it to the~~ Thereafter, the city commission shall consider the final plat for final approval by the city, or for such other and take such action as the city commission deems appropriate, which may include approval, approval with conditions, or denial.

(e) Subject to approval of city commission and any conditions imposed thereby, the city attorney shall cause to be recorded in the public records of Orange County, Florida, the final plat and such other documents as may be required, at the expense of the subdivider.

(f) Notwithstanding anything to the contrary, the city commission shall not approve a final plat of any subdivision unless the subdivision improvements required by these regulations have been installed in accordance with the standards and specifications of the code and the appropriate officials and agencies and their approval has been certified to city or a surety bond or irrevocable letter of credit has been furnished in favor of and acceptable to the city in the amount of one hundred twenty percent of the contract cost of the required subdivision improvements to be completed.

(g) At no time prior to the final plat approval by the city commission and recording the final plat in the public records shall an owner of real property convey a portion of any lot, parcel or tract of land, unless such owner has otherwise received proper lot split or subdivision approval from the city creating a separate legal lot, parcel or tract. It is not a violation of this subsection to convey a partial undivided interest in an overall parent lot, parcel, or tract, such that there are multiple owners of the overall parent lot, parcel or tract. In addition to any other rights and remedies under the code, at law and in equity the city may have for a violation of this subsection, the city shall have the right to not process, withhold and revoke any and all certificates of occupancy, building permits and development orders concerning any unauthorized lot split or subdivision, including for the unauthorized lot, parcel or tract created and the parent lot, parcel or tract for which the unauthorized lot, parcel or tract was created.

Sec. 110-152. - Final plats; application, supplementary materials, documentation, contents and data required for final approval.

The final plat, application, and other materials required by subparagraphs (b) and (c) of section 110-151 shall, where applicable, at a minimum, comply with and include the following:

(1) Unless otherwise provided for in this article, the final subdivision plat shall comply with the requirements of F.S. Ch. 177, as may be amended from time to time. The final subdivision plat shall be drawn in ink on tracing cloth on sheets as required for filing for record in the county and shall be at a scale of 100 feet to one inch or larger. Where more than one sheet must be used to accurately portray the lands subdivided, an index or key map must be included and each sheet must show the particular number of that sheet and the total number of sheets included, as well as clearly labeled matchlines to show where other sheets match or adjoin. For large subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the planning and zoning board. In addition to the requirements of F.S. Ch. 177, referenced above, the final plat shall show, depict, or otherwise provide for the following:

- a. Primary control points, approved by the city engineer, or descriptions and ties to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.
- b. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearing or deflection angles; and radii, arcs and central angles of all curves.
- c. As applicable, the exact location, dimensions, name, identification, purpose, and description of public streets, private roadways, public and private alleys, rights-of-way, waterways, tracts, common areas, parks, public and private areas, playgrounds or other similar uses, reservations, easements or rights-of-way, blocks, lots and significant sites within the subdivision, with accurate dimensions, bearing or deflecting angles and radii, area and central angles, chord bearing and distance, tangent distance and length of all curves where appropriate. All interior excepted parcels as described in the description of the lands being subdivided shall be clearly indicated and labeled "Not a part of this plat."

d. Location, dimensions and purpose of any proposed easements and existing easements identified in the title opinion or certification required by this article below shall be shown on the plat or in the notes or legend, and their intended use shall be clearly stated. Where easements are not coincident with property lines, they must be labeled with bearings and distances tied to the principal lot, tract, or right-of-way.

e. Number to identify each lot or site. All lots shall be numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.

f. Purpose for which sites, other than residential lots, are dedicated or reserved.

g. Reserved.

h. Location and description of monuments.

i. Reserved.

j. All contiguous properties shall be identified by subdivision title, plat book, and page, and date of recording, or, if unplatted, land shall be so designated. If the subdivision platted is a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made; the fact of its being a replat shall be stated as a subtitle under the name of the plat on each sheet included. The subtitle must state the name of the subdivision being replatted and the appropriate recording reference.

k. Every plat offered for recording must be prepared by a Florida registered professional surveyor and mapper. The plat must be signed and sealed by that professional surveyor and mapper, who must state on the plat that the plat was prepared under his or her direction and supervision and that the plat complies with all of the survey requirements of F.S. Pt. I of Ch. 177, and Chapter 110 of the Winter Garden Code of Ordinances. Every plat must also contain the printed name and registration number of the professional surveyor and mapper directly below the statement required by this paragraph, along with the printed name, address, and certificate of authorization number of the legal entity, if any. A professional surveyor and mapper practicing independently of a legal entity must include his or her address.

l. Dedication of the plat to the public and the city for the uses and purposes stated thereon including in the plat notes by the owner or owners of record of lands to be subdivided. The dedication must be executed by all persons, corporations, or entities whose signature would be required to convey the record fee simple title to the lands being dedicated in the same manner in which deeds are required to be executed. All mortgagees having a record interest in the lands subdivided shall execute, in the same manner in which deeds are required to be executed, either the dedication contained on the plat or a separate instrument joining in, consenting to, and ratifying the plat and all dedications and reservations thereon.

m. Each plat shall show a description of the lands subdivided, and the description shall be the same in the title certification. The description must be so complete that from it, without reference to the plat, the starting point and boundary can be determined.

n. In all cases, the letter size and scale used shall be of sufficient size to show all detail. The scale shall be both stated and graphically illustrated by a graphic scale drawn on every sheet showing any portion of the lands subdivided. The name of the plat shall be shown in bold legible letters, as stated in F.S. § 177.051. The name of the subdivision shall be shown on each sheet included. The name of the professional surveyor and mapper or legal entity, along with the street and mailing address and phone number, must be shown on each sheet included. A prominent "north arrow" shall be drawn on every sheet included showing any portion of the lands subdivided. The bearings or azimuth reference shall be clearly stated on the face of the plat in the notes or legend, and, in all cases, the bearings used shall be referenced to some well established and monumented line. The date of preparation shall be provided on the face of the plat.

o. When a subdivision provides screening walls, landscaping, sidewalks, or other amenities within the public right-of-way and such is acceptable to the city in the city's sole discretion, a license agreement shall be required between the city, the developer and/or the homeowners association and such license agreement shall be referenced on the plat. Such license agreement shall be reviewed by the city as part of the preliminary plat process. Unless otherwise provided for in the license agreement, the developer and the HOA, jointly and severally, shall be responsible for the maintenance and repair of any such amenities constructed in the public right-of-way, and in no event shall the city be prohibited from removing such amenities within the public right-of-way in its sole and absolute discretion (such removal being at the cost of the developer and HOA, jointly and severally).

p. A statement of approval of the plat by the city.

q. The section, township, and range shall appear immediately under the name of the plat on each sheet included, along with the name of the city, county, and state.

r. As applicable, the following statements shall appear on the face of the plat in the "notes" section:

1. "The homeowners association, as owner of the subdivision infrastructure not otherwise dedicated to the public use or the City of Winter Garden, common properties, and amenities, and the individual lot owners to extent of their interest in the foregoing, shall release, defend, indemnify and hold the City of Winter Garden, other governmental entities and public utilities harmless from any and all costs, expenses, suits, demands, liabilities, damages, injuries (including death), or otherwise including attorney's fees and costs of suit, in connection with the reasonable use of said subdivision infrastructure, common areas, or amenities, or said parties' maintenance thereof, or said parties' exercise of rights permitted in the declaration of the homeowners association, this plat, or as otherwise permitted by law."

2. "The lots within this subdivision are governed by a mandatory homeowners association requiring the payment of fees and with the power to assess the lots. The homeowners association is the owner of and/or responsible for the maintenance, repair, and replacement of all private areas, drainage systems, including without limitation, the retention/detention areas and underdrains, common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the City of Winter Garden, including, without limitation, Tracts _____ and _____ and the improvements thereon. Every lot owner within this subdivision must be a member of the homeowners association. Failure to pay such fees or assessments shall result in the attachment of a lien on the property of the owner which fails to pay such fees or assessments by the homeowners association, which may result in the foreclosure of said property."

3. "The City of Winter Garden shall have the right, but not the obligation, to access, maintain, repair, replace and otherwise care for or cause to be cared for, any and all private areas, drainage systems, including without limitation, the retention/detention areas and underdrains, common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the City of Winter Garden, including, without limitation, Tracts _____ and _____ and the improvements thereon. In the event any or all of the said areas, systems, improvements, properties or areas are not maintained, repaired, or replaced in accordance with the standards of the City of Winter Garden Code of Ordinances, good engineering practices, or become a nuisance or in the event the City of Winter Garden exercises its aforementioned right, each of the lot owners of the subdivision are hereby ultimately responsible for payment of the cost of maintenance, repair, replacement and care provided by the City of Winter Garden or its contractors and agents, plus administrative costs and attorneys' fees and costs incurred by the City of Winter Garden. If said costs are not paid within 15 days of invoicing, then said costs shall constitute a lien on the property of the owners which fail to pay such costs and may be enforced, without limitation, by foreclosure, special assessments, or as may otherwise be permitted by law. This right, and the City of Winter Garden's exercise of said right, shall not impose any obligation on the City of Winter Garden to maintain, repair, replace, or otherwise care for said private areas, drainage systems, including without limitation, the retention/detention areas and underdrains, common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the City of Winter Garden, including, without limitation, Tracts _____ and _____ and the improvements thereon."

4. "All platted utility easements shall also be easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services shall interfere with the facilities and services of an electric, telephone, gas, or other public utility. In the event a cable television company damages the facilities of a public utility, it shall be solely responsible for the

damages. This paragraph shall not apply to those private easements granted to or obtained by a particular electric, telephone, gas, or other public utility. Further, such construction, installation, maintenance, and operation shall comply with the National Electrical Safety Code as adopted by the Florida Public Service Commission."

5. "NOTICE: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county."

6. If applicable: "The homeowners association shall enter into a license agreement with the city, where additional right-of-way has been dedicated or right-of-way will be utilized for the purpose of providing landscaping, additional areas for sidewalks, walls, or other amenities, and shall be responsible for the installation and maintenance of all landscape areas that are located in the public right-of-way."

7. For subdivisions with private roads or alleys, then the following, or substantially similar statement: "There is hereby granted and dedicated to the City of Winter Garden and other public service and emergency service providers, a non-exclusive easement over and through Tract _____ (Private Right-of-Way) and any other privately owned internal roads, alleys, paved areas and sidewalks for vehicular and pedestrian ingress and egress access for the purpose of providing public and emergency services to the subdivision, including but not limited to, postal, fire protection, police protection, emergency medical transportation, code enforcement, garbage, utilities and other public and emergency services."

(2) A certificate shall be issued by the city engineer certifying that the subdivider has complied with one of the following alternatives:

a. All improvements have been installed in accord with the requirements of this section and with the action of the planning and zoning board giving conditional approval of the preliminary plat; or

b. A bond, irrevocable letter of credit, cash deposits, or certificate check has been posted, which is available to the city, and in sufficient amount to ensure such completion of all required improvements, said amount being at least equal to 120 percent of the estimated cost of completion.

(3) When the subdivider proposes to regulate land use within the subdivision or when required pursuant to this chapter, an executed original declaration, or amendment thereto, in recordable form, providing for the requirements of this chapter shall be required and subject to review by the city attorney for compliance with the provisions of this article.

(4) An original "Affidavit Certifying an Absence of Reserve Strips," in recordable form, executed by the developer and preparing surveyor.

(5) Unless provided for on the plat, an original joinder and consent to dedication, in recordable form, executed by all mortgage holders and such other parties, having a record interest in the land to be platted. Said joinder and consent must be executed in the same manner in which deeds are required to be executed, joining in, consenting to and ratifying the plat and all dedications, reservations, restrictions and covenants thereon.

(6) An original joinder and consent to the declaration, in recordable form, executed by all mortgage holders and such other parties having a record interest in the land to be platted. Said joinder and consent must be executed in the same manner in which deeds are required to be executed, joining in, consenting to and ratifying the declaration and all dedications, reservations, restrictions and covenants therein.

(7) If applicable, an original performance guarantee in the form of a bond, irrevocable letter of credit or cash deposit in favor of and acceptable to the city. Said guarantee shall, at a minimum, be in the amount of one hundred twenty percent of the ~~contract~~ construction cost of the required subdivision improvements to be completed and guarantee the proper and timely completion of all unfinished public and private infrastructure improvements, including, but not limited to, its materials, workmanship, structural integrity, and functionality to the satisfaction and approval of the city.

(8) An original maintenance guarantee in the form of a bond, irrevocable letter of credit or cash deposit in favor of and acceptable to the city. Subject to approval by the city engineer, said maintenance guarantee may be provided after final plat approval, but before issuance of a certificate of occupancy. Said maintenance guarantee shall, at a minimum, be in the amount of 20 percent of the ~~contract~~ construction cost of (i) the required subdivision improvements to be dedicated or conveyed to the city, (ii) the offsite public infrastructure improvements constructed or installed by the developer, and (iii) the private community subdivision infrastructure improvements. ~~and~~ The maintenance guarantee shall provide for the developer's guarantee of all such improvements, including its of all materials, workmanship, structural integrity, and functionality equipment for any improvement dedicated to the city and require developer's repair, replacement and correction of damage and defects to such improvements for at least a period of one two years from the date of final acceptance by the city. Prior to the city engineer issuing a certificate of completion for such improvements, the developer shall cause the design engineer of record to provide a signed and sealed certification to the city that all subdivision improvements to be dedicated or conveyed to the city, offsite public infrastructure improvements, and private community subdivision infrastructure improvements constructed or installed by the developer have been completed in accordance with approved design and construction plans.

(9) An original "Statement of Lien Settlement - Requirement For Current Year Of Payable Taxes, Tax Sale, and Capital Improvements" from the Orange County Property Appraiser's Office showing that all due taxes have been paid in full and all tax certificates, if any, against the land have been redeemed.

(10) As may be applicable, executed original instruments of conveyance in recordable form as to such property and improvements which are required to be conveyed to the HOA and the City from the developer, along with executed partial release of mortgages ~~the appropriate DR 219 forms.~~ Fee simple ownership of all rights-of-way, lift station tracts and other lands to be used for public purposes, but excluding dedicated easements, should be conveyed to the city by warranty deed, unless otherwise specified by the city. Fee simple ownership of all common area tracts should be conveyed to the applicable homeowners association by quit claim deed, unless otherwise specified by the city. Mortgagees shall execute partial release of mortgages concerning all tracts and lands conveyed in fee simple either to the homeowners' association or the city and such partial releases shall be recorded in the public records concurrently with the recording of the corresponding deeds.

(11) A title opinion of an attorney at law licensed in Florida or a certification by an abstractor or a title company, along with referenced documents, showing that record title to the land as described and shown on the plat is in the name of the persons, persons, corporation, or entity executing the dedication. The title opinion or certification shall also show all mortgages, easements, or encumbrances not satisfied or released of record nor otherwise terminated by law. An update of said title opinion or certification, certified to the city and the offices of the city attorney and the city surveyor, must be provided within 30 days of final plat recording. All documents referenced in said title opinion or certification, and update thereof, shall also be provided for review by the city.

(12) A construction cost estimate shall be submitted, which provides the estimated cost of installing all improvements. Such estimates shall be based upon recent bid information. As an alternative, bids of two reputable contractors, or a copy of an executed contract, for the installation of the improvements may be submitted.

(13) Payment of required recording costs, fees, deposits and costs as may be applicable or required pursuant to the code, and other applicable laws, ordinances, and regulations.

(14) A phase I environmental site assessment (ESA) must be conducted in accordance with the latest edition of the American Society for Testing and Materials (ASTM) standard E-1527 (Phase I ESA Process). The city will require a specified minimum off-site search distance of one-quarter mile. The minimum search distance may include areas outside the adjoining properties and shall be measured from the nearest property boundary. The ESA must be performed and signed by a Florida registered professional engineer or geologist who is able to demonstrate competence (i.e., education and previous experience) in producing ESA reports.

A previous phase I ESA may be used if it meets or exceeds the requirement of ASTM E-1527 (except as modified herein) and if the conditions of the property and area surrounding the property are not likely to have changed materially since the previous phase I ESA. Should more than one year have passed since the completion of the last phase I ESA, a current site reconnaissance and records review will be required at a minimum. All supplemental phase I ESA documents must also be signed by a Florida licensed engineer or geologist.

The results shall be provided to the city prior to acceptance of any lands to be dedicated to the city. Should environmental conditions requiring any remedial activity, monitoring or regulatory

action be identified as a result of the ESA(s), the city will not accept any dedications of such land until the conditions on the land are fully addressed to the satisfaction of the city and all applicable regulatory agencies.

(15) Such other agreements, certificates, endorsements, affidavits, documentation, engineering drawings, and data as may be deemed necessary to ensure conformity with the requirements of this chapter, the code, and other applicable laws, ordinances, and regulations.

DIVISION 5. HOA AND COMMUNITY SUBDIVISION INFRASTRUCTURE RESPONSIBILITY

Sec. 110-153. Homeowners association.

Prior to final plat approval and, in the case of a gated community, prior to the closure or operation of the gates, a residential subdivision or commercial subdivision which is subject to the provisions of this division shall establish a mandatory homeowners' (or property owners') association in accordance with the requirements of this division, and a declaration (or in the event of an existing recorded declaration, an amendment thereto) must be approved by the city. A certificate of good standing or such other evidence to determine the status of the HOA shall be submitted to the city as part of the final plat approval process. Unless otherwise approved by the city, simultaneous with the recording of the plat the developer shall cause to be conveyed to the HOA such land and improvements for which the HOA shall have the responsibility for maintaining and repairing, including the community subdivision infrastructure. A residential subdivision or commercial subdivision shall be subject to the provisions of this division when:

- (1) The responsibility to maintain certain areas, private amenities, subdivision infrastructure or improvements within the subdivision is to be shared by the lot owners, or where common areas will exist; or
- (2) Any of the subdivision infrastructure, including, but not limited to, roadways, street lights, drainage systems (which includes, without limitation, stormwater detention/retention areas and underdrains), sidewalks, or certain other subdivision infrastructure and improvements are to be owned or maintained privately; or
- (3) A gated community is sought to be established.

Sec. 110-154. Declaration.

A declaration, or an amendment thereto, which, at a minimum, sets forth the responsibilities and obligations for the maintenance, repair and replacement of the community subdivision infrastructure, common areas and private amenities and such other matters as provided in this division shall be required and submitted to the city prior to final plat approval and, in the case of a gated community, prior to the closure or operation of the gates. The declaration, or amendment thereto, shall be recorded simultaneously with the subdivision plat. The terms of the declaration, or amendment thereto, shall be to the city's satisfaction, legally sufficient and enforceable to, at a minimum, accomplish, provide or otherwise ensure or disclose the provisions of this division. Notwithstanding the foregoing, the exclusion of said provisions within the declaration, or amendment thereto, shall not operate as a condition precedent to city's ability to enforce the requirements of this chapter. Further, nothing in this section shall preclude the declaration, or amendment thereto, from addressing other matters so long as the substance of each part of the

declaration, or amendment thereto, is not inconsistent with the requirements of this chapter or any other applicable code reference or state law. The declaration, or amendment thereto, shall, as applicable:

(1) Establish the point at which the developer must turn over control of the HOA consistent with definition of same provided in section 110-56.

(2) Provide for the preparation of an initial community subdivision infrastructure report and compliance with the provisions of section 110-155, including developer's requirements prior to turnover.

(3) Provide for the preparation of a subsequent community subdivision infrastructure report and compliance with the provisions of section 110-156.

(4) Include the following or similar statement: "Property owners within the subdivision shall receive no discount in property taxes or any other tax or fee because of the retention or private ownership of the community subdivision infrastructure."

(5) Include the following or similar statement: "The City of Winter Garden shall have the right, but not the obligation, to access, maintain, repair, replace and otherwise care for or cause to be cared for, any and all private areas, drainage systems, including without limitation, the retention/detention areas and underdrains, common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the City of Winter Garden, including, without limitation, Tracts _____ and _____ and the improvements thereon. In the event any or all of the said areas, systems, improvements, properties or areas are not maintained, repaired, or replaced in accordance with the standards of the City of Winter Garden Code of Ordinances, good engineering practices, or become a nuisance or in the event the City of Winter Garden exercises its aforementioned right, each of the lot owners of the subdivision are hereby ultimately responsible for payment of the cost of maintenance, repair, replacement and care provided by the City of Winter Garden or its contractors and agents, plus administrative costs and attorneys' fees and costs incurred by the City of Winter Garden. If said costs are not paid within 15 days of invoicing, then said costs shall constitute a lien on the property of the owners which fail to pay such costs and may be enforced, without limitation, by foreclosure, special assessments, or as may otherwise be permitted by law. This right, and the City of Winter Garden's exercise of said right, shall not impose any obligation on the City of Winter Garden to maintain, repair, replace, or otherwise care for said private areas, drainage systems, including without limitation, the retention/detention areas and underdrains, common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the City of Winter Garden, including, without limitation, Tracts _____ and _____ and the improvements thereon."

(6) Provide for the consequences resulting from a default with the provisions of the declaration, or amendment thereto, or the provisions of this chapter by the HOA or developer as set forth in section 110-159.

(7) Provide that any transfer of any portion or component of the community subdivision infrastructure (including the property on which the said community subdivision infrastructure is located) to the city or other governmental entity is prohibited without the concurrence of the city or governmental entity and the owners of two-thirds (or such higher percentage as the declaration may provide) of the platted lots.

(8) Require the establishment, funding and maintenance of an HOA account for annual routine maintenance and repair of the community subdivision infrastructure (referred to in this division as the "routine-community subdivision infrastructure-maintenance account"), and impose the restrictions and requirements set forth in section 110-157 regarding that account. Provide for the

developer's obligation to ensure adequate funding of HOA routine-community subdivision infrastructure-maintenance account required by section 110-157 until turnover of the HOA. Provide that developer/declarant shall continue to have responsibility to ensure proper maintenance of the community subdivision infrastructure until turnover occurs.

(9) Require the establishment, funding and maintenance of an HOA account for major capital repair and replacement of the subdivision's roads, curbing, sidewalks, stormwater drainage systems, and walls, etc. (referred to in this division as the "capital-community subdivision infrastructure reserve account"), and impose the restrictions and requirements set forth in section 110-157 regarding that account. Provide for the developer's obligation to ensure adequate funding of HOA capital-community subdivision infrastructure reserve account required by section 110-157 until turnover of the HOA.

(10) Include the following or similar statement: "The association and the lot and unit owners are responsible for assessing, collecting and reserving sufficient funds to operate, maintain, repair and replace common properties and subdivision infrastructure improvements. The City of Winter Garden shall not be liable or responsible for the maintenance, repair and replacement of private subdivision property and infrastructure improvements."

(11) Include the following or similar statement: "It is prohibited to alter the grade of or original drainage plan for any parcel, lot or tract, or change in the direction of, obstruct, or retard the flow of surface water drainage, or alter or remove of any berm, pipe, ditch, weir, manhole, swale, and stormwater collection, storage and conveyance system unless expressly authorized by the City of Winter Garden. This provision shall be considered a restrictive covenant in favor of and enforceable by the City of Winter Garden and in the event of a violation of this provision, the City of Winter Garden shall have the right to obtain injunctive relief, seek damages, and assess fines and liens in the amount of the cost to remedy the prohibited action (including administrative costs and attorneys' fees and costs) against the violating person or entity and any property owned by such violating person or entity; provided however, such right shall not limit the City of Winter Garden's other available enforcement actions permitted by law or equity."

(12) For subdivisions with private roads or alleys, include the following or similar statement: "There is hereby created, granted and reserved for the benefit of the City of Winter Garden and other public service and emergency service providers, a non-exclusive easement over, under and through the private subdivision roads and alleys for vehicular and pedestrian ingress and egress access for the purpose of providing public and emergency services to the common property and lots, including but not limited to, postal, fire protection, police protection, emergency medical transportation, code enforcement, garbage, utilities and other public and emergency services."

(13) Provide that the HOA may not be dissolved and that no portion of the declaration, or amendment thereto, pertaining to the requirements of this chapter may be amended without the written consent of the city.

Sec. 110-155. Initial community subdivision infrastructure report/turnover requirements.

- (a) Prior to the point in time in which certificates of occupancy have issued for seventy percent (70%) of the platted lots within the project and No earlier than 180 days before turnover, whichever occurs first, the HOA must retain the services of a Florida registered engineer experienced in subdivision construction to inspect the community subdivision infrastructure and prepare a report evaluating the community subdivision infrastructure's economic life, recommending the amount of scheduled maintenance and unscheduled repair for the subsequent five years that likely will be needed for each component of the community subdivision infrastructure (specifically, at a minimum and as may be

applicable, providing for the roads, street lights, sidewalks and drainage system (which includes, without limitation, the stormwater detention/retention areas and underdrains)) which recommends the amounts of money that should be deposited each year in the routine-community subdivision infrastructure-maintenance account and the capital-community subdivision infrastructure reserve account, determining whether the existing capital-community subdivision infrastructure reserve account balance is adequate to provide for restoration or replacement of the infrastructure by the end of its estimated economic life, and determining what repairs, if any, are needed prior to turnover of the HOA. The HOA shall pay the cost associated with the preparation of the initial community subdivision infrastructure report, and the HOA may pay such cost from the routine-community subdivision infrastructure-maintenance account. The report must be signed and sealed by the engineer, certified to the HOA and provided to the city and to all owners of lots, blocks, and tracts within the subdivision within 15 days after its completion. In the event turnover occurs more than 1 year after the initial community subdivision infrastructure report is prepared, then before the occurrence of the turnover an update of the initial community subdivision infrastructure report shall be obtained and provided in the same manner as the initial community subdivision infrastructure report. Any needed repairs or replacements identified by the report(s) shall be completed by the developer, at the developer's sole expense, prior to turnover.

- (b) Prior to turnover, the developer shall fund or cause the funding of the routine-community subdivision infrastructure-maintenance account and capital-community subdivision infrastructure reserve account to cover any deficiencies in account balances. Not sooner than fifteen (15) days and not more than forty-five (45) days prior to turnover, the developer shall submit a sworn affidavit along with supporting documentation to the HOA and the city evidencing developer's compliance with the requirements of this section.
- (c) Prior to turnover and prior to the issuance of certificates of occupancy for ninety percent (90%) of the platted lots within the project, developer shall execute and deliver to the city a 2 year warranty guarantee agreement with the city along with security in the form of a bond, irrevocable letter of credit or cash deposit covering the private community subdivision infrastructure improvements, in a form approved by the city attorney, and naming the city as primary beneficiary and the applicable homeowners association as a third party beneficiary. The warranty guarantee shall provide for the developer's guarantee of all such improvements, including its materials, workmanship, structural integrity and functionality, and require developer's repair, replacement and correction of damage and defects to such improvements found within the warranty period. The warranty guarantee period shall commence from the estimated date of turnover and end two years thereafter. The maintenance bond or irrevocable letter of credit shall be in an amount equal to twenty (20) percent of the then current estimated costs to construct the community subdivision infrastructure improvements, which amount shall be subject to city engineer review and approval.
- (d) If turnover occurs and the foregoing requirements of subsections (a), (b) & (c) have not been fulfilled, the rights of the city, the HOA, any of its the HOA's members, and any and all owners of land within the subdivision to enforce these requirements against the

developer shall survive the turnover, with the prevailing party to be entitled to attorneys' fees and costs against the non-prevailing party. Notwithstanding the foregoing and without limiting the city's remedies, the city shall be entitled to withhold the issuances of certificates of occupancy ~~and~~ building permits for improvements within the subdivision until such time as the provisions of this section are met.

Sec. 110-156. Subsequent community subdivision infrastructure reports and maintenance.

The HOA shall obtain an inspection and written report of the community subdivision infrastructure, by a Florida registered engineer experienced in subdivision construction at least once every five years after the initial engineer's inspection required by section 110-155. Using good engineering practice or in accordance with such other standards as may be adopted from time to time by the HOA, or in accordance with such standards as the HOA's engineer may determine to be appropriate, the inspection shall determine and the written report shall document the level of maintenance and repair (both scheduled and unscheduled) needed, the amounts of funding needed each year for the next five years in the routine-community subdivision infrastructure-maintenance account to pay for such maintenance and repair, and any repairs then needed and determining whether the existing capital-community subdivision infrastructure reserve account balance is adequate to provide for restoration or replacement of the infrastructure by the end of its estimated economic life. The report must be signed and sealed by the engineer, certified to the HOA, and provided to the city and to all owners of lots, blocks, and tracts within the subdivision within 15 days after its completion. Within 180 days of receipt of each five-year report, the HOA shall complete all remedial work identified and recommended by the engineer. A completion report, signed, sealed and certifying that said remedial work has been completed, shall be submitted to the HOA, to the city, and to all owners of lots, blocks, and tracts within the subdivision 90 days thereafter. The HOA and the lot and unit owners of the subdivision are responsible for assessing, collecting and reserving sufficient funds to operate, maintain, repair and replace common properties and subdivision infrastructure improvements. The city does not have and will not assume any duty, liability or obligation concerning the operation, maintenance, repair and replacement of common properties and subdivision infrastructure improvements arising out of or relating to any provision of this chapter, including but not limited to, the city's collection of, evaluation of and response to the reports submitted pursuant to Section 110-155 and this section.

Sec. 110-157. Homeowners association required accounts for maintenance, repair and reserves.

At a minimum, the requirements, restrictions, terms, conditions, and limitations provided for in this section with respect to the accounts required for the maintenance and repair of the community subdivision infrastructure and the monies on deposit in those accounts shall be established and maintained by each HOA.

(1) *Required HOA asset accounts.* The HOA must create, deposit monies into, retain in perpetuity, and replenish from time to time the following accounts, which are referred to in this article collectively as the "required HOA accounts":

- a. A routine-community subdivision infrastructure-maintenance account; and
- b. A capital-community subdivision infrastructure reserve account;
- c. This division does not require the establishment of accounts for either routine maintenance or the capital repair and replacement of private amenities not related to the community subdivision infrastructure, but such accounts may be required by the declaration or as may be established at the discretion of the HOA. However, except as otherwise provided for in this section, monies

within the required HOA accounts may not be utilized for the maintenance, repair or replacement of the private amenities.

Each of the foregoing accounts must be asset accounts kept separate and apart from all other funds and accounts of the HOA, and for accounting purposes the HOA may not commingle these accounts, either with each other or with other funds and accounts of the HOA. However, notwithstanding the foregoing, the monies in the above accounts may be commingled with monies in other HOA accounts for banking and investment purposes, and may be pooled with other HOA monies in a common investment program, so long as the financial books and records of the HOA account for these monies separately and apart from all other HOA monies and keep such monies earmarked for the purposes set forth below. All earnings from the investment of monies in the required HOA accounts shall remain in their respective accounts and shall follow their respective principal.

(2) *Use of accounts.*

a. *Routine-community subdivision infrastructure-maintenance account.* Monies on deposit in the routine-community subdivision infrastructure-maintenance account, including any investment earnings, shall be used by the HOA, or by the developer with the written consent of the board of directors of the HOA, only for scheduled maintenance and for unscheduled repair of the roads, drainage system, including, but not limited to, the stormwater detention/retention areas and underdrains, sidewalks, street lights, curbing, bike paths, traffic-control signage and other HOA infrastructure appurtenant to the private roads and drainage systems. If allowed by the declaration, the monies on deposit in the account may also be used for scheduled maintenance and unscheduled maintenance and repair of the entrance and exit gates and their related facilities, but the declaration shall require that the roadways and drainage-system maintenance and repair take priority over the maintenance and repair of the gates and related facilities.

b. *Capital-community subdivision infrastructure reserve account.* Monies on deposit in the capital- community subdivision infrastructure reserve account, including any investment earnings, shall be used by the HOA for: (i) resurfacing and related reconstruction of the roadways, including alleys, in the subdivision; (ii) major repair, replacement and reconstruction of drainage systems, including, but not limited to, the stormwater detention/retention areas, control structures, underdrains and conveyance systems; and (iii) major repair, replacement and reconstruction of sidewalks, bike paths, curbing, walls, subdivision signage, gates, and other capital infrastructure improvements of the subdivision. Under no circumstances may the monies in the account be expended before the developer conveys the community subdivision infrastructure to the HOA.

(3) *Required funding; required assessments.*

a. *Routine-community subdivision infrastructure-maintenance account.* The HOA must deposit each year into the routine- community subdivision infrastructure-maintenance account an amount of money sufficient to perform all scheduled maintenance and unscheduled repair of the roads, drainage system, and other community subdivision infrastructure during the subsequent year. The amount deposited, when added to investment earnings, must be no less than the amounts estimated under subsection (5) until the reports required under sections 110-155 and 110-156 are prepared, and thereafter the amount deposited must be no less than the amount recommended by the applicable engineer's report required pursuant to sections 110-155 and 110-156. If the declaration allows maintenance and repair of the entrance and exit gates and their related facilities to be paid from the routine-community subdivision infrastructure-maintenance account, then the deposits each year must be increased by amounts sufficient to cover those costs.

b. *Capital-community subdivision infrastructure reserve account.* The HOA must deposit each year into the capital-community subdivision infrastructure reserve account an amount sufficient for: (i) the private roads and alleys to be resurfaced and, as related to the resurfacing, reconstructed no less frequently than every 12 years; (ii) the restoration and repair or replacement of the drainage systems, including, but not limited to, the stormwater detention/retention areas control structures, underdrains and conveyance systems, no less frequently than once every ten years; and (iii) the restoration and repair or replacement of all other community subdivision infrastructure, no less frequently than once every 50 years. The amount to be deposited each year into the account must be estimated by the developer and approved by the city prior to issuance of a certificate of completion for the subdivision infrastructure. Deposits to the account must begin in the year in which the city issues its certificate of completion. At the end of each five-year community subdivision infrastructure reporting period pursuant to section 110-156, the HOA shall revise and update the estimated cost to restore, repair and replace community infrastructure improvements taking into consideration actual costs incurred and expected increases in costs, and shall adjust the amount of its annual deposits to the account accordingly.

c. *Required assessments.* The obligation to collect and pay assessments shall commence as of the date on which the city issues its certificate of completion for the infrastructure improvements for the subdivision. However, if no plat has been recorded as of that date, the obligation to collect and pay assessments shall commence as of the date the plat is recorded in the public records of Orange County, Florida. In the case of the conversion of an existing subdivision to a gated community, the city shall determine the appropriate commencement dates on a case by case basis. The HOA shall impose and collect assessments against each platted lot in the subdivision, including lots owned or controlled by the developer and by any builder, without exception. The assessments must be uniform and equitable and must be imposed and collected in amounts sufficient, when added to investment earnings and other available revenues of the HOA, if any, to make all required deposits to each of the required HOA accounts.

Notwithstanding the foregoing, if in the opinion of the city engineer the community subdivision infrastructure has substantially deteriorated at the time a plat is approved, the city may require an additional payment of assessments by the developer to address the loss of useful life of the deteriorated community subdivision infrastructure.

(4) *Financial reports and other requirements.* Each year the HOA shall cause a financial report of the required HOA accounts to be performed and prepared, and a copy of the report shall be submitted to each owner of property in the subdivision and the city within the time frame required under the "financial reporting" requirements of F.S. ch. 720. At a minimum, the report shall confirm the existence of each of the required HOA accounts and report the amounts of deposits into and expenditures from the account during the period year, along with an itemization of the expenditures from the required HOA accounts. Finally, the financial report shall disclose whether any of the required HOA accounts has on deposit less than the amount required under the declaration.

(5) *Initial account funding and developer's obligations.* From the recording of the plat and up to the point in time when turnover of control of the HOA occurs, the developer and its successors in interest, shall remain personally obligated to ensure that adequate funding of the HOA accounts required by this section is provided, that the financial reporting requirements of this section are met and that the community subdivision infrastructure is being properly maintained. Prior to the issuance of a certificate of completion for the community subdivision infrastructure, the developer shall be required to fund the capital-community subdivision infrastructure reserve

account in an amount sufficient cover two-year's estimated deposits for such account and fund the routine-community subdivision infrastructure-maintenance account in an amount sufficient to cover one-year's estimated deposits for such account. For purposes of establishing deposits by the developer required under this subsection, deposit amounts shall be supported by a licensed engineer's evaluation of the community subdivision infrastructure's economic life and cost estimate for maintenance and replacement of such infrastructure provided to the city at the developer's expense and such is subject to the review and approval by the city engineer.

Sec. 110-158. Indemnification.

In the event the community subdivision infrastructure, or any component thereof, including, but not limited to, any and all private areas, drainage systems (including without limitation, the retention/detention areas and underdrains), common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the city, are not maintained, repaired, replaced, or cared for in accordance with the standards of the city code, good engineering practices, or such become a nuisance, or HOA accounts relating to the community subdivision infrastructure are not properly funded, the developer (so long as the developer retains control of the board of directors of the HOA and the provisions of section 110-155 are not completely satisfied), the HOA, and the individual lot owners of the subdivision, jointly and severally, shall release, defend, indemnify, and hold the city and its officers, contractors, consultants and employees harmless from any and all costs, expenses, suits, demands, liabilities, damages, injuries (including death), tort liability or award of damages or otherwise, including attorneys' fees and costs, in connection with, related to, or arising out of the maintenance, repair, replacement, reconstruction, or care of the community subdivision infrastructure, or any component thereof, by or on behalf of the city.

Sec. 110-159. Default.

The city shall have the right, but not the obligation, to access, maintain, repair, replace and otherwise care for or cause to be cared for, the community subdivision infrastructure, or any component thereof, including, but not limited to, any and all private areas, drainage systems (including without limitation, the retention/detention areas and underdrains), common properties, private roads, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the city. Further, the city shall have the right, but not the obligation, to cause to be prepared any report, study, or inspection required by this division, if the HOA fails to obtain such reports, studies, or inspections required by this division in the time provided. In the event any or all of the components of the community subdivision infrastructure are not maintained, repaired, or replaced in accordance with the standards of the city code, good engineering practices, or become a nuisance, or the required reports, studies, or inspections are not obtained, each of the lot owners of the subdivision are hereby ultimately responsible for payment of the cost of reports, studies, inspections, maintenance, repair, replacement and care provided by or for the city, plus administrative costs and attorneys' fees and costs incurred by the city. If said costs are not paid within 15 days of invoicing to the HOA and the lot owners, then said costs shall constitute a lien on the property of the owner which fails to pay such costs and may be enforced, without limitation, by foreclosure, special assessments, or as may otherwise be permitted by law. This right, and the city's exercise of said right, shall not impose any obligation on the city to maintain, repair, replace, or otherwise care for any or all components of the community subdivision infrastructure or cause to be prepared any reports, studies, or inspections.

Without limiting the foregoing, upon any default by the HOA or the developer in any requirement of either this article or the declaration required under this article, the city, at its option (and without limiting its remedies) and after due notice of its declaration of a default and a reasonable time to cure, may prohibit closure of the gates and utilize all HOA monies on deposit in the routine-community subdivision infrastructure-maintenance account and the capital-reserve accounts or, if no monies exist or if an insufficient amount exists, using such other revenues or financing methods as the city may elect, including, but not limited to, special assessments against the all of the subdivision lots. The City shall have the right to enforce against the HOA and developer the requirements of this division and the provisions of the declaration required in this division. Further, without limiting the foregoing, upon any default by the developer of any requirement of this division, the city shall be entitled to withhold the issuance of certificates of occupancy and building permits for improvements within the project and withhold the issuance of development orders, certificates of occupancy and building permits for any other project the developer is the developer of record until such time as the default is cured.

Sec. 110-160. Insurance.

The HOA shall provide general liability insurance in the amount of not less than \$300,000.00 per occurrence and \$500,000.00 aggregate and name the city as an additional named insured. Such insurance shall protect the HOA and the city from any claim, suit, demand or damages resulting from or related to any activity by the city within the subdivision or the community subdivision infrastructure and private amenities, including, but not limited to, the operation, maintenance or repair of streets, subdivision infrastructure, water, sewer and drainage facilities. The insurance shall not include any exclusion that would deny coverage from the operation of sewer lines and shall provide 30-day written notice to the city prior to cancellation or modification of any insurance referred to therein. A signed certificate of insurance showing compliance with the requirements of this section, satisfactory to the city, shall be furnished to the city prior to final plat approval

Sec. 110-161. HOA and member rights.

The HOA, any member of the HOA, and any and all owners of land in the subdivision shall have the right jointly and severally to enforce against the developer the requirements of this chapter and the provisions of the declaration required in this division, with the prevailing party being entitled to attorneys' fees and costs. Any member of the HOA and any and all owners of land in the subdivision shall have the right to enforce against the HOA the requirements of this division and the provisions of the declaration required herein, with the prevailing party being entitled to attorneys' fees and costs against the non-prevailing party. Venue for any such enforcement action shall be in the Ninth Judicial Circuit of Florida, in Orange County, Florida.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-162. Developer liability.

~~Subject to section 110-155, u~~Until such time as turnover of control of the HOA has occurred and the developer has conveyed to the HOA such land and improvements for which the HOA shall have the responsibility for maintaining and repairing, including the community subdivision infrastructure, the developer shall remain jointly and severally liable, to the city, along with the HOA, for the maintenance and repair of the community subdivision infrastructure, common areas and private amenities within the subdivision, for the adequate funding of the HOA

accounts required by section 110-157 and for otherwise ensuring compliance with the provisions of this division chapter. By way of example and not limitation, all maintenance and repair of roads, sidewalks, street lighting and the drainage system, including the stormwater detention/retention areas and underdrains, are the responsibility of the developer, except as provided in this section. If turnover occurs and the obligations of the developer under this division have not been met, the rights of the city, HOA, any of the HOA's members, and any and all owners of land within the subdivision to enforce the requirements of this division against the developer shall survive the turnover, with the prevailing party to be entitled to attorneys' fees and costs against the non-prevailing party. Venue for any such enforcement action shall be in the Ninth Judicial Circuit of Florida, in Orange County, Florida.

SECTION 3: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: Severability: It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: _____, 2013.

SECOND READING: _____, 2013.

ADOPTED this _____ day of _____, 2013, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk