WINTER HAVEN
THE CHAIN OF LAKES CITY

CITY COMMISSION MEETING

DATE: Monday, September 23, 2024, 6:00 p.m.

LOCATION: City Hall - John Fuller Auditorium
451 Third Street NW
Winter Haven, FL 33881

---

1. **CALL TO ORDER** - Nathaniel J. Birdsong, Jr., Mayor

2. **ROLL CALL** - LaTonya Harris, Deputy City Clerk

3. **INVOCATION** - Rev. Sarah Bishop, First Presbyterian Church of Winter Haven

4. **PLEDGE OF ALLEGIANCE** - LaTonya Harris, Deputy City Clerk

5. **PRESENTATIONS**

   5.A **"National Hispanic Heritage Month" Proclamation - Employee Diversity & Inclusivity Team and Ana Rivera, President / Founder, PR/Hispanic Chamber of Commerce of Polk County**

   Staff Contact: *Vanessa Castillo, MMC, City Clerk, vcastillo@mywinterhaven.com*

   Proclamation

   5.B **"David Brannan" Proclamation - David Brannan, (Retired) Police Chief, Winter Haven Police Department**

   Staff Contact: *Charlie Bird, Assistant City Manager - Public Safety, cbird@mywinterhaven.com*

   Proclamation

6. **DEVELOPMENTS OF NOTE**

7. **MINUTES**

8. **MAYOR'S STATEMENT**

   8.A **Mayor's Statement FY2024**

   Staff Contact: *Colleen "CJ" Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

   Mayor's Statement FY2024

9. **ORDINANCE(S) - SECOND READING - PUBLIC HEARING ON AD VALOREM TAX MILLAGE RATE AND FISCAL YEAR 2024-2025 BUDGET**

   9.A **O-24-43 Adopting the Millage Rate for Fiscal Year 2024-2025**

Staff Contact: *CJ Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

Summary - O-24-43 Adopting the Millage Rate for Fiscal Year 2024-2025 at 6.5900 mills
O-24-43

9.B **O-24-44 Adopting the Budget for Fiscal Year 2024-2025**

Staff Contact: *CJ Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

Summary - O-24-44 Adopting the Budget for Fiscal Year 2024-2025
O-24-44

10. COMMENTS FROM THE AUDIENCE

11. ORDINANCE(S) - SECOND READING - PUBLIC HEARING

11.A **O-24-33 - Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article II, Section 21-83, Article VI, Division 1, and Article VII, Division 5 for the purpose of revising language relating to permitting model homes and establishing a preliminary plat approval process**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Ordinance O-24-33
O-24-33

11.B **Ordinance O-24-35 - Request by V3 Haven Square Retail, LLC to amend Planned Unit Development Ordinance O-09-27 and to assign Planned Unit Development (PUD) zoning district to five (5) parcels**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Ordinance O-24-35
O-24-35

11.C **Ordinance O-24-38 - Administrative request to amend the 2035 Future Land Use Map on 63 parcels from Traditional Neighborhood Area and Neighborhood Support Future Land Uses to Primary Mixed Use Hub Future Land Use**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Ordinance O-24-38
O-24-38

11.D **O-24-39 - Administrative request to make a City-wide update of the Official Zoning Map for consistency with the 2035 Winter Haven Comprehensive Plan.**

Staff Contact: *Heather Reuter, Senior Planner, hreuter@mywinterhaven.com*

Summary - Ordinance O-24-39
O-24-39

11.E **O-24-40 - Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article III, Division 7 to revise the City's landscape requirements by adding language addressing the City's urban forest**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Ordinance O-24-40
O-24-40

12. CONSENT AGENDA

12.A **Settlement Agreement between the Casper R. Callen Trust and the City of Winter Haven, Florida**

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary - Callen Settlement Agreement
Callen Settlement Agreement

12.B **Florida Citrus Building HVAC Renovation Project: Mechanical Services of Central Florida Inc. Equipment & Installation & General Piggyback Agreement Authorization**

Staff Contact: *Andy Palmer, Parks Planning & Strategic Initiatives Manager, apalmer@mywinterhaven.com*

Summary Florida Citrus Building HVAC Installation Equipment
MSI -Florida Citrus Building Equipment Proposal.REV.pdf
MSI-Florida Citrus Building HVAC Equipment Installation.REV.pdf
City of Winter Haven General Piggyback Purchasing Agreement - EMCOR - Mechanical Services

12.C **Third Amendment to Developer's Agreement with VMAR DEV, LLC**

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary Third Amendment to Developers Agreement Villamar Subdivision
Third Amendment to Developer's Agreement Villamar

12.D **Agreement for the transfer of Public Roads - West Lake Eloise Drive and Shell Road**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary Agreement for Transfer of Public Roads
Lake Eloise Dr. W. Agree & Deed
Shell Road Agree & Deed

12.E **Replacement of Fire Station No. 1 Air Conditioning System**

Staff Contact: *Michael Waters, Fire Operation Chief, mwaters@mywinterhaven.com*

Summary - Replacement of Fire Station 1 HVAC System
ECS Supplemental Info - ASHRAE Equipment Life Expectancy Chart
ECS Proposal - Install Trane Controls
ECS Proposal - Replace AC units, Add mini split

12.F **Service Agreement between City of Winter Haven and Lakeland Area Mass Transit District**

Staff Contact: *T. Michael Stavres, City Manager, mstavres@mywinterhaven.com*

Summary - Service Agreement between City of Winter Haven and Lakeland Area Mass Transit District
Service Agreement between City of Winter Haven and Lakeland Area Mass Transit District

12.G **2024 Roadway Resurfacing and Pavement Markings**

Staff Contact: *Brittany Hart, Public Works Director, bhart@mywinterhaven.com*

Summary - 2024 Roadway Resurfacing and Pavement Markings
2024 Mill and Fill Roadway List
Schedule of Values (resurfacing and Pavement Striping)

13. RESOLUTION(S)

13.A **R-24-43 Adopting a revised/modified Industrial Wastewater Limits**

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary - Resolution R-24-43
R-24-43 revising local limits with exhibits

14. ORDINANCE(S) - FIRST READING

15. NEW BUSINESS

16. CITY COMMISSIONERS/LIAISON REPORTS

17. CITY ATTORNEY REPORT

18. CITY MANAGER REPORT

19. DEPUTY CITY MANAGER REPORT

20. CITY CLERK REPORT

21. EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA

22. ADJOURNMENT

If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the Americans with Disabilities Act and Florida Statutes, Section 286.26, persons with disabilities needing special accommodations to participate in this proceeding, should contact the City Clerk's Office, 451 Third Street, NW, Winter Haven, Florida 33881, in writing, not later than 48 hours prior to the proceeding; if not in writing, then not later than four (4) days prior to the proceeding at (863) 291-5600. Vision or hearing impaired please call (800) 955-8771 for assistance.

WINTER HAVEN
THE CHAIN OF LAKES CITY

Proclamation

WHEREAS, on September 17, 1967, President Lyndon B. Johnson signed into law the *National Hispanic Heritage Week* Bill, which authorized the President to designate the week of September 15 as *National Hispanic Heritage Week*, which was first observed in 1968. In 1998, President Ronald W. Reagan signed into law the creation of *National Hispanic Heritage Month*; and

WHEREAS, from America's earliest days, Hispanic Americans have played a prominent and important role in our national heritage. *National Hispanic Heritage Month* is an opportunity to celebrate the rich cultural traditions and recognize and honor the significant achievements of U.S. Hispanic communities, which have influenced American culture and enriched the fabric of our society. Hispanic and Latin American people can trace their roots to Mexico, Central America, South America and the Caribbean , which consists of Puerto Rico, Cuba, the Dominican Republic and smaller Spanish-speaking islands; and

WHEREAS, Hispanic Americans are the largest minority group in the United States today. Generations of Hispanic Americans have consistently helped make our country strong and prosperous and embody the best of American values, including commitment to faith, family, and country. They serve with honor in all branches of the Armed Forces, continuing a strong legacy, and lift up their communities and the economy as entrepreneurs, executives, and small business owners and make contributions in areas of science, art, music, politics, academia, government and sports; and

WHEREAS, the Hispanic American community has left an indelible mark on our government, culture, and economy. They continue to embody the pioneering spirit of America today.

NOW, THEREFORE, I, Nathaniel J. Birdsong, Jr., Mayor of the City of Winter Haven, Florida, do hereby proclaim September 15 through October 15, 2024 as

"National Hispanic Heritage Month"

in the City of Winter Haven and in its continued effort for diversity and inclusivity, urge all citizens to honor and celebrate the contributions and achievements of Hispanic Americans in our nation's history and in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Winter Haven, Florida, to be affixed this 23rd day of September 2024.



Nathaniel J Birdsong Jr

Nathaniel J. Birdsong, Jr., Mayor

ATTEST:

Vanessa Castillo

Vanessa Castillo, MMC, City Clerk

WINTER HAVEN
THE CHAIN OF LAKES CITY

Proclamation

David Alan Brannan
Winter Haven Police Chief (Retired)

WHEREAS, David Alan Brannan was born in Winter Haven, Florida on August 8, 1967, where he grew up and attended school. He graduated from Winter Haven High School; and

WHEREAS, David was hired as a Community Service Officer (CSO) in 1992 for the Winter Haven Police Department (WHPD) eventually becoming a sworn Police Officer in 1993; and

WHEREAS, David was promoted to Sergeant in 2000, Lieutenant in 2004, followed by his promotion to Captain in 2007, Deputy Chief in 2015 and to Chief in 2021; and

WHEREAS, in 2014, David received his Master's in Criminal Justice degree from Saint Leo University; and

WHEREAS, David served on the WHPD Emergency Response Team (ERT) from 1996 to 2018, eventually becoming the team's Operations Commander, and;

WHEREAS, David has received the *Medal of Valor* for his bravery in 1994 and 2024, and;

WHEREAS, after dedicating his life and service to the Winter Haven Police Department and the citizens of Winter Haven for 32 years, David will retire on September 30, 2024.

NOW, THEREFORE, I, Nathaniel J. Birdsong, Jr., Mayor of the City of Winter Haven, Florida, and on behalf of all fellow Commissioners, the City of Winter Haven, its employees and residents, do hereby honor

"David Brannan"

and extend our deepest appreciation for his honorable and outstanding service to the Winter Haven community.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Winter Haven, Florida, to be affixed this 23rd day of September, 2024.

_____
Nathaniel J. Birdsong, Jr., Mayor

ATTEST:

_____
LaTonya Harris, Deputy City Clerk

Mayor's Statement

State Law requires the first substantive issues to be discussed at this hearing are:

- Name of the Taxing Authority – City of Winter Haven
- Rolled-back rate is 6.2912 mills
- The percentage increase in the millage over the rolled-back rate is 4.75%
- Millage rate to be levied is 6.5900
- The reasons Ad Valorem tax revenues are increasing:

The ad valorem proceeds resulting from the difference between the proposed millage rate and the rolled-back rate will be used to offset increased operating costs and fund capital projects.

DATE: September 10, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: C.J. Scott, Chief Financial Officer
Allen Weeks, Budget and Management Officer

SUBJECT: Ordinance No. O-24-43 Adopting the Millage Rate for Fiscal Year 2024-2025 at 6.5900 mills

---

BACKGROUND

Florida Statutes require each taxing authority to annually set a millage rate for property taxation following required public hearings. The City Commission set the proposed rate of 6.5900 mills at the July 17, 2024 meeting. The Property Appraiser used that information to prepare TRIM notices, which were distributed in August.

As part of the annual budget process, each September the City Commission establishes the ad valorem millage rate for the ensuing fiscal year. The millage rate must be established by ordinance and have a public hearing at each of the two readings of the ordinance. The ordinance is read in its entirety at each public hearing. The first public hearing is scheduled for Tuesday, September 10, 2024 and the second is scheduled for Monday, September 23, 2024. The new fiscal year begins October 1, 2024.

In the hearings, the first substantive issues discussed shall be the percentage increase in millage over the rolled-back rate, and the specific purposes for which the additional proceeds are to be used.

FINANCIAL IMPACT

The 6.5900 mills ad valorem rate will generate $27,793,715 to the City's General Fund at a collection rate of 96.50%.

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-43

ATTACHMENT

- Ordinance O-24-43

ORDINANCE NO. O-24-43

AN ORDINANCE OF THE CITY OF WINTER HAVEN, FLORIDA, ADOPTING A MILLAGE RATE TO PROVIDE SUFFICIENT FUNDS FOR PROJECTED EXPENDITURES OF THE 2024-2025 FISCAL YEAR BUDGET OF THE CITY OF WINTER HAVEN, FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 10, 2024, the City of Winter Haven, held a public hearing as required by Florida Statute 200.065; and

WHEREAS, a budget has been prepared estimating expenditure and revenues of the City for the ensuing year, with detailed information, including revenues to be derived from sources other than ad valorem levy, and recommendations have been made as to the amount to be appropriated for the ensuing year; and

WHEREAS, the City of Winter Haven strives to provide a level of service consistent with the express desires and demands of its citizens; and

WHEREAS, it is necessary that taxpayers of Winter Haven also be willing to share the common expenditures of said services, and to provide funds therefore.

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

1. The millage levy for Fiscal Year 2024-2025 is hereby set at a rate of 6.5900 mills.

2. The millage rate of 6.5900 is 4.75% higher than the rolled- back rate of 6.2912.

3. If any, word, sentence, clause, phrase or provision of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this ordinance shall not be affected thereby.

4. The ordinance will take effect on October 1, 2024.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

Exhibit “A”

DATE: September 10, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: C.J. Scott, Chief Financial Officer
Allen Weeks, Budget and Management Officer

SUBJECT: Ordinance No. O-24-44 Adopting the Budget for Fiscal Year 2024-2025 in the amount of $263,692,218

BACKGROUND

Florida Statute requires each taxing authority to annually adopt tentative and final budgets. The law also requires that the local government hold a public hearing prior to the adoption of each of those budgets. The TRIM notice which was sent to all property owners in August, notified the City of Winter Haven property owners of the proposed millage rate and date of the first public hearing on the millage.

The City will advertise the adoption of the final budget and the notice of tax increase prior to the second public hearing, in accordance with state law. That second and final hearing will be held on Monday, September 23, 2024.

The tentative budget has been prepared based on City needs and Commission directives authorized at the Budget Workshop held on Wednesday, July 17, 2024. Those directives included the adoption of the current millage rate of 6.5900. The budget has been prepared in compliance with City's policies and requirements and appropriate State Statutes.

FINANCIAL IMPACT

The City Budget for Fiscal Year 2024-2025 is $263,692,218.

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-44

ATTACHMENT

- Ordinance O-24-44

ORDINANCE NO. O-24-44

AN ORDINANCE MAKING APPROPRIATIONS OF FUNDS FOR DEFRAYING THE EXPENSES OF THE MUNICIPAL GOVERNMENT OF THE CITY OF WINTER HAVEN FOR FISCAL YEAR, 2024-2025, ADOPTING THE BUDGET OF THE CITY OF WINTER HAVEN, FLORIDA, FISCAL YEAR COMMENCING OCTOBER 1, 2024 AS THE OFFICIAL BUDGET OF THE CITY OF WINTER HAVEN, FLORIDA, FISCAL YEAR 2024-2025; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes require each taxing authority to annually adopt tentative and final budgets, and

WHEREAS, the City of Winter Haven has held workshops and Commission meetings regarding the fiscal year 2024-2025 budget, and;

WHEREAS, estimates have been made by the City Manager of the City of Winter Haven as presented in the Budget of the City of Winter Haven, Florida, Fiscal Year commencing October 1, 2024, showing that the sum of $263,692,218 will be required for defraying the expenses of maintaining the government of the City of Winter Haven, Florida for the Fiscal Year 2024-2025, and

WHEREAS, the Budget of the City of Winter Haven, Florida, Fiscal Year commencing October 1, 2024, anticipates sufficient revenues to fund projected expenditures of $263,692,218.

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

1. The sum of $263,692,218 is hereby appropriated out of all the various revenues accruing to the City of Winter Haven and set aside for the purpose of paying the expenses of and maintaining the government of the City of Winter Haven for Fiscal Year 2024-2025.

2. The Budget of the City of Winter Haven, Florida, Fiscal Year commencing October 1, 2024 on file in the Office of the City Clerk, is hereby adopted by reference as the official budget of the City of Winter Haven, Florida for Fiscal Year 2024-2025.

3. If any, word, sentence, clause, phrase or provision of this Ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

4. It is the intention of the City Commission that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and that sections of this Ordinance may be renumbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or

his designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

5. This Ordinance shall take effect on October 1st, 2024.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

DATE: July 19, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Ordinance O-24-33: Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article II, Section 21-83, Article VI, Division 1, and Article VII, Division 5 for the purpose of revising language relating to permitting model homes and establishing a preliminary plat approval process.

BACKGROUND

Earlier this spring, the Florida Legislature passed Senate Bill (SB) 812, which was subsequently signed into law by the Governor, and becomes effective October 1, 2024. SB 812 requires the City to create a process to allow model homes to be constructed on up to fifty percent of the lots in a subdivision prior to approval of a final plat. In addition to addressing model homes, SB 812 requires the City to reintroduce the preliminary plat to the subdivision approval process. Preliminary plats became optional in 1999, and were eliminated in 2000, in an effort to streamline the City's subdivision review and approval process.

To account for the issuance of model home permits prior to approval of a final plat, portions of Chapter 21, Article VI, relating to concurrency and public service allocation are also required to be addressed. Granting of concurrency needs to be advanced in the approval process from the current allocation at the time a final subdivision plat is approved.

Major modifications to Code include:

- Revising Section 21-83 to allow for model homes to be constructed on up to 50 percent of the building lots upon meeting certain requirements;

- Adding more detailed standards to Section 21-83 relating to temporary sales offices in residential subdivisions;

- Establishes requirements for the preliminary plat and for City Commission review and approval of the preliminary plat in Article VII, Section 21-394;

- Provides for a one year period to submit for review of site plans setting forth the subdivision's required infrastructure. Should a site plan not be submitted within one year of preliminary plat approval, the preliminary plat will become null and void;

- Updates Article VI, Section 21-315, to provide for concurrency at the preliminary plat approval stage as appropriate; and

- Makes general updates to Article VI, to address outdated language regarding concurrency and adopted Level of Service standards.

FINANCIAL IMPACT

There will be no financial impact as a result of this request.

This is an ordinance pertaining to the amendment of the City's Comprehensive Plan, which is enacted to implement requirements contained in Part II, Chapter 163 of Florida Statutes. In accordance with Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)), ordinances implementing Part II, Chapter 163, F.S. are exempt from providing Business Impact Estimates.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at its July 9, 2024 regular meeting, unanimously voted to recommend approval of this request. There were no public comments.

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-33.

ATTACHMENT

- Ordinance O-24-33

ORDINANCE NO. O-24-33

AN ORDINANCE AMENDING THE WINTER HAVEN CODE OF ORDINANCES, CHAPTER 21, ARTICLE II, SECTION 21-83, MODEL HOMES AND TEMPORARY SALES OFFICES, CHAPTER 21, ARTICLE VI, DIVISION 1, CONCURRENCY, AND CHAPTER 21, ARTICLE VII, DIVISION 5, SUBDIVISION REGULATIONS, FOR THE PURPOSE OF ADDRESSING MODEL HOME CONSTRUCTION PRIOR TO FINAL PLAT APPROVAL, ESTABLISHING A PRELIMINARY PLAT PROCESS, AND CLEAN-UP OF EXISTING LANGUAGE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proposed amendment to the Winter Haven Land Development Code, has been studied, documented, advertised, and heard by the Winter Haven Planning Commission; and

WHEREAS, the Florida Legislature passed Senate Bill (SB) 812, which was subsequently signed into law by the Governor, and becoming effective October 1, 2024, requiring the City to create a process to allow model homes to be constructed on up to fifty (50) percent of the lots in a subdivision prior to approval of a final plat; and

WHEREAS, SB 812 also requires the City to reintroduce the preliminary plat to the City's subdivision approval process; and

WHEREAS, the City Commission of the City of Winter Haven, Florida, finds that it is expedient to revise Chapter 21, Article II, Section 21-83, Chapter 21, Article VI, Division 1, and Chapter 21, Article VII, Division 5, for the purpose of addressing model home construction prior to approval of a final plat; and

WHEREAS, the request implements requirements contained in Part II, Chapter 163 of Florida Statutes, and therefore is exempt from requiring a Business Impact Estimate as set forth by Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)).

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

1. That Chapter 21, Article II, Section 21-83, Model Homes and Temporary Sales Offices, of the Code of Ordinances of the City of Winter Haven, Florida is hereby amended to read as shown in Exhibit "A", attached hereto and made a part hereof.

2. That Chapter 21, Article VI, Division 1, Concurrency, of the Code of Ordinances of the City of Winter Haven, Florida is hereby amended to read as shown in Exhibit "B", attached hereto and made a part hereof.

3. That Chapter 21, Article VII, Division 5, Subdivision Regulations, of the Code of Ordinances of the City of Winter Haven, Florida is hereby amended to read as shown in Exhibit "C", attached hereto and made a part hereof.

4. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect.

5. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

6. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, section of this ordinance may be renumbered or relettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

7. Upon passage on second reading, this Ordinance shall become effective October 1, 2024.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

New text is underlined in red and deleted text is ~~stricken through in red~~.

Sec. 21-83. - Model homes and temporary sales offices.

(a) Model homes ~~and temporary sales offices~~ may be permitted within residential subdivisions prior to final plat approval by the City Commission subsequent to developer's receipt of ~~the City's written concept plan~~ site plan approval in accord with section 21-394 of this Code. The following requirements shall apply to all model homes ~~temporary sales offices~~ constructed prior to final plat approval:

(1) The number of model homes permitted within a subdivision shall not exceed ten (10) percent of the total number of building lots within the subdivision. Developers shall receive approval from the City prior to starting construction of any model homes.

(2) All model homes shall meet all lot area and building setback requirements for the zoning district in which the subdivision is being platted. Failure of a model home to comply with the required setbacks shall result in a refusal to issue a certificate of occupancy for that home.

(3) Fire hydrants and a stabilized road base shall be constructed and approved for use prior to the issuance of any building permits for model homes. The developer shall be responsible for maintaining the stabilized road base in a manner that allows for the safe passage of fire/rescue equipment. Should the road surface be found in an unsafe condition, the building official shall issue a "stop work" order on all model homes under construction until such time the roadway is brought back to a safe condition.

Should the fire hydrants and a stabilized road base not be in place, model homes may be constructed according to the following standards established by NFPA 1141, Standard for Fire Protection in Planned Building Groups:

a. Within three hundred (300) feet of at least one (1) fire hydrant that has been placed in a location acceptable to the City Fire Official, and

b. No portion of the exterior walls of the building shall be more than two (2) hundred (200) feet from a fire hydrant with vehicular access.

(4) To receive/seek final subdivision approval, a scaled drawing of the subdivision showing the locations of all model homes shall be submitted ~~to the engineering division~~ along with the final subdivision plat application.

(5) No model home shall be occupied for residential purposes until the final subdivision plat has been approved by the City and recorded with the clerk of the courts nor shall any certificates of occupancy (temporary or otherwise) be issued for any model homes constructed in proposed subdivisions until after final plat approval.

~~(6) Model homes may be used as a temporary sales office for the subdivision in which it is located. Model homes and temporary sales offices may continue operating until all lots or houses within that subdivision are sold.~~
To construct homes on more than ten (10) percent of the building lots within a proposed subdivision, the Preliminary Plat process, as outlined in Section 21-395 of this Code, shall be followed.

~~(7) Signs used for model homes and temporary sales offices shall conform to the requirements set forth by article 4 of this chapter. All signs shall be reviewed for placement, design, and duration by the building official. The sign area shall not exceed thirty-two (2) (32) square feet.~~

(b) Temporary Sales and Leasing Offices.

Temporary sales or leasing offices may be permitted within residential subdivisions subject to the following requirements:

(1) Model homes or modular building may be used as a temporary sales office for the subdivision in which it is located. Model homes and temporary sales offices may continue operating until all lots or houses within that subdivision are sold.

(2) Signs used for model homes and temporary sales offices shall conform to the requirements set forth by Article IV of this chapter. All signs shall be reviewed for placement, design, and duration by the building official. The sign area shall not exceed thirty-two (32) square feet. All signage shall be removed upon removal of the temporary sales office and/or residential occupancy of all model homes.

(3) All temporary sales offices open to the public shall provide a dedicated, off-street, parking area located within 150 feet of the temporary sales office. The parking area shall meet the following design standards:

a. A minimum of four (4) up to a maximum of eight (8) parking spaces shall be provided, including a minimum of one (1), hard surface, ADA accessible parking space meeting the design requirements of Section 21-145.

b. Temporary sales office parking areas shall be constructed of a hard all-weather surface or gravel consisting of #57 stone or larger. Should gravel be used for the parking surface, a concrete apron constructed per City standards and a minimum curb measuring six (6) inches in height shall be installed to contain the stone.

c. All off-street parking areas serving a temporary sales office shall be removed upon permanent closure of the temporary sales office and the area restored to its previous condition.

(4) No certificates of occupancy (temporary or otherwise) shall be issued for temporary sales or leasing offices constructed within proposed subdivisions until after final plat approval.

New text is underlined in red and deleted text is ~~stricken through in red~~.

ARTICLE VI. - PUBLIC FACILITY MONITORING AND PERMITTING
DIVISION 1. - CONCURRENCY

Sec. 21-311. - General provisions.

The purpose of this section is to ensure that facilities and services needed to support development are available concurrent with the impacts of development. The following public facilities and services are subject to concurrency evaluation: roads, potable water, sanitary sewer, stormwater management, solid waste, and recreation.

Except as otherwise provided, no development proposal submitted after the effective date of this Code shall be approved unless public facilities are or will be available to serve a proposed development, such that the levels of service adopted in the comprehensive plan are maintained. Prior to concurrency approval for a proposed development, the following conditions shall be met, as applicable:

(a) For potable water, sewer, solid waste, and stormwater management, the concurrency requirement may be met through one (1) of the following conditions or actions:

(1) The necessary facilities and services are in place at the time a development permit is issued;

(2) A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur;

(3) The necessary facilities are under construction at the time a permit is issued; or

(4) The necessary facilities and services are guaranteed in an enforceable development agreement that includes provisions (1)-(3) above. An enforceable development agreement shall include, but is not limited to, the provisions of section 163.3227, F.S., or shall be a development order issued pursuant to sections 163.3220-3243, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S. The agreement shall guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

(b) The concurrency requirement for roads may be met by satisfying the conditions listed in paragraphs (a)(1)-(4) above, and by complying with the following standards:

(1) The capital improvements element and five-year schedule of capital improvements must be financially feasible, and may recognize and include transportation projects listed in the first three (3) years of the applicable FDOT five-year work program.

(2) The five-year schedule of capital improvements must include facilities necessary to maintain the adopted level of service standards to serve the proposed new development, and the facilities necessary to eliminate those portions of existing deficiencies that are a priority to be eliminated during the five-year period in which the capital improvements plan is to be implemented.

(3) The capital improvements element and five-year schedule of capital improvements must be based on currently available revenue sources that must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit.

(4) The five-year schedule of capital improvements must include the estimated date of commencement of actual construction and the estimated date of project completion.

(5) The five-year schedule of capital improvements must demonstrate that the actual construction of the road must be scheduled to commence in or before the third year of the five-year schedule.

(6) A plan amendment would be required to eliminate, defer or delay construction of any road that is needed to maintain the adopted level of service standard and that is listed in the five-year schedule of capital improvements.

Sec. 21-312. - Concurrency management system.

The concurrency management system (CMS) shall identify and inventory existing service capacities available for development. To accomplish said inventory, a concurrency application, the form of which is available in the ~~planning~~ Economic Opportunity and Community Investment director's office, shall be filed with and reviewed by the City, and a determination of concurrency shall be made prior to formal submittal of a development plan of any kind. The following procedure shall be carried out in order to obtain a determination of concurrency.

(a) A completed concurrency application shall include the following information:

(1) Projected average daily traffic (ADT) and peak-hour traffic generated by the proposed development and the traffic distribution on the existing roadway(s).

(2) Projected potable water demand generated by the proposed development and identification of the service provider.

(3) Projected wastewater demand generated by the proposed development and identification of the service provider.

(4) Projected solid waste generation and identification of the service provider.

(5) Description of the stormwater management system for the proposed development. This description shall include the stormwater management basin in which the proposed project is located, method of treatment, system design parameters, and location of outfall.

(b) Where required information is readily available, the Economic Opportunity and Community Investment ~~planning~~ director may, at his or her discretion, obtain or calculate one (1) or more of the above data requirements. However, it shall be the applicant's full responsibility to ensure that the concurrency application is complete and accurate.

(c) The ~~planning~~ Economic Opportunity and Community Investment director, or his/her designee, shall distribute the completed concurrency application to appropriate City departments charged with providing the identified services. Each department shall ~~certify~~ provide comments on the concurrency application ~~whether or not there is sufficient capacity to service the development~~.

(d) For any public service not provided by the City of Winter Haven, the ~~planning~~ Economic Opportunity and Community Investment director may waive capacity certification on a case-by-case basis if there is satisfactory evidence that capacity is available to support the proposed development. Stormwater management certification for single-family development on existing lots may be waived under the same conditions.

(e) The applicant shall be notified within seven (7) working days as to whether the proposed development meets the concurrency requirement. If the proposal is determined to meet

concurrency, the applicant may proceed with the development process as set forth in other sections of this Code. Proposals not meeting concurrency shall not be processed for review until and unless an agreement has been reached by the City and the developer to mitigate the identified deficiency.

Sec. 21-313. - Fees.

Fees for staff review of concurrency applications shall be established, and may be changed from time to time, by resolution of the City Commission.

Sec. 21-314. - Developments to be consistent with concurrency applications.

All development proposals submitted to the City for review shall be consistent with the data established in the concurrency application. Those exceeding the service demand levels established in the concurrency application shall not be processed. The applicant shall be provided with a written notice that a new concurrency application shall be required.

Where deficiencies have been identified, development plans based on an agreement to provide needed facilities and/or services shall be processed with the agreement as a condition of development approval. However, the City shall not be required to approve a development plan that meets the concurrency requirement, but does not satisfy other provisions of this Code.

Sec. 21-315. - Allocation of municipal services.

Allocations of ~~public facility and service~~ potable water, wastewater, and roadway capacities shall be on a first-come, first-served basis, unless otherwise provided for by this Section. Services shall be allocated at the following stages:

(a) *Residential subdivisions.*

(1) On ~~final~~ approval of a preliminary subdivision plat, service capacities shall be allocated based on the approved preliminary plat. Allocation of service capacity shall be valid for ~~five~~ three (~~5~~ 3) years from the date of ~~final~~ preliminary plat approval; provided however, should any model homes be constructed within the subdivision, allocation of services for those constructed homes shall be in perpetuity; or

(2) On approval of a final subdivision plat, service capacities shall be allocated based on the approved final plat in perpetuity.

(b) ~~On final approval of a conditional use permit, service capacities shall be allocated based on the conditional use permit. Allocation of service capacity shall be valid for three (3) years from the date of approval of the conditional use permit.~~

~~(c)~~ ~~Those~~ Multi-family, commercial, or industrial developments ~~that are~~ processed under the site development plan review procedures, as set forth by Section 21-439, shall be allocated service capacities upon approval of the site development plan. Allocation of service capacity shall be valid for ~~six~~ eighteen (~~6~~ 18) months from the date of site development plan approval. Should vertical or horizontal construction not commence within eighteen (18) months, the developer may apply for a single, twelve (12) month extension prior to expiration of the initial approval.

(c) Affordable housing projects, as defined by Chapter 163.3177(6)(f)(3) F.S., shall receive capacity reservations upon formal submittal of a site plan to the City for review in accordance with procedures established in Section 21-439 of this Code. Capacity reservations for affordable housing projects shall be prioritized over all other development types, and shall remain in place for up to thirty-six (36) months from the time of reservation.

Sec. 21-316. - Levels of service.

Through the concurrency management system, Winter Haven shall maintain the following levels of service for public facilities:

Facility	Level of Service
Utilities	
Sanitary sewer	~~125 gallons per capita per day (g/c/d)~~ 100 gallons per person per day
Potable water	~~196 g/c/d by 1995~~ 120 gallons per person per day
	~~177 g/c/d by 2000~~
Solid waste	~~5.5~~ 4.5 pounds per person per day
Transportation	

Backlogged facilities		Maintain and improve
~~Principle arterials~~ Roadways without fixed-route transit		D
Roadways with fixed-route transit[1]	~~Minor arterials~~ M-1	~~E~~ D + 10 percent
	~~Collector and local roadways~~ M-2	E
	M-3	E + 10 percent
Recreation and open space		~~5.5~~ 6.0 acres per 1,000 residents

Stormwater management	~~The stormwater management level of service for new development shall be equal to a~~ 25-year 24-hour storm event~~. Stormwater treatment and disposal facilities shall meet the design and performance standards established in section 17-25.025, FAC. The first inch of stormwater runoff shall be treated on-site, pursuant to Section 17-3.051, FAC. Stormwater discharge facilities shall be designed such that the receiving water body shall not be degraded below minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 17-3, FAC. These standards shall apply to all new development and redevelopment. For existing development, the City has established a level of service to contain the three-year twenty-four-hour storm event.~~
Public Schools	100 percent of Florida Inventory of School Houses (FISH) capacity

[1] Multi-modal level of service is defined as follows:

M-1: Minimal fixed-route transit corridor with 60-minute headways

M-2: Enhanced fixed-route transit corridor with 30-minute headways with improved transit stops and some connections to properties located within ¼ mile of the transit route.

M-3: Extensive fixed-route transit area with 30-minute headways with improved transit stops and extensive connections to all properties within ¼ mile of the transit route.

All development that was not approved through a subdivision plat, conditional use permit, site development plan, or the issuance of a building permit prior to the date of adoption of this Code shall be subject to an adequacy determination through the concurrency management system. An adequacy determination shall also be required for existing development where any improvement, expansion, or other change is proposed that may result in a greater demand for those public facilities addressed in this section. The ~~planning~~ Economic Opportunity and Community Investment director shall determine whether a proposed change in existing development requires an adequacy determination.

Sec. 21-317. - Adequacy of the road system.

As part of the adequacy determination, the adequacy of the road network shall be evaluated according to conditions at the time the development plan or building permit is approved. Initial measurement of roadway capacities shall be carried out using data and methodology accepted by FDOT or other traffic analysis techniques that are technically justifiable as determined by the planning director. Capacity ratings on the State highway network shall be approved by FDOT.

Any proposed development shall be required to address the adequacy of the City's road network as it relates to the projected traffic volumes generated by the development. If any affected road segment lacks capacity to accommodate the additional traffic generated at the adopted LOS, it shall be determined whether such capacity will be available if all of the transportation improvements contained in the City's comprehensive plan and/or that of Polk County are completed.

For the purpose of this section, improvements to State roads resulting in an improvement in the level of service, and that are scheduled to occur by the third year of the FDOT's five-year work program, shall be considered concurrent. If it is determined that such capacity will not be available, then the specific improvements necessary to enable the road network to reach such capacity shall be identified, through the completion of a detailed transportation study conducted by a professional in the field of transportation planning, and the application may be granted with an express condition regarding the adequacy of the City's transportation network.

At the sole discretion of the City commission, such condition shall require one (1) of the following:

(a) That the applicant shall construct the necessary improvements proportional to the share of the additional capacity that is needed to accommodate traffic generated by the applicant's development; or

(b) That the applicant deposit money into a "road fund" equal to the share of the cost of the improvements that would otherwise be required.

Sec. 21-318. - Monitoring.

The concurrency management system shall be monitored and updated ~~annually~~ as new development projects are submitted for review and infrastructure projects are placed into service. Monitoring and updating shall consist of summing all approved services ~~during each year~~ and subtracting those sums from the capacities available ~~at the beginning of the concurrency period~~. Added capacity shall include ~~A~~any capital improvement ~~scheduled during the concurrency period and~~ constructed or placed into service shall ~~then~~ be added to the capacity totals~~.~~; ~~In addition,~~ any developer-sponsored facility or service placed into service as a result of mitigation shall be accounted for in the specific facility/service provided~~.~~; and ~~Upon calculation of available capacities under this method,~~ all capital improvements projects budgeted and approved by the City Commission in the first three (3) years of its five-year schedule of capital improvements ~~shall be added to the relevant capacities~~. The sums of all aforementioned calculations shall then be the available capacities ~~for the next year~~ to serve proposed development projects. The following calculation shall be the basis of the ~~annual~~ concurrency monitoring system:

	Available Capacity
+	Constructed Improvements
+	Developer Sponsored Mitigation Improvements
+	Programmed Improvements (~~1~~1st ~~year S.C.I.~~ First 3 years of CIP Schedule)
-	Development Approved ~~during year~~
=	Available Capacity ~~(Nth year)~~

~~If capital projects identified in the first year of the City's five-year schedule of capital improvements were not constructed or placed into service during the identified concurrency period, those projects shall be subtracted from available capacities and, if not provided for in~~

~~the capital budget, removed from capacity available for concurrency purposes. Development projects approved based on service capacities presumed to be available shall not be permitted to proceed until a method to mitigate any deficiency has been approved. Such mitigation shall include, but not be limited to, phasing of a development project, payment of monies to construct necessary facilities, or the construction of necessary facilities.~~

Any preliminary subdivision plat or site development plan for which construction has not begun within the time frame specified in this Code shall be considered lapsed and shall forfeit any allocation of service capacity. Upon forfeiture, all capacities so allocated shall be returned to the service/facility provider. ~~The concurrency management system shall be approved by resolution of the City commission on the first regularly scheduled City commission meeting in September of each year.~~

Sec. 21-319. - Appealing City's adequacy determination.

A developer may challenge any concurrency determination made by the City by appealing the decision to the City commission. The appeal shall be accompanied by substantial, competent evidence that sufficient capacity does exist by virtue of the following:

(a) The impacts of the proposed development will differ from the impacts estimated by the City as a result of special circumstances of that development;

(b) Based on the City's own information, the analysis being used has an error in its base data; or

(c) In the case of roads, the applicant presents evidence through travel speed, distance and time studies that impacted roadway links actually operate at higher levels of service than indicated by the City's analysis. Methodology for such travel speed/distance/time studies shall be certified by a licensed professional traffic engineer. In the event the travel speed/distance/time studies are warranted, the City or its agent shall conduct or commission such a study after receiving a fee from the applicant to cover the costs of conducting and analyzing the study. The applicant shall have the opportunity to review the methodology prior to the commencement of the study.

Sec. 21-320. - Options for achieving compliance.

Where it appears, or it has been determined, that there is a lack of capacity to service a proposed development, the developer should consider a variety of methods for achieving compliance. Some possibilities are as follows:

(a) The developer may propose a plan amendment that lowers the adopted level of service standard for the affected facilities and/or services.

(b) The developer may propose a reduction in the scale or impact of the proposed development.

(c) The developer may propose a phasing of the proposed development to match the availability of capacity with the timing of each phase of the development. Specific conditions for permitting each phase to proceed shall be included in an enforceable development agreement or development order to ensure that necessary public facilities and services will be in place when the impacts of the development occur.

(d) The developer may propose a development agreement assuring that the required facility capacity will be provided. Any development agreement must provide one (1) or more of the following assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of completing or providing any public facilities and services that may be necessary to maintain the adopted level of service standards for the subject property:

(1) Cash escrow;

(2) Irrevocable letter of credit; or

(3) Prepayment of capacity/connection charges.

Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the City shall do one (1) of the following:

(1) Contract with the applicant for the full cost of the facility, including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share;

(2) Obtain assurances from other sources similar to those described above in this section; or

(3) Amend the comprehensive plan to modify the adopted level of service standard so as to reduce the required facility to equal the applicant's needs.

(e) Where a developer disagrees with the results obtained by the City in its concurrency review regarding transportation, a transportation study may be performed at the option and expense of the developer. The results of the study shall be considered by the City in subsequent determinations regarding the development's compliance with concurrency requirements.

(f) For those roadway facilities that indicate a lower LOS than the adopted standard of the City of Winter Haven Comprehensive Plan, the City shall allow applicants to perform an operating LOS assessment based upon procedures outlined in the 1985 Highway Capacity Manual. A discussion of any proposed transportation system management and/or mitigation strategies shall be included in the study. The transportation study shall be signed and sealed by a registered professional engineer. The cost of this assessment shall be borne by the applicant.

New text is underlined in red and deleted text is ~~stricken through in red~~.

Article VII DEVELOPMENT APPROVAL PROCESS
DIVISION 5. SUBDIVISION REGULATIONS

Section 21-390. Generally.

Section 177.031 of the Florida Statutes defines "subdivision" to mean the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

Section 21-391. Purpose and intent.

(a) Chapter 177 of the Florida Statutes establishes consistent minimum requirements and creates such additional powers in local governing bodies to regulate and control the platting of lands; and therefore, Chapter 177 of the Florida Statutes establishes minimum requirements and does not exclude additional provisions or regulations by local ordinance, laws, or regulations.

(b) The purpose~~s~~ of these subdivision regulations are to further the provisions of State legislation that regulates and requires the platting of land for development, to further the goals and policies of the Winter Haven Comprehensive Plan, and to set forth a process for approval of the subdivision of land within the jurisdiction of the City. The provisions of this chapter shall be held to be minimum requirements. It is therefore essential to the promotion of the public health, safety and welfare that the development of subdivisions be conceived, designed and constructed in accordance with the proper minimum standards.

(c) The rules and regulations contained in this chapter are adopted as the City's subdivision code to guide and coordinate subdivision development within the City. Where provisions for subdividing land are either more restrictive or less restrictive than other land developments codes, resolutions or rules adopted by the City, those provisions which are more restrictive and impose higher standards or requirements shall govern.

(d) A condominium, as defined by Florida law, meeting the definition of a subdivision as defined herein shall be regulated under the provisions of this code.

Section 21-392. Small-scale Subdivision.

To provide opportunities for small, infill redevelopment within the City, subdivisions resulting in five (5) or fewer lots may be platted as a small-scale subdivision.

(a) Minimum requirements.

To qualify as a small-scale subdivision, all the following criteria shall apply:

1. The small-scale subdivision does not create a lot, or lots, that do not meet applicable zoning district standards for width, depth, and area.

2. Each lot within the small-scale subdivision has the minimum required frontage on a paved public road and no new public streets and/or roads are needed to serve any proposed lot.

3. Public water and wastewater lines, meeting current City standards, are available to the small-scale subdivision and no extensions and/or upgraded infrastructure are needed to serve any lot within the small-scale subdivision. Certification shall be provided by a professional engineer registered in the State of Florida.

4. A small-scale subdivision shall connect to the City's water and wastewater lines. The applicant's proposed use of individual sewage treatment systems (septic tank system) shall preclude a development from review as a small-scale subdivision.

5. No onsite or off-site drainage infrastructure, except driveway culverts, is required to serve any proposed lot within the small-scale subdivision. Certification shall be provided by a professional engineer registered in the State of Florida.

(b) Submittal of final plat for a small-scale subdivision.

Upon the written confirmation by both the Economic Opportunity and Community Investment Director and City Engineer that the proposed development satisfies the minimum requirements set forth in subsection (a) and qualifies as a small-scale subdivision, the developer may present a final plat for approval to the City Commission. The final plat may be approved if it meets all requirements as set forth by Chapter 177, F.S. and the following requirements:

(1) *Submission of final plat.*

(a) An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the Economic Opportunity and Community Investment Department Director. The Economic Opportunity and Community Investment Department Director shall forward copies of the final plat to the City Engineer, City Attorney, and a surveyor licensed by the State of Florida under the City's employ and/or contract for their review and comments. Upon approval of the final plat by City staff, the Economic Opportunity and Community Investment Department Director shall place the application(s) on the agenda of the City Commission for final review and approval.

(b) Required documents. One (1) electronic copy of the following documents shall be submitted for review of the final plat:

1. Final plat conforming with the requirements as set forth in Chapter 177, Florida Statutes and including, but not limited to, the following items:

   a. Dedications and reservations executed by the developer;

   b. Acknowledgement and joinder for any party accepting a dedication and/or reservation;

   c. Certification by a registered land surveyor;

   d. Statements of endorsement to be signed by the City Engineer, Economic Opportunity and Community Investment Department Director, City's reviewing surveyor, Mayor, and City Clerk.

   The preferred scale of the final plat is one (1) inch equals one hundred (100) feet.

2. Boundary survey of the lands contained within the subdivision.

3. An Autocad file (.dwg) of the final plat and boundary survey.

4. Pursuant to Section 177.041, Florida Statutes (2021), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of final plat approval and certified no earlier than 30 days prior to the date on which the application is submitted.

5. Documentation establishing, if applicable, that a homeowner's association or property owner's association is legally formed and active for the small-scale subdivision.

6. Copy of any proposed and/or recorded restrictive deeds and covenants for the small-scale subdivision.

(2) *Review and recording.*

(a) The City Commission shall take action to accept or reject the final plat. The City Commission may add reasonable conditions to its approval of a final plat, but if it determines that the developer must make changes to the plat, including changes to exactions or to restrictions on the face of the plat, then it shall be remanded to the City Attorney to review such changes. Approval of the final plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the final plat to be recorded.

(b) Upon approval by the City Commission, three (3) mylars of the final plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The City Clerk shall be responsible for recording the final plat and for returning one (1) reproducible copy of the recorded plat to the City Engineer.

Section 21-393. Large-scale subdivision review and approval procedure.

(a) Any subdivision resulting in more than five (5) lots, parcels, or tracts, or any subdivision dedicating public rights-of-way, shall be deemed a large-scale subdivision. Large-scale subdivision approval procedures are set forth herein as a ~~three~~ four-step process:

Step One: Site plan review and approval;

Step Two: ~~Infrastructure construction~~ Preliminary plat approval; ~~and~~

Step Three: ~~Final plat approval~~ Infrastructure construction; and~~.~~

Step Four: Final plat approval.

Step Two, Preliminary plat, of this process may be optional if homes are not constructed on more than ten (10) percent of the proposed building lots prior to final plat approval.

(b) This process is intended to permit comprehensive review by the City and to benefit the developer by identifying potential problems and their solutions at appropriate times during the review and approval process. As with all stages of the development approval process, it is the responsibility of the developer to check all State and local regulations governing the subdivision of land and to adhere strictly to the procedures therein.

(c) Where the City Commission finds that extraordinary hardships may result from the strict application of the planning and engineering standards set forth in Article III of these regulations, the City Commission may consider conditions that are recommended by the City Manager and that the City Commission determines are necessary to ensure that substantial justice is done and the public interest is upheld. Provided however, the effect of the conditions shall not be to nullify the applicable provisions of this code and/or the policies established by the comprehensive plan of the City.

Sec. 21-394. Site plan review.

(a) *Generally*. Any subdivision involving phased or staged development shall be identified in written and graphic form in the application for site plan review and shall designate, for information purposes only, all construction phases and the proposed development schedule.

(b) *Independent operation*. All construction phases in a development shall be construed to be capable of independent operation or in conjunction with other constructed phases with respect to drainage, vehicular circulation, utilities, infrastructure and other public improvements and services.

(c) The purpose and intent of the site plan is to safeguard the developer and City from any unnecessary loss of time and expense(s) involved in having engineering drawings prepared which do not conform to the minimum standards set forth herein. The site plan, therefore, will serve to demonstrate consistency with the City's comprehensive plan and

compliance with the City's minimum subdivision standards. The site plan does not imply approval of the construction drawings or final plat.

(d) The developer shall submit a fully engineered site plan to the Economic Opportunity and Community Investment Director. The Economic Opportunity and Community Investment Department Director or designee shall review the site plan as to its consistency with the City's comprehensive plan and conformance with the City's zoning regulations and other applicable land development regulations. The site plan shall show, at minimum, the proposed use; lot and street layout; lot sizes; subdivision boundaries; all infrastructure which includes, but is not limited to, water, wastewater, reuse, stormwater, streets, sidewalks, drainage system(s), retention/detention ponds, and the construction BMPs; and significant physical conditions which include, but are not limited to, lakes and watercourses, wetlands, and floodplains. Initial comments by the Economic Opportunity and Community Investment Department Director, City Engineer, and other City staff reviewing the site plan shall be detailed in a letter to the developer not less than fifteen (15) working days after submission.

(e) Approval of a site plan shall acknowledge the basic design of the subdivision and consistency with the comprehensive plan and zoning code. It shall not constitute approval of construction drawings or the final plat; it shall not authorize recording or acceptance

of improvements or dedications. Upon approval of the site plan, the developer has six (6) months to submit construction drawings. If the construction drawings are not submitted within six (6) months from the date the site plan is approved, then the site plan approval shall expire. The developer may request an extension of the approval for an additional six (6) months, upon written notice provided ten (10) days before the six (6) month expiration date. If site plan approval lapses, all future submittals for site plan approval shall be subject to any changes in the City's rules and/or regulations.

Sec. 21-395. - ~~Construction of subdivision infrastructure~~ Preliminary Plat.

~~(a) *Preconstruction meeting required*. The developer shall schedule a preconstruction meeting with the City Engineer prior to commencing any site work.~~

~~(b) The purpose of the preconstruction meeting is to review and approve of the construction drawings. The review and approval of the construction drawings by the City Engineer is to ensure satisfaction of the City design and specification requirements for the improvements that are to be constructed to serve the subdivision. Prior to the approval~~

~~of the site plan by the Economic Opportunity and Community Investment Department Director and submission of the final plat, the developer shall submit engineered construction drawings for the installation of improvements and infrastructure that are to be constructed to serve the subdivision. Construction drawings, which are consistent with the site plan, may be submitted simultaneously with the site plan.~~

~~(c) Construction drawings shall substantially conform to the approved site plan; provided, however, that the construction drawings shall be subject to subdivision, zoning, environmental, health and all other applicable regulations in effect at the time of construction drawing submission. In the event the City Engineer disapproves of the construction drawings, the applicant has three (3) months from the notification date to make any revisions and resubmit the construction drawings for review. After three (3) months, the construction drawings become subject to any changes in the City's rules and/or regulations.~~

~~(d) Upon approval of the construction drawings, the developer has six (6) months to begin construction of the required improvements as shown on the approved construction drawings. If construction does not begin within six (6) months, the developer may request an extension for a maximum of six (6) months by providing written notice to the City~~

~~Engineer before the original six (6) months expiration date. Should revisions to the construction drawings be necessary, then a resubmittal of the construction drawings shall be required. If construction drawing approval lapses, the plans become subject to any changes in the City's rules and/or regulations.~~

~~(e) *Construction inspection.* The City shall provide for periodic inspection of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.~~

The Preliminary Plat is a document depicting the proposed lot and roadway layout of a subdivision. The Preliminary Plat is optional for any commercial subdivision and those residential subdivisions where construction of homes on more than ten (10) percent of the building lots prior

to final platting will not occur. Where homes are planned to be constructed on more than ten (10) percent of the building lots prior to final platting, the Preliminary Plat shall be mandatory.

(a) *Requirements.* At a minimum, the Preliminary Plat shall depict the following information:

1. Proposed subdivision name;
2. North Arrow;
3. Scale;
4. Legal description;
5. Layout and dimensions of proposed building and common lots shown to one-hundredths of a foot;
6. Layout and dimensions of proposed streets shown to one-hundredths of a foot;
7. Street names;
8. Names and locations of adjoining streets; and
9. All Drainage and Utility easements
10. Proposed dedications and reservations to be executed by the applicant/developer/landowner.
11. Proposed acknowledgement and joinder for any party accepting any dedication and/or reservation.

(b) *Application.* All applications on forms provided by the City and fees for a preliminary plat shall be submitted to the Economic Opportunity and Community Investment Director or his/her designee for review. In addition, the applicant shall provide:

(1) Pursuant to Section 177.041, Florida Statutes (2023), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of preliminary plat approval and certified no earlier than 30 days prior to the date on which the application is submitted; and

(2) A hold harmless and indemnification agreement by the developer/applicant/landowner in favor of the City of Winter Haven, Florida, its governing body, its employees, and its agents ("City"), in a form and manner acceptable to the City and the City Attorney, holding the City harmless from and indemnifying the City against liability or damages including attorney's fees and costs incurred by the City resulting from the issuance of a building permit or construction, reconstruction, or improvement or repair of a residential building or structure, including any

associated utilities, located in the residential subdivision or planned community that is the subject of the Preliminary Plat. Additionally, an applicant must indemnify and hold harmless the City from liability or disputes resulting from the issuance of a certificate of occupancy or its functional equivalent, if applicable, for a residential building or structure that is constructed, reconstructed, improved, or repaired before the approval and recordation of the final plat for the residential subdivision or planned community that is the subject of the Preliminary Plat. The Indemnification shall also include, but is not limited to, any liability and damage resulting from wind, fire, flood, construction effects, bodily injury, and any actions, issues, or disputes arising out of a contract or other agreement between the developer and a utility operating in the residential subdivision or planned community that is the subject of the Preliminary Plat;

(3) Provide a valid performance security for one hundred and twenty-five percent (125%) of the necessary improvements, as defined in Section 177.031(9), F.S., that have not been completed upon submission of the application under this section that is confirmed and certified by the applicant's engineer of record. For purposes of a master planned community as defined in Section 163.3202(5)(b), F.S., a valid performance security is required on a phase-by-phase basis. Such performance security shall comply with all applicable statutory requirements, the requirements of this Code, and be satisfactory in form to the City Attorney and the City Engineer and the City's Planning staff.

Within seven (7) business days, the Economic Opportunity and Community Investment Director or his/her designee shall issue a formal completeness letter indicating the application is complete.

(c) *Review and approval.* Within twenty (20) business days from the issuance of a completeness letter, staff shall provide written comments to the applicant or schedule the Preliminary Plat for City Commission action.

(d) *Validity of Preliminary Plat.* Preliminary Plat approval shall be valid for a period of three (3) years from the date of its approval by the City Commission. Should the final plat not be approved by the City Commission within three (3) years from the date of City Commission approval of the Preliminary Plat, the Preliminary Plat shall be deemed null and void.

Sec. 21-397. - ~~Final plat~~ Construction of subdivision infrastructure.

~~Upon the acceptance of the construction drawings by the City Engineer of all subdivision improvements, the developer may present a final plat for approval. The final plat shall be~~

~~approved by the City Commission by resolution if it meets all of the City's established minimum requirements and all other requirements set forth by Chapter 177 of the Florida Statutes.~~

~~(1) *Submission of final plat.*~~

~~(a) An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the Economic Opportunity and Community Investment Department Director. The Economic Opportunity and Community Investment Department Director shall forward copies of the final plat to the City Engineer, City Attorney, and a surveyor licensed by the State of Florida under the City's employ and/or contract for their review and comments. Upon approval of the final plat by City staff, the Economic Opportunity and Community Investment Department Director via the City Manager shall place the applications on the agenda of the City Commission for final review and approval.~~

~~(b) Required documents. One (1) electronic copy of the following documents shall be submitted for review of the final plat:~~

~~1. Final plat conforming with the requirements as set forth in Chapter 177, Florida Statutes and this code including the following items:~~

~~a. Dedications and reservations executed by the landowner;~~

~~b. Acknowledgement and joinder for any party accepting a dedication and/or reservation;~~

~~c. Certification by a registered land surveyor;~~

~~d. Statements of endorsement to be signed by the City Engineer, Economic Opportunity and Community Investment Department Director, City's reviewing surveyor, Mayor, and City Clerk.~~

~~The preferred scale of the final plat is one (1) inch equals one hundred (100) feet.~~

~~2. Boundary survey of the lands contained within the subdivision.~~

~~3. An Autocad file (.dwg) of the final plat and boundary survey.~~

~~4. Pursuant to Section 177.041, Florida Statutes (2021), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of final plat approval and certified no earlier than 30 days prior to the date on which the application is submitted.~~

~~5. Documentation establishing, if applicable, that a homeowner's association or property owner's association is legally formed and active for the subdivision.~~

~~6. Copy of the recorded restrictive deeds and covenants for the subdivision.~~

~~7. Detailed cost breakdown of all proposed improvements.~~

~~(c) All required permits and approvals issued by governing bodies having jurisdiction over properties being subdivided shall be furnished to the City Engineer and Economic Opportunity and Community Investment Department Director. The final plat shall not be approved by the City Commission without prior submission of permits and approvals.~~

~~(2) *Engineering drawings.* Three (3) sets of City-approved engineering as-built drawings shall be submitted with the final plat. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.~~

~~(3) Upon receipt of the application for final plat approval and once a determination is made by City staff that the final plat and all supporting documents conform to the City's requirements, the final plat will be forwarded via the City Manager to the City Commission for approval.~~

~~(4) When the final plat application and required documentation are not approved by City staff, the applicant has three (3) months from the notification date to make any revisions and resubmit for review. After three (3) months, the plans become subject to any changes in the City's rules and/or regulations.~~

~~(5) *Standards for approval.* No final plat shall be approved for recording, unless:~~

~~(a) The final plat conforms with the approved site plan preliminary plat;~~

~~(b) The final plat is in compliance with all applicable regulations, approved construction drawings and as-built drawings;~~

~~(c) All improvements have been installed, inspected and accepted by the City or, when approved by the City, the developer has provided the City with adequate performance security and adequate defect security in accordance with the provisions of this Code;~~

~~(d) The developer has paid all application and recording fees required by the City;~~

~~(e) When construction of improvements is required, a subdivision agreement or developer's agreement has been negotiated and executed by the developer; and~~

~~(f) The developer has provided one (1) copy of all homeowner's documents (articles of incorporation, bylaws, and deed restrictions) for review by the city attorney and three (3) copies of the approved homeowners documents; and~~

~~The City Commission shall take action to accept or reject the final plat. The City Commission may add reasonable conditions to its approval of a final plat, but if it determines that the developer must make changes to the plat, including changes to exactions or to restrictions on the face of the plat, then it shall be remanded to the City Attorney to review such changes. Approval of the final plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the final plat to be recorded.~~

~~(6) *Contingent approval.* Final plat approval shall be contingent upon the developer providing proof of:~~

(a) Filing with the Department of State of the bylaws and articles of incorporation for the Homeowners Association;

(b) When construction of improvements is required, a subdivision agreement or developer's agreement has been approved by the City Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and

(c) All federal, state and local permits which may include, but shall not be limited to, Florida Department of Transportation, Department of Environmental Protection, the U.S. Corps of Engineers, and the Southwest Florida Water Management District.

(7) *Effect of approval.* No lot may be sold until all contingencies have been fulfilled. Upon recordation of the final plat, the developer may submit application(s) for building permits. Upon approval by the City Commission, the final plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The City Clerk shall be responsible for recording the final plat and for returning one (1) reproducible copy of the recorded plat to the City Engineer.

(8) *Performance security required.*

(a) *Full performance security.* In order to receive final plat approval before the installation and/or completion of all improvements, the developer shall provide and maintain sufficient full performance security guaranteeing the installation and approval of all private on-site or off-site improvements and the installation and acceptance of all public on-site or off-site improvements in accordance with the minimum requirements set forth herein. When providing full performance security, the developer shall submit the performance security on forms acceptable to the City two (2) weeks before any City Commission action; such security shall be effective as of the date on which the City Commission approves the final plat. Such performance security shall comply with all applicable statutory requirements, the requirements of this Code, and be satisfactory in form to the City Attorney and the City Engineer and the City's Planning staff and be in an amount equal to one hundred and twenty-five percent (125%) of the developer's contract for the work that remains uncompleted and not accepted at the time of final plat approval as certified in writing by the engineer of record, subject to approval by the City's Planning staff and the City Engineer. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements

are completed and accepted shall accompany the surety. The letter of credit shall have a maximum duration of twenty-four (24) months.

(b) No more than fifty percent (50%) of the value of the total required improvements shall be considered for bonding and/or a letter of credit given hereunder.

(c) *Effective period; extensions.* The effective period of the performance security shall not be less than one (1) year from the date on which the City Commission approves the final plat; provided, however, that the City may permit or require extensions by renegotiation of the security amount and execution of a new subdivision agreement.

(d) *Release of performance security.* Subject to the terms of an applicable subdivision agreement, if any, the performance security shall be released by the City when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and affirmatively accepted by the City and/or entity with jurisdiction.

(9) Maintenance and defect guarantee.

(a) The developer shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten percent (10%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable subdivision agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the city attorney.

(b) The effective period for such security shall be one (1) year and thirty (30) days following the City's acceptance of the installed improvements. Upon default, the City may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable subdivision agreement.

~~(c) *Release of defect security.* Subject to the terms of such security and/or subdivision agreement, the maintenance and defect security shall be released by the City at the expiration of its effective period.~~

(a) *Preconstruction meeting required*. The developer shall schedule a preconstruction meeting with the City Engineer prior to commencing any site work, including clearing and grubbing work.

(b) *Construction inspection.* The City shall provide for periodic inspection of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

Sec. 21-397. - ~~Vacating of plats and replats~~ Final plat.

~~The owner of any land subdivided into lots may petition the City under the provisions of section 177.101, Florida Statutes, to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Winter Haven and Polk County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, statement of taxes and resolution, and shall pay the appropriate filing fee as established by resolution of the City Commission. Following review by the appropriate City departments, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Polk County.~~

Upon the acceptance of the construction drawings by the City Engineer of all subdivision improvements, the developer may present a final plat for approval. The final plat shall be approved by the City Commission by resolution if it meets all of the City's established minimum requirements and all other requirements set forth by Chapter 177 of the Florida Statutes.

(1) *Submission of final plat.*

(a) An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the

Economic Opportunity and Community Investment Department Director or his/her designee. The Economic Opportunity and Community Investment Department Director or his/her designee shall forward copies of the final plat to the City Engineer, City Attorney, and a surveyor licensed by the State of Florida under the City's employ and/or contract for their review and comments. Upon approval of the final plat by City staff, the Economic Opportunity and Community Investment Department Director or his/her designee via the City Manager shall place the applications on the agenda of the City Commission for final review and approval.

(b) Required documents. One (1) electronic copy of the following documents shall be submitted for review of the final plat:

1. Final plat conforming with the requirements as set forth in Chapter 177, Florida Statutes and this code including the following items:

   a. Dedications and reservations executed by the landowner;

   b. Acknowledgement and joinder for any party accepting a dedication and/or reservation;

   c. Certification by a registered land surveyor;

   d. Statements of endorsement to be signed by the City Engineer, Economic Opportunity and Community Investment Department Director, City's reviewing surveyor, Mayor, and City Clerk.

   The preferred scale of the final plat is one (1) inch equals one hundred (100) feet.

2. Boundary survey of the lands contained within the subdivision.

3. An Autocad file (.dwg) of the final plat and boundary survey.

4. Pursuant to Section 177.041, Florida Statutes (2023), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of final plat approval and certified no earlier than 30 days prior to the date on which the application is submitted.

5. Documentation establishing, if applicable, that a homeowner's association or property owner's association is legally formed and active for the subdivision.

6. Copy of the recorded restrictive deeds and covenants for the subdivision.

7. Detailed cost breakdown of all proposed improvements.

8. Scale drawing depicting any homes constructed on lots prior to approval of the final plat.

(c) All required permits and approvals issued by governing bodies having jurisdiction over properties being subdivided shall be furnished to the City Engineer and Economic Opportunity and Community Investment Department Director or his/her designee. The final plat shall not be approved by the City Commission without prior submission of permits and approvals.

(2) *Engineering drawings.* Three (3) sets of City-approved engineering as-built drawings shall be submitted with the final plat. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.

(3) Upon receipt of the application for final plat approval and once a determination is made by City staff that the final plat and all supporting documents conform to the City's requirements, the final plat will be forwarded via the City Manager to the City Commission for approval.

(4) When the final plat application and required documentation are not approved by City staff, the applicant has three (3) months from the notification date to make any revisions and resubmit for review. After three (3) months, the plans become subject to any changes in the City's rules and/or regulations.

(5) *Standards for approval.* No final plat shall be approved for recording, unless:

(a) The final plat conforms with any approved preliminary plat;

(b) The final plat is in compliance with all applicable regulations, approved construction drawings and as-built drawings;

(c) All improvements have been installed, inspected and accepted by the City or, when approved by the City, the developer has provided the City with adequate performance security and adequate defect security in accordance with the provisions of this Code;

(d) The developer has paid all application and recording fees required by the City;

(e) When construction of improvements is required, a subdivision agreement or developer's agreement has been negotiated and executed by the developer; and

(f) The developer has provided one (1) copy of all homeowner's documents (articles of incorporation, bylaws, and deed restrictions) for review by the city attorney and three (3) copies of the approved homeowners documents; and

The City Commission shall take action to accept or reject the final plat. The City Commission may add reasonable conditions to its approval of a final plat, but if it determines that the developer must make changes to the plat, including changes to exactions or to restrictions on the face of the plat, then it shall be remanded to the City Attorney to review such changes. Approval of the final plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the final plat to be recorded.

(6) *Contingent approval.* Final plat approval shall be contingent upon the developer providing proof of:

(a) Filing with the Department of State of the bylaws and articles of incorporation for the Homeowners Association;

(b) When construction of improvements is required, a subdivision agreement or developer's agreement has been approved by the City Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and

(c) All federal, state and local permits which may include, but shall not be limited to, Florida Department of Transportation, Department of Environmental Protection, the U.S. Corps of Engineers, and the Southwest Florida Water Management District.

(7) *Effect of approval.* No lot may be sold until all contingencies have been fulfilled. Upon recordation of the final plat, the developer may submit application(s) for building permits. Upon approval by the City Commission, the final plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The City Clerk shall be responsible for recording the final plat and for returning one (1) reproducible copy of the recorded plat to the City Engineer.

(8) *Performance security required.*

(a) *Full performance security.* In order to receive final plat approval before the installation and/or completion of all improvements, the developer shall provide and maintain sufficient full performance security guaranteeing the installation and approval of all private on-site or off-site improvements and the installation and acceptance of all public on-site or off-site improvements in accordance with the minimum requirements set forth herein. When providing full performance security, the developer shall submit the performance security on forms acceptable to the City two (2) weeks before any City Commission action; such security shall be effective as of the date on which the City Commission approves the final plat. Such performance security shall comply with all applicable statutory requirements, the requirements of this Code, and be satisfactory in form to the City Attorney and the City Engineer and the City’s Planning staff and be in an amount equal to one hundred and twenty-five percent (125%) of the developer's contract for the work that remains uncompleted and not accepted at the time of final plat approval as certified in writing by the engineer of record, subject to approval by the City’s Planning staff and the City Engineer. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements are completed and accepted shall accompany the surety. The letter of credit shall have a maximum duration of twenty-four (24) months.

(b) No more than fifty percent (50%) of the value of the total required improvements shall be considered for bonding and/or a letter of credit given hereunder.

(c) *Effective period; extensions.* The effective period of the performance security shall not be less than one (1) year from the date on which the City Commission approves the final plat; provided, however, that the City may permit or require extensions by renegotiation of the security amount and execution of a new subdivision agreement.

(d) *Release of performance security.* Subject to the terms of an applicable subdivision agreement, if any, the performance security shall be released by the City when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and affirmatively accepted by the City and/or entity with jurisdiction.

(9) Maintenance and defect guarantee.

(a) The developer shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten percent (10%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable subdivision agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the city attorney.

(b) The effective period for such security shall be one (1) year and thirty (30) days following the City's acceptance of the installed improvements. Upon default, the City may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable subdivision agreement.

(c) *Release of defect security.* Subject to the terms of such security and/or subdivision agreement, the maintenance and defect security shall be released by the City at the expiration of its effective period.

Sec. 21-398. Construction of homes prior to final plat approval.

Homes constructed on more than ten (10) percent of the building lots, but not exceeding fifty (50) percent of the building lots of a proposed subdivision, shall be permitted upon approval of a preliminary plat by the City Commission. The application for preliminary plat shall indicate the number of lots on which homes will be constructed. Prior to construction of any home within a proposed subdivision, the following criteria shall be met:

(1) All homes shall meet all lot area and building setback requirements for the zoning district in which the subdivision is being platted. Failure of a model home to comply with the required setbacks shall result in a refusal to authorize any occupancy and/or use for that home.

(2) Fire hydrants and a stabilized road base shall be constructed and approved for use prior to the issuance of any building permits for homes. The developer shall be responsible for maintaining the stabilized road base in a manner that allows for the safe passage of fire/rescue equipment. Should the road surface be found in an unsafe condition, the building official shall issue a "stop work" order on all model homes under construction until such time the roadway is brought back to a safe condition.

Should the fire hydrants and a stabilized road base not be in place, homes may be constructed according to the following standards established by NFPA 1141, Standard for Fire Protection in Planned Building Groups:

a. Within three hundred (300) feet of at least one (1) fire hydrant that has been placed in a location acceptable to the City Fire Official, and

b. No portion of the exterior walls of the building shall be more than two (2) hundred (200) feet from a fire hydrant with vehicular access.

(3) The Developer and Landowner shall enter into a hold harmless and indemnification agreement by the developer/applicant/landowner in favor of the City of Winter Haven, Florida, its governing body, its employees, and its agents holding them harmless from and indemnifying them against liability or damages including attorney's fees and costs incurred by the City resulting from the issuance of a building permit or construction, reconstruction, or improvement or repair of a residential building or structure, including any associated utilities, located in the residential subdivision or planned community that is the subject of the Preliminary Plat. Indemnification shall also include, but is not limited to, any liability and damage resulting from wind, fire, flood, construction effects, bodily injury, and any actions, issues, or disputes arising out of a contract or other agreement between the developer and a utility operating in the residential subdivision or planned community that is the subject of the Preliminary Plat

Sec. 21-399. - Vacating of plats and replats

The owner of any land subdivided into lots may petition the City under the provisions of section 177.101, Florida Statutes, to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Winter Haven and Polk County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, statement of taxes and resolution, and shall pay the appropriate filing fee as established by resolution of the City Commission. Following review by the appropriate City departments, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Polk County.

DATE: August 16, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Ordinance O-24-35: Request by V3 Haven Square Retail, LLC to amend Planned Unit Development Ordinance O-09-27 and to assign Planned Unit Development (PUD) zoning district to five (5) parcels. General Location: Sixteen (16) parcels generally located west of US Highway 17, south of Avenue R, SW, and east of the CSX Railroad tracks. The area covered by this request is 20.02± acres.

BACKGROUND

V3 Haven Square Retail, LLC, petitioner, requests the City amend Planned Unit Development (PUD) Ordinance O-09-27 and to assign PUD zoning to five (5) adjoining parcels. The area subject to this request consists of 16 parcels generally located south of Avenue R, SW, west of US Highway 17, and east of the CSX Railroad tracks. The 16 parcels total 20.02± acres and are presently vacant. The previous use of this property, for several decades, was a fertilizer processing and distribution facility which closed in 2009. The structures were demolished in 2010.

PUD Ordinance O-09-27 was adopted by the City Commission July 27, 2009, and generally allows retail, restaurant, and office uses without exterior activities on 11 of the 16 parcels. The PUD also allows for the development of up to 277 residential units. Maximum development intensity for commercial uses is controlled by the Primary Mixed Use Hub's Floor Area Ratio of 3.0 for parcels over one half acre in area. Based on 20.02 acres, 2.616 million square feet could theoretically be developed. Other items addressed by the PUD Ordinance include development standards relating to building setbacks, landscaping, sidewalks and a multi-use trail, access, limited architectural standards, lighting, and signage.

The petitioner is proposing to redevelop the property with one primary anchor site, intended for a big box retailer, and two smaller out-parcel sites. Four access points are proposed, including three on US Highway 17 and one from Avenue R, SW. The requested accesses from US Highway 17 will be subject to review and approval by the Florida Department of Transportation (FDOT). The primary anchor site is expected to contain 148,000 square feet of commercial space with an undetermined amount of

commercial space on each of the out-parcels. Proposed uses are requested to follow the Commercial-Highway (C-3) zoning district.

Major modifications to the current PUD as requested by the petitioner include:

- Inclusion of five (5) adjoining parcels under the petitioner's ownership into the PUD;
- Elimination of minimum lot width and lot area requirements;
- Determining setbacks from the overall project perimeter as opposed to individual lots;
- Allowing pervious pavement materials to count as a pervious surface on the site;
- Elimination of entrance median and landscaping requirements;
- Revisions to architectural design criteria;
- Increase in the amount of permitted signage;
- Revisions to landscaping requirements to allow for impervious buffers to aid in accommodating the Soil Management Plan for this site; and
- Revisions to parking requirements to allow for smaller parking spaces and exemption from any maximum parking requirements.

Staff's review of the petitioner's requested changes has found several will be beneficial in redeveloping the subject property; however, some requested changes conflict with portions of the City's Code, will result in significant impacts to supporting infrastructure, or convey significant deviation from development standards not found elsewhere in the City. Staff has addressed this in the proposed conditions.

SURROUNDING USES

Uses surrounding the subject area include warehousing across Avenue R, SW and automotive repair to the north; the AdventHealth Fieldhouse and Conference Center to the east across US Highway 17; outdoor storage to the south across the Lake Shipp/Lake Lulu Canal; and the Blue Lake citrus packing house and vacant land to the west.

INFRASTRUCTURE

The current maximum development intensity of the subject area is determined by the underlying Primary Mixed Use Hub Future Land Use for commercial uses and a PUD limitation of 277 residential units. Based on the assigned Primary Mixed Use Hub Future Land Use, up to 2.616 million (20.02 acres x 43,560 square feet x 3.0 FAR) square feet of commercial space could theoretically be developed. The

petitioner's request reduces the maximum development potential to 300,000 square feet of commercial space, with the potential to apply for up to 120,000 square feet in retail storage. The tables below break down potential impacts to supporting infrastructure.

Changes in Potential Demands from PUD Ordinance O-09-27

Infrastructure	Current Maximum Potential Demands	Proposed Maximum Potential Demands	Difference
	2.616 million SF Commercial and 277 units	300,000 SF Commercial & 120,000 SF Retail Storage	
Potable Water	694,736 gpd	72,000 gpd	-622,736 gpd
Sanitary Sewer	610,669 gpd	63,360 gpd	-547,309 gpd
Transportation	13,240 trips	1,506 trips	-11,734 trips

Impacts of Proposed Maximum Potential Demands on Supporting Infrastructure

Potable Water				
Current Available Capacity (June 30, 2024)		Current Vested Demands	Potential Demands	Remaining Capacity
2,570,000 gpd		1,803,100 gpd	72,000 gpd	694,900 gpd
Sanitary Sewer (WWTP 3)				
Current Available Capacity (June 30, 2024)		Current Vested Demands	Potential Demands	Remaining Capacity
2,927,000 gpd		899,100 gpd	63,360 gpd	1,964,540 gpd
Transportation (Traffic Count Data from Polk Transportation Planning Organization)				
Current Available Capacity (PM Peak Hour)		Current Vested Demands	Potential Demands	Remaining Capacity
U.S. Highway 17 (Third Street, SW)				
Northbound	874 trips	0 trips	768 trips	106 trips
Southbound	918 trips	0 trips	738 trips	180 trips

Note: Avenue R, SW is an unmonitored roadway. As an entrance is proposed from Avenue R, SW, a certain percentage trips will utilize this roadway.

At this time, sufficient potable water, sanitary sewer, and roadway capacity is available to support development on the subject property as proposed. The subject area is located within the City's Transportation Concurrency Exception Area (TCEA), and therefore not subject to transportation concurrency. As a result of being located in the TCEA, the petitioner will be required to submit a traffic

study at the time of site plan review, which outlines the development's impact on the surrounding roadway network, as well as identify measures to mitigate impacts. Additionally, PUD conditions limiting the amount of permitted commercial square-footage will further mitigate impacts to the surrounding roadway network. Final concurrency determination for required infrastructure elements will be made at the time a site plan is approved.

COMPREHENSIVE PLAN

The subject area is designated as Primary Mixed Use Hub by the 2035 Future Land Use Map. The requested changes to the PUD are consistent with the Primary Mixed Use Hub Future Land Use.

NOTIFICATION

All public notification requirements for this request were met.

FINANCIAL IMPACT

There is no direct financial impact to the City with this request.

This is an ordinance pertaining to the amendment of the City's Comprehensive Plan, which is enacted to implement requirements contained in Part II, Chapter 163 of Florida Statutes. In accordance with Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)), ordinances implementing Part II, Chapter 163, F.S. are exempt from providing Business Impact Estimates.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at its August 6, 2024 regular meeting, unanimously voted to recommend approval of this request. There were no public comments.

CONCLUSION

Staff's review of the petitioner's request yields the following conclusions:

- The proposed uses and development intensities are consistent with the adopted Primary Mixed Use Hub Future Land Use;

- The petitioner's request will result in a reduction of potential impacts to supporting utility and roadway infrastructure, and at this time there is adequate utility capacity to serve the petitioner's request;

- The requested signage changes have some merit given the subject area's location on 6-lane, US Highway 17 and visibility issues resulting from the adjacent US Highway 17 bridge; and

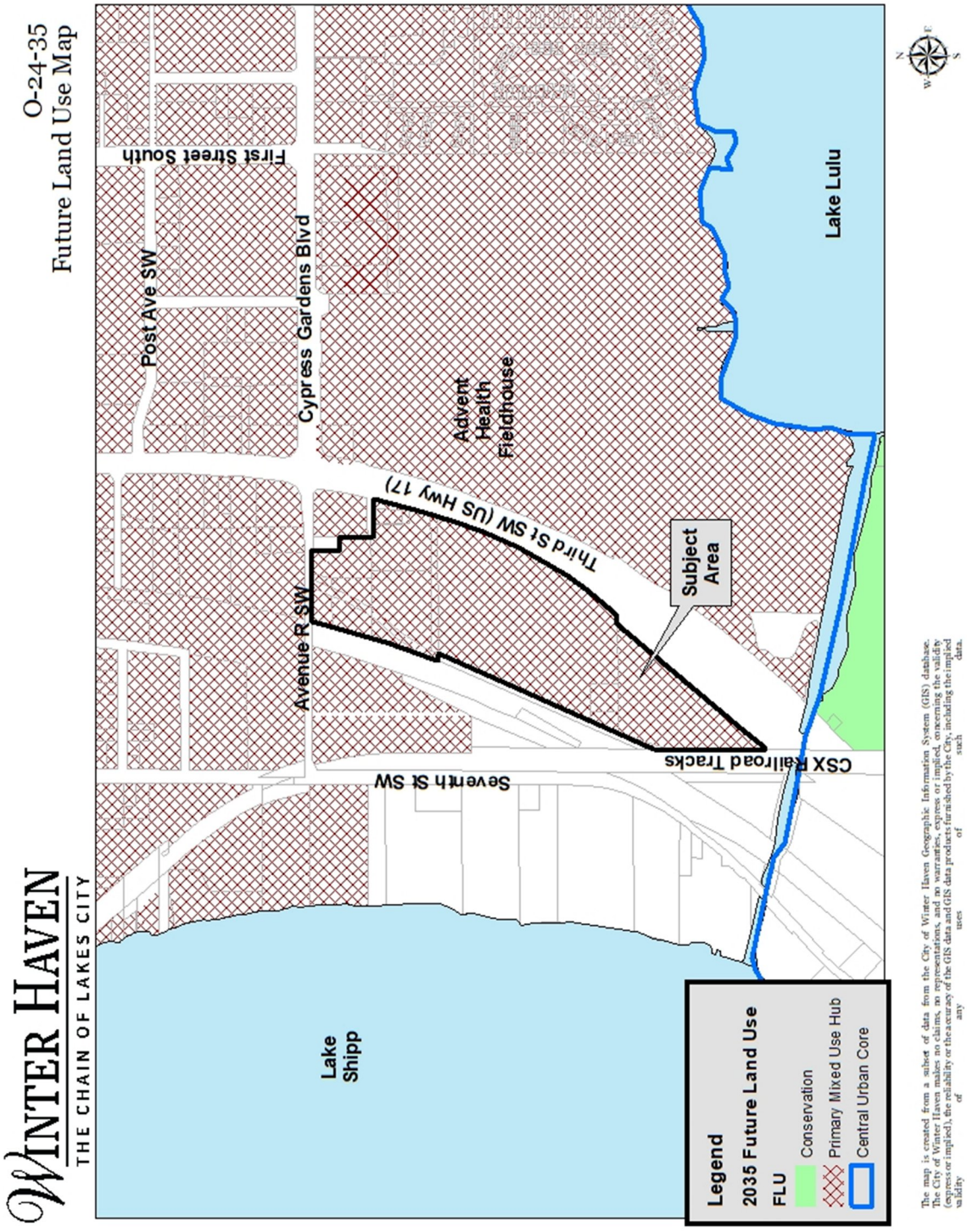
- The subject area has been subject to PUD Ordinance O-09-27 for 15 years with limited inquiries regarding redevelopment. Proposed revisions to the PUD zoning on the subject area, developed by staff in consideration of the petitioner's requested changes, represent a more flexible effort to redevelop a large vacant property that is a gateway into the City.

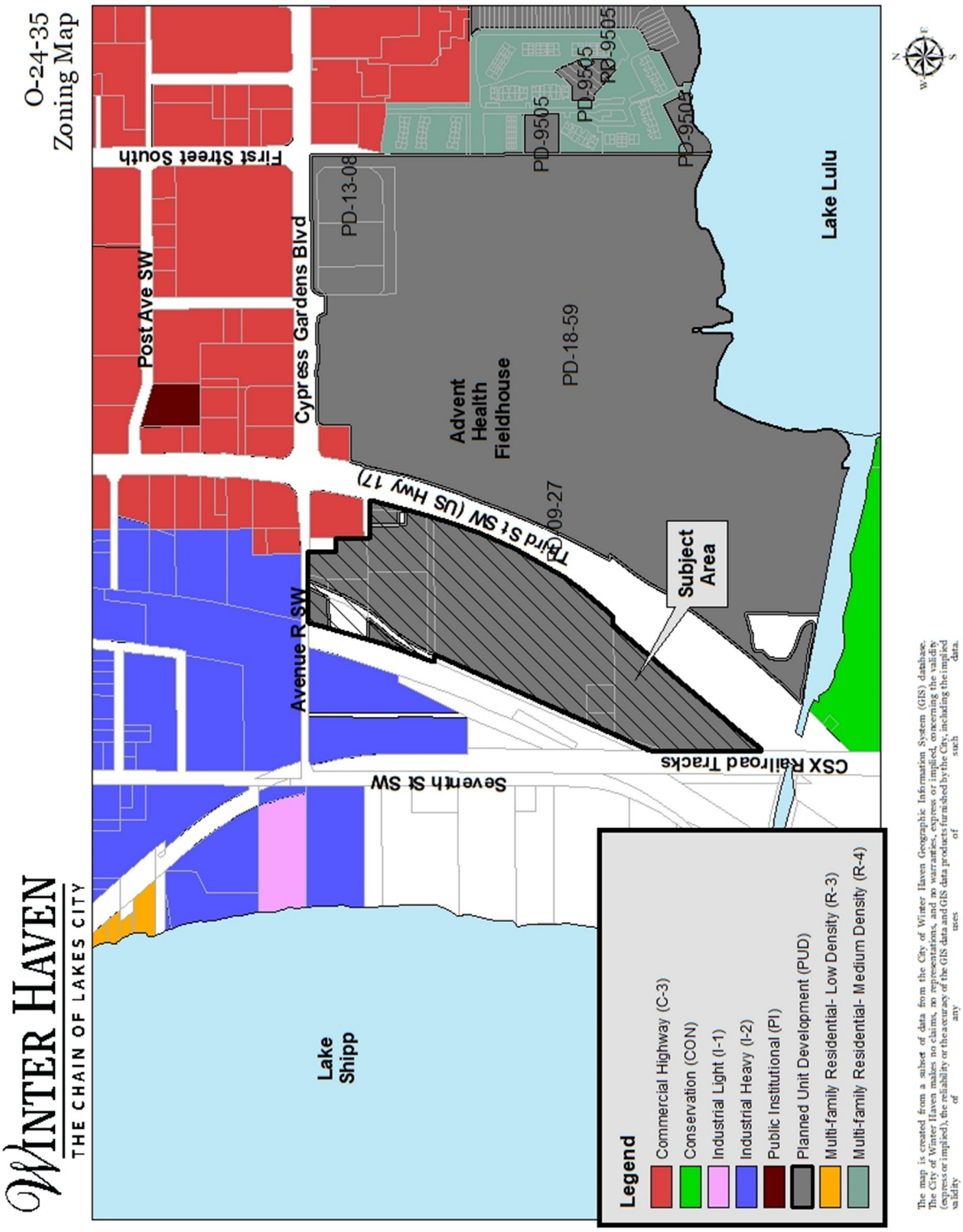
RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-35.

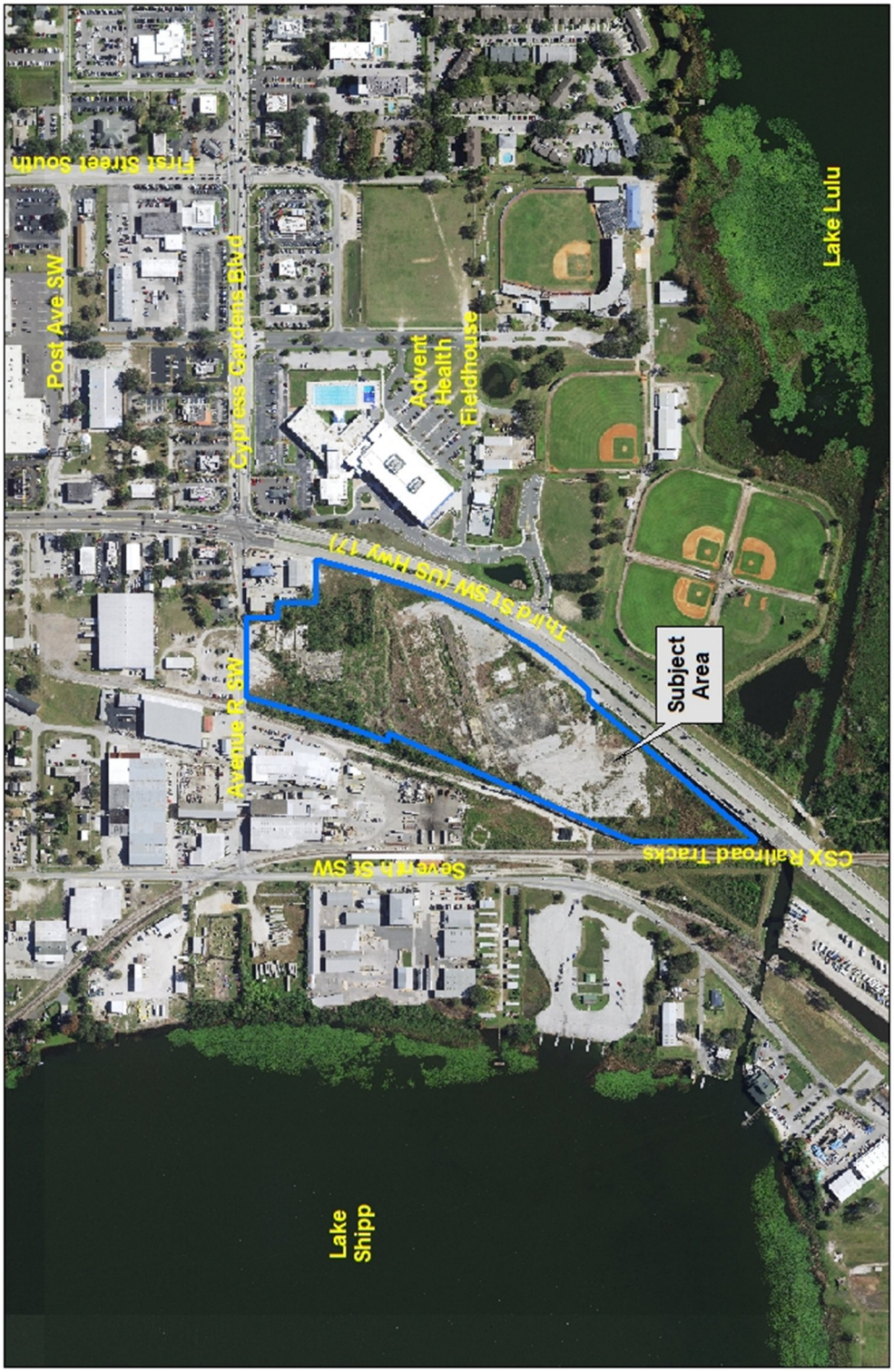
ATTACHMENTS

- Future Land Use Map
- Zoning Map
- Aerial Map
- Ordinance O-24-35


O-24-35
Future Land Use Map
WINTER HAVEN
THE CHAIN OF LAKES CITY
First Street South
Post Ave SW
Cypress Gardens Blvd
Advent Health Fieldhouse
Lake Lulu
Third St SW (US Hwy 17)
Subject Area
Avenue R SW
CSX Railroad Tracks
Seventh St SW
Lake Shipp
Legend
2035 Future Land Use
FLU
Conservation
Primary Mixed Use Hub
Central Urban Core
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database. The City of Winter Haven makes no claims, no representations and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any such data.


O-24-35
Zoning Map
First Street South
Post Ave SW
Cypress Gardens Blvd
PD-13-08
PD-9505
PD-9505
PD-9505
PD-9505
Lake Lulu
Advent Health Fieldhouse
PD-18-59
PD-09-27
Third St SW (US Hwy 17)
Subject Area
Avenue R SW
Seventh St SW
CSX Railroad Tracks
Lake Shipp
Legend
Commercial Highway (C-3)
Conservation (CON)
Industrial Light (I-1)
Industrial Heavy (I-2)
Public Institutional (PI)
Planned Unit Development (PUD)
Multi-family Residential- Low Density (R-3)
Multi-family Residential- Medium Density (R-4)
WINTER HAVEN
THE CHAIN OF LAKES CITY
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database. The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied data. of any uses of such

O-24-35
Aerial Map



WINTER HAVEN
THE CHAIN OF LAKES CITY

The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database. The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any uses of such data.

ORDINANCE NO. O-24-35

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN, FLORIDA, BY AMENDING PLANNED UNIT DEVELOPMENT ORDINANCE O-09-27; ASSIGNING PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT TO FIVE (5) PARCELS; PROVIDING FOR ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE. (General Location: Sixteen (16) parcels generally located west of US Highway 17, south of Avenue R, SW, and east of the CSX Railroad tracks. The area covered by this request is 20.02± acres.)

WHEREAS, there has been a request to amend an existing Planned Unit Development (PUD), and;

WHEREAS, there has been a request to assign zoning to properties described below; and

WHEREAS, the action will further the general health, safety, and welfare and be a benefit to the City as a whole, and;

WHEREAS, the requested zoning is consistent with the Future Land Use Element of the 2035 Winter Haven Comprehensive Plan, and;

WHEREAS, the request implements requirements contained in Part II, Chapter 163 of Florida Statutes, and therefore is exempt from requiring a Business Impact Estimate as set forth by Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)).

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

1. That Chapter 21 of the Code of Ordinances of the City of Winter Haven, Florida, is hereby amended to amend Planned Unit Development Ordinance O-09-27 and assign Planned Unit Development (PUD) zoning district on five (5) parcels as further described in Exhibit "A" attached hereto and made a part of this ordinance.

2. The amendment to Planned Unit Development Ordinance O-09-27 shall be subject to the following conditions:

A. Permitted uses.

(1) Permitted uses shall be shall be those uses permitted within the Commercial- Highway (C-3) zoning district, or its successor zoning district, except the following uses: multi-unit residential building; sales of automobiles, boats, and/or recreational vehicles; nursery; cemetery; and stand-alone parking lot.

(2) Retail plant nurseries shall be considered a permitted ancillary use.

(3) Any business providing automotive repairs shall not directly front US Highway 17 and all repairs shall be performed entirely within an enclosed building.

(4) The maximum permitted commercial square footage shall not exceed 300,000 square feet. Retail storage shall be limited to a maximum of 120,000 square feet upon receipt of special use approval from the Planning Commission.

B. Lot and building standards.

(1) There shall be no minimum lot size requirements.

(2) Building standards shall be as follows:

Lot and Building Requirement		Standard
Building Setbacks	US Highway 17 (Third Street SW)	Minimum 20 feet
	Avenue R, SW	Minimum 15 feet
	North property line excluding Avenue R, SW	Minimum 5 feet
	South property line	Minimum 10 feet
	East property line excluding US Highway 17	Minimum 5 feet
	West property line	Minimum 0 feet
Building Separation		Minimum 15 feet
Building Height		Maximum 6 floors up to 78 feet
Impervious Surface Ratio		Maximum 80 percent (See Note 1)

Note 1: Stormwater management areas and areas utilizing pervious pavement materials shall be considered in meeting pervious area requirements.

C. Architectural design standards.

(1) All exterior facades of buildings shall be constructed using an architectural theme approved by the City. Exterior facades shall be constructed out of one, or a combination of, the following:

a. Split-face concrete masonry units (CMU);
b. Poured-in-place or pre-cast concrete;
c. Brick and/or stone masonry; or

d. Stucco or stucco-like finish systems such Exterior Insulation and Finish Systems (EIFS).

The use of metal or vinyl materials shall only be permitted as building accent materials.

(2) All roof mounted equipment shall be adequately screened from view at ground level.

(3) Architectural building elevations and proposed materials shall be submitted at the time of site plan review for each building site.

(4) The use of mirrored glass shall be prohibited.

D. Landscaping.

(1) A landscape buffer, averaging 7.5 feet in width, shall be installed along the subject area's frontage with Avenue R, SW and US Highway 17 (Third Street, SW); however, no buffer shall be required adjacent to the US Highway 17 (Third Street, SW) bridge approaches. The buffer shall contain the following planting materials:

Planting Type	Plantings per 100 linear feet of frontage
Overstory Trees	2
Understory Trees	4
	6 if Overstory trees cannot be accommodated
Large Shrubs	10

a. Large shrubs may be, and are encouraged, to be planted in clusters along the subject property's frontage.

b. In accordance with the Soil Management Plan, the buffers may be allowed as an impervious surface utilizing aboveground landscape planters and/or, through an agreement with FDOT, in the US Highway 17 (Third Street, SW) right-of-way.

(2) In accordance with the Soil Management Plan, landscaping required within the parking lot areas may be placed in aboveground landscape planters. Tree canopy coverage of parking and driveway areas shall be a minimum of 20 percent.

E. Signage.

(1) A maximum of two (2) pylon signs shall be permitted. Each pylon sign shall not exceed 300 square feet of sign copy area. Each pylon sign structure shall not exceed 40 feet in height or 400 square feet in area.

(2) A maximum of five (5) monument signs shall be permitted. Each monument sign shall not exceed 80 square feet of sign copy area. Each monument sign structure shall not exceed 12 feet in height nor 120 square feet in area.

(3) Pylon and monument signs located on the same parcel shall meet a minimum 200-foot separation.

(4) Building wall signs.

a. Building wall signs for the anchor store shall be calculated at the ratio of two (2) square feet per linear foot of building frontage, which is defined as the building elevation containing the main building entrance, or one (1) square foot for each lineal foot pf lot street frontage, whichever results in a larger sign area; however, in no case shall the total building signage for the anchor store exceed 1,100 square feet in area.

b. Building wall signs for all other commercial buildings shall be calculated at the ratio of two (2) square feet per linear foot of building frontage along its primary frontage or one (1) square foot for each lineal foot of lot street frontage, whichever results in a larger sign area; however, in no case shall the total building signage for each building exceed 200 square feet in area.

(5) Internal directional/wayfinding signs shall be permitted up to a maximum of 48 square feet per sign.

(6) Sign copy area shall be measured by drawing a perimeter (such as a box, circel, or triangle) around each letter or symbol contained on the sign and totaling the corresponding area.

(7) Electronic Message Center signs shall only be permitted when it is included as part of a monument sign. Electronic Message Center signs shall be limited to a maximum of 33 percent of the total sign copy area of the sign structure within which it is located. Electronic Message Center signs shall not be animated and shall not change messages more frequently than once every 5 seconds.

F. Transportation.

(1) Access shall be provided from US Highway 17 (Third Street, SW) and Avenue R, SW. Specific access points from US Highway 17 (Third Street, SW) shall be subject to standards and requirements as set forth by the Florida Department of Transportation (FDOT).

(2) A minimum of 15 feet of right-of-way shall be dedicated along the development's frontage with Avenue R, SW.

(3) A minimum 6-foot sidewalk shall be installed along the development's frontage with US Highway 17 (Third Street, SW) and Avenue R, SW. Dedicated internal pedestrian walkways, a minimum of 5 feet in width, shall be provided from the public sidewalks to any principal building. Sidewalks shall be constructed at the time the area immediately adjacent to the right-of-way is developed.

(4) A minimum 10-foot wide easement or right-of-way for a future multi-use trail from the northern property line at Avenue R, SW to the southern property line shall be dedicated to the City of Winter Haven. The specific location of the multi-use trail shall be determined at the time of site plan review and approval and generally consistent with the located provided herein.

(5) Standard parking spaces shall be a minimum of 19.5 feet deep by 9 feet wide; however, up to twenty-five percent of the provided parking may utilize parking spaces a minimum of 18 feet in depth.

(6) Prior to the final site engineering permit's certification of completion, the Developer will provide the City a copy of Electric Vehicle (EV) charging station vendors' market research and demands study. This will include recommendations based on the data analysis and proposed technology type(s) as to the amounts and types of EV conduit and charging station by type (e.g. Level 3, Level 2, etc.), which are recommended to be installed as part of the main parcel's development program.

(7) A traffic study shall be submitted for review prior to approval of the engineering site plan. The traffic study shall identify any roadway impacted by five (5) percent of the development's projected trips, as well as any required mitigation needed to address any identified roadway which has been found to drop below its adopted level of service as a result of new trips generated by development on the subject property.

G. Development shall be in general accordance with the conceptual layout of the Property attached hereto and made a part hereof as Exhibit "B"; however, deviation from the conceptual

site plan, including changes which may impact specific interior lot configuration, to address safety, design, technical, wetland, or permitting issues identified during formal site plan review may be permitted.

H. Where not specifically addressed in this Planned Unit Development, standards and regulations for the C-3 zoning district, or its successor zoning district, shall be followed.

I. All other code requirements not specifically addressed by this Planned Unit Development shall apply.

3. This Ordinance shall not be codified, but the City Clerk shall retain this Ordinance as a permanent record of action taken by the City Commission of the City of Winter Haven.

4. The correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

5. All ordinances in conflict herewith are hereby repealed.

6. This Ordinance shall be effective immediately upon passage at second reading; however, that such change shall first be noted on the official zoning map of the City of Winter Haven.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

Exhibit “A”

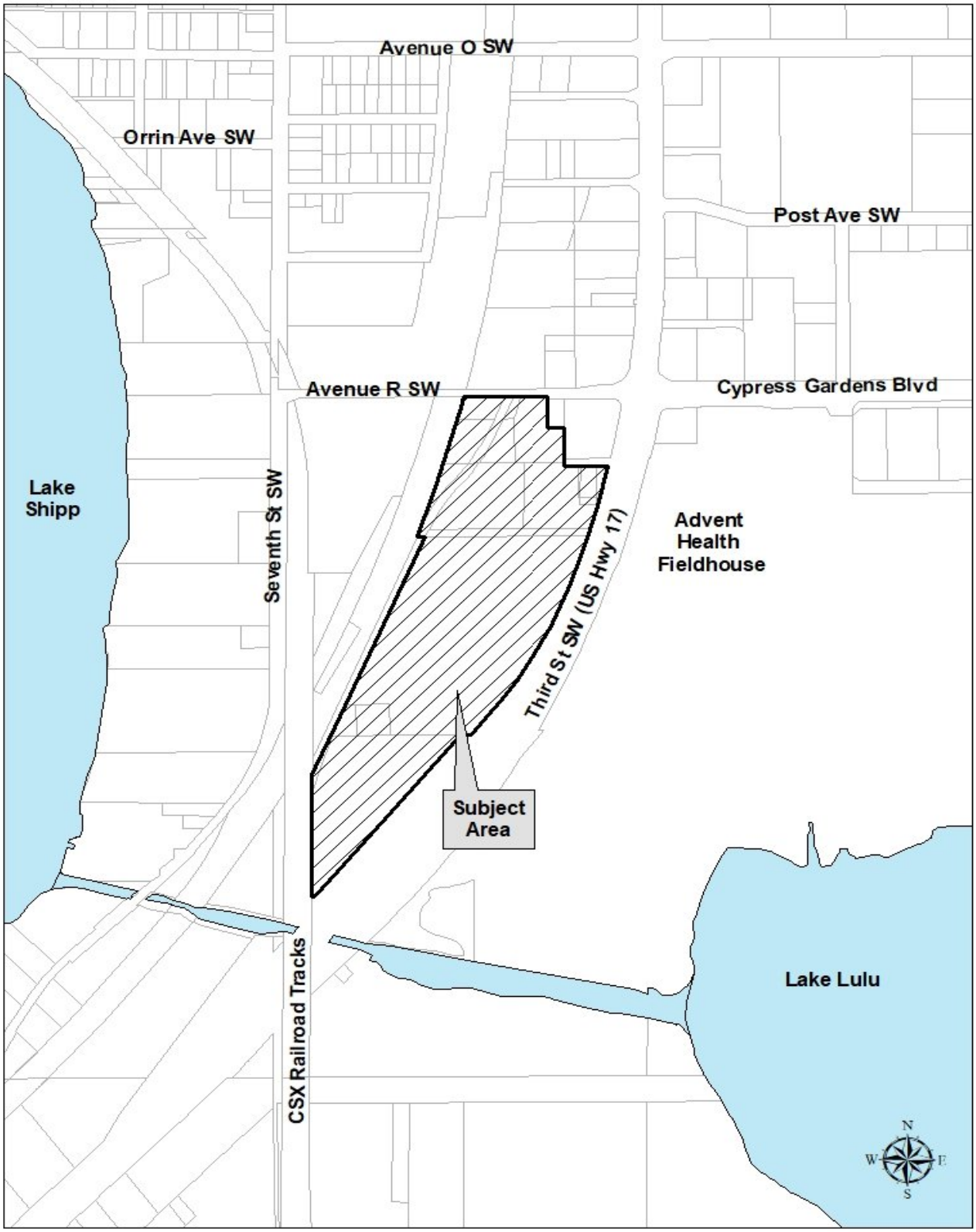
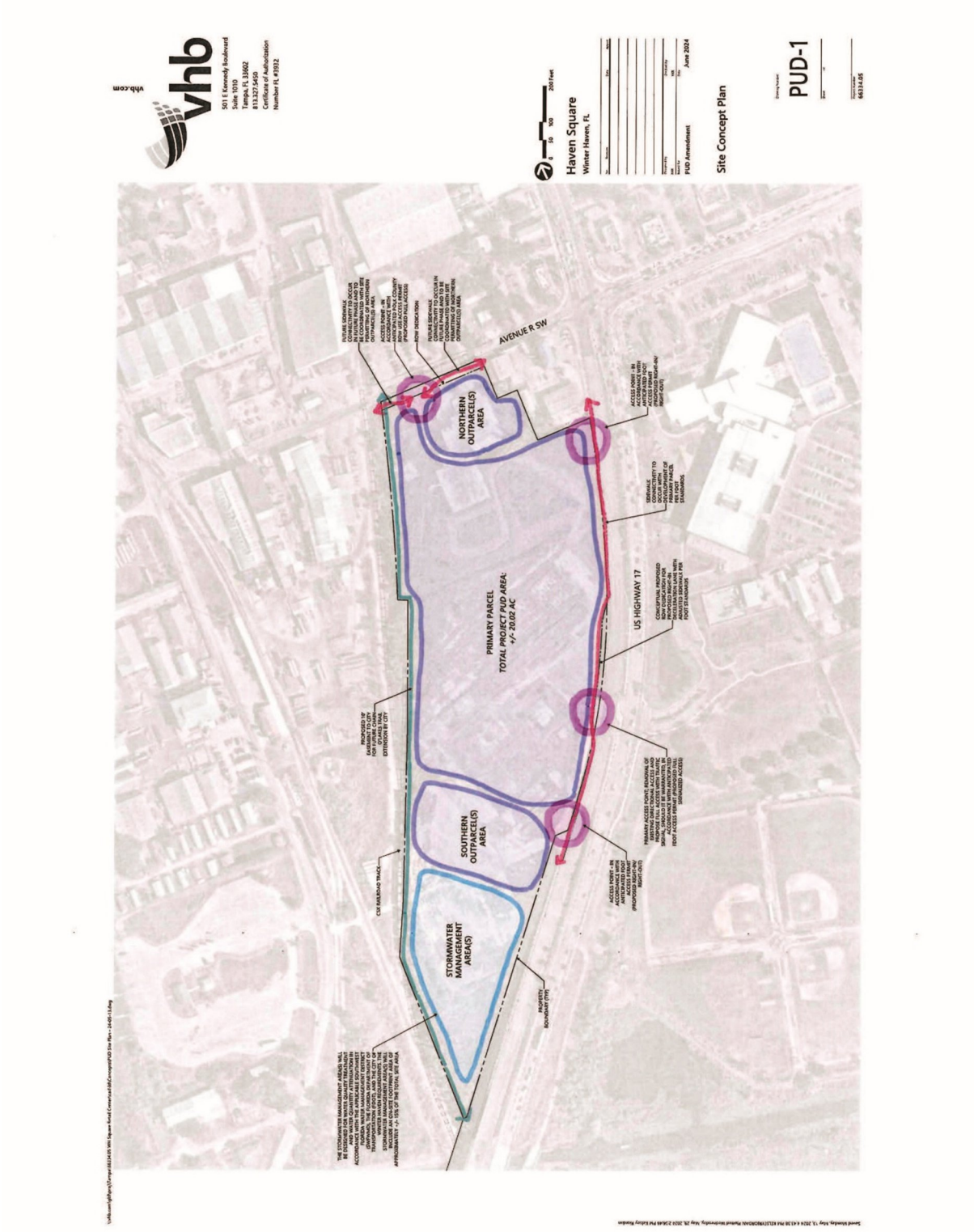

Avenue O SW
Orrin Ave SW
Post Ave SW
Avenue R SW
Cypress Gardens Blvd
Lake Shipp
Seventh St SW
Third St SW (US Hwy 17)
Advent Health Fieldhouse
Subject Area
CSX Railroad Tracks
Lake Lulu
N
W
E
S

Exhibit “B”
Conceptual Site Plan



DATE: August 16, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Ordinance O-24-38: Administrative request to amend the 2035 Future Land Use Map on 63 parcels from Traditional Neighborhood Area and Neighborhood Support Future Land Uses to Primary Mixed Use Hub Future Land Use. General Location: 63 parcels located north and south of Martin Luther King Boulevard and lying between Third Street, NE and Eighth Street, NE. The area covered by these requests is 14.94± acres.

BACKGROUND

Staff requests to amend the 2035 Future Land Use Map on 63 parcels from Traditional Neighborhood Area and Neighborhood Support Future Land Uses to Primary Mixed Use Hub Future Land Use. The parcels are generally located along Martin Luther King Boulevard, between Third Street, NE and Eighth Street, NE. The total area of the parcels is 14.94± acres. Uses of the parcels is broken down as follows:

Current Parcel Use	Number of Parcels
Single-family Residential	36
Duplex	5
Multi-family Residential	4
Commercial	5
Mixed Use	1
Institutional	1
Vacant Lot	11

Historically, prior to 2011, the area subject to this request was designated as Commercial-Retail or Commercial Office on the Future Land Use Map. In 2011, a majority of the area, excluding parcels located near the intersection with Seventh Street, NW, were designated as Traditional Neighborhood Area as part of the adoption of the *2025 Future Land Use Map*. The parcels surrounding the intersection were designated as Commercial. Upon the adoption of the *2035 Future Land Use Map* last year, the previous

Future Land Use designations for this area essentially remained unchanged, with the exception of the Commercial Future Land Use category being renamed as Neighborhood Support.

In conversations with some of the property owners along this corridor, there is a desire to further encourage the development of mixed uses. While the adopted Mixed Use (MX) zoning district will allow for a mixture of uses, the underlying Traditional Neighborhood Area Future Land Use only allows for the MX's residential uses to be allowed. Furthermore, the *2022 Florence Villa CRA Plan* contains Goals and Objectives encouraging the retention and recruitment of businesses along Martin Luther King Boulevard.

Amending the Future Land Use for the subject area to Primary Mixed Use Hub will not result in any parcel losing development rights they currently enjoy today.

INFRASTRUCTURE

Within the subject area, 52 of the 63 parcels are presently developed; and of the 11 vacant lots, most are less than one half acre in size. Given these conditions, impacts to supporting infrastructure as a result of this request will be minimal.

NOTIFICATION

All public notification requirements for this request were met.

FINANCIAL IMPACT

There is no direct financial impact to the City with this request.

This is an ordinance pertaining to the amendment of the City's Comprehensive Plan, which is enacted to implement requirements contained in Part II, Chapter 163 of Florida Statutes. In accordance with Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)), ordinances implementing Part II, Chapter 163, F.S. are exempt from providing Business Impact Estimates.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at its August 6, 2024 regular meeting, unanimously voted to recommend approval of this request. Five (5) individuals spoke regarding this request, both in support and opposition to the request. Those opposed to the request indicated concerns with traffic, noise, the potential

number of businesses, and sewage. Those in support indicated a community need for a grocery and healthcare centers.

CONCLUSION

Staff's review of the request yields the following conclusions:

- Within the Central Urban Core of the City, Primary Mixed Use Hub Future Land Use is assigned along all of the east/west running collector and arterial roadways between First Street North/South and Sixth Street NE/SE except for along Martin Luther King Boulevard and Avenue K, NE. Each of the other corridors are generally developed with a mixture of uses;

- Prior to 2011, the parcels subject to this request had some form of commercial Future Land Use assigned to them. During this time, a handful of businesses were established on the Martin Luther King Boulevard corridor. The Primary Mixed Use Hub Future Land Use will preserve these businesses while continuing to allow the established residential uses;

- Assignment of Primary Mixed Use Hub Future Land Use will aid in implementing the *2022 Florence Villa CRA Plan* Goal 1 by enabling the retention and recruitment of businesses along Martin Luther King Boulevard; and

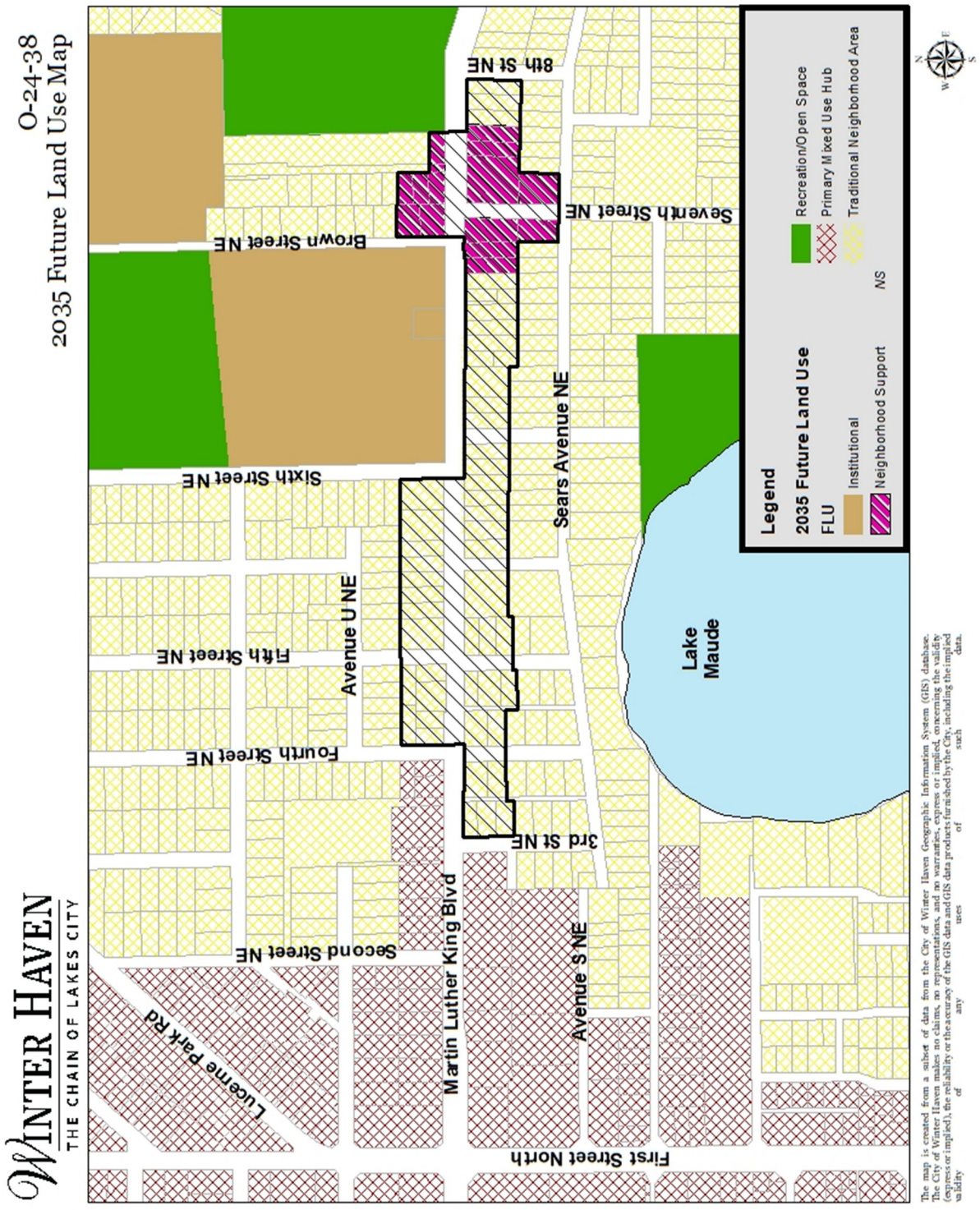
- Assignment of Primary Mixed Use Hub Future Land Use will allow the current MX zoning assigned to the subject area to be fully utilized by property owners.

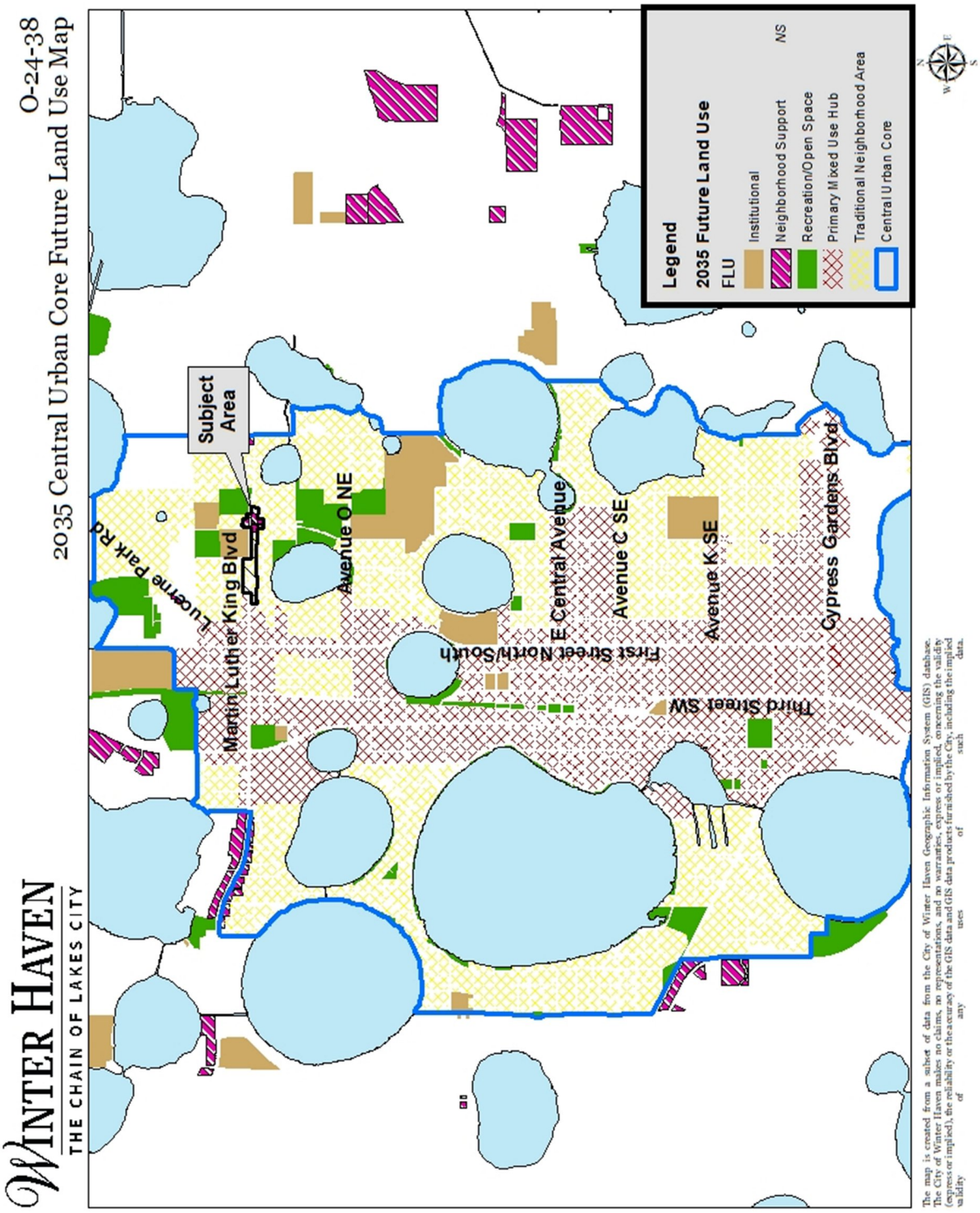
RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-38.

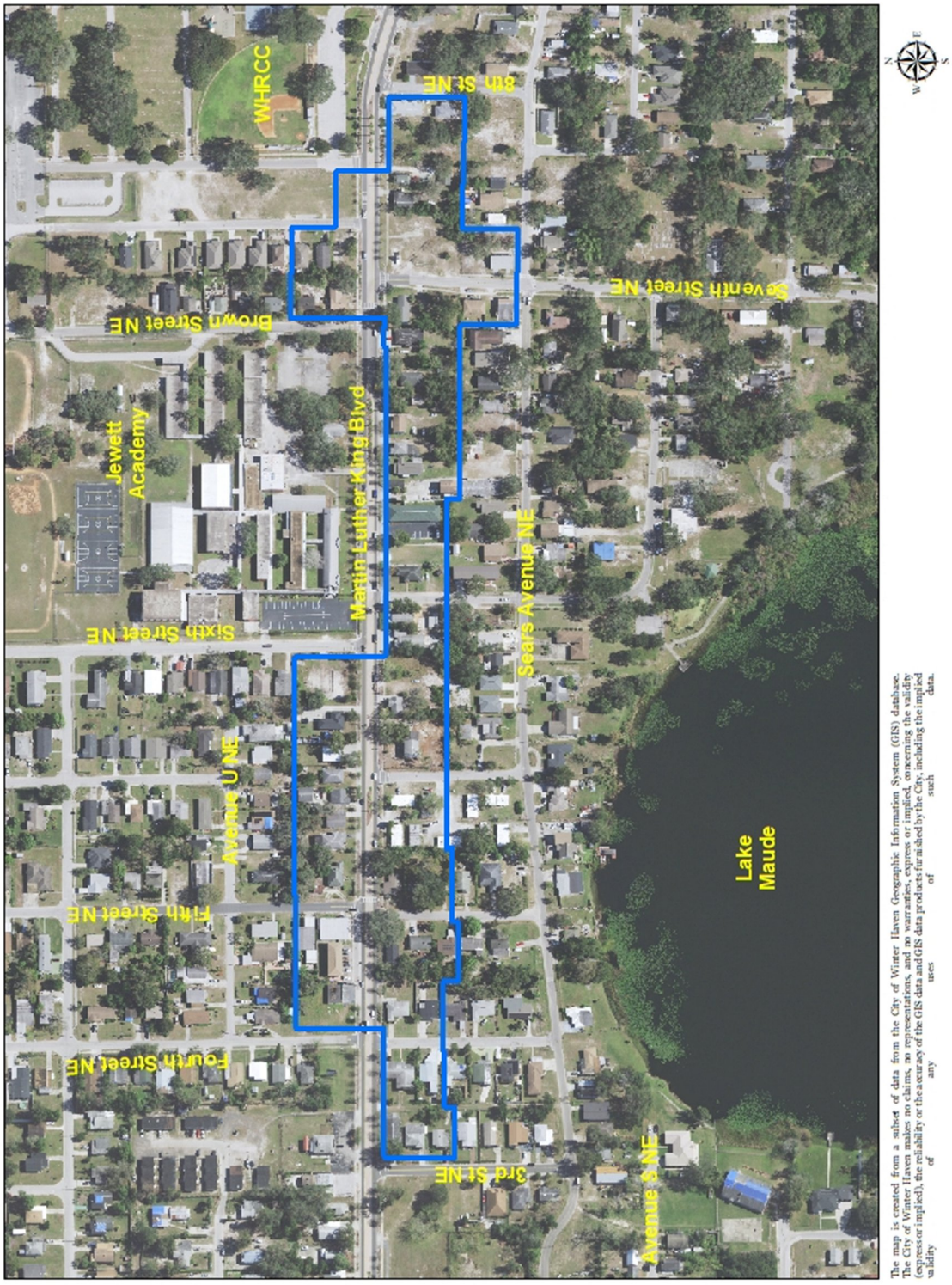
ATTACHMENTS

- Future Land Use Map
- Central Urban Core Map
- Aerial Map
- Ordinance O-24-38


O-24-38
2035 Future Land Use Map
WINTER HAVEN
THE CHAIN OF LAKES CITY
8th St NE
Seventh Street NE
Brown Street NE
Sixth Street NE
Sears Avenue NE
Avenue U NE
Fifth Street NE
Fourth Street NE
3rd St NE
Martin Luther King Blvd
Avenue S NE
Second Street NE
Lucerne Park Rd
First Street North
Lake Maude
Legend
2035 Future Land Use
FLU
Institutional
Neighborhood Support
NS
Recreation/Open Space
Primary Mixed Use Hub
Traditional Neighborhood Area
N
E
S
W


O-24-38
2035 Central Urban Core Future Land Use Map
WINTER HAVEN
THE CHAIN OF LAKES CITY
Legend
2035 Future Land Use
FLU
Institutional
Neighborhood Support
Recreation/Open Space
Primary Mixed Use Hub
Traditional Neighborhood Area
Central Urban Core
NS
Subject Area
Lucerne Park Rd
Martin Luther King Blvd
Avenue O NE
First Street North/South
E Central Avenue
Avenue C SE
Avenue K SE
Third Street SW
Cypress Gardens Blvd
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database. The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any such data.

O-24-38
Aerial Map



WINTER HAVEN
THE CHAIN OF LAKES CITY

The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database. The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any such uses of data.

ORDINANCE NO. O-24-38

AN ORDINANCE AMENDING ORDINANCE 11-03, THE 2035 WINTER HAVEN COMPREHENSIVE PLAN, BY REVISING THE FUTURE LAND USE MAP SERIES BY AMENDING THE FUTURE LAND USE ON FOURTEEN (14) PARCELS FROM NEIGHBORHOOD SUPPORT FUTURE LAND USE TO PRIMARY MIXED USE HUB FUTURE LAND USE; AMENDING FORTY-NINE (49) PARCELS FROM TRADITIONAL NEIGHBORHOOD AREA FUTURE LAND USE TO PRIMARY MIXED USE HUB FUTURE LAND USE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (General Location: 63 parcels located north and south of Martin Luther King Boulevard and lying between Third Street, NE and Eighth Street, NE. The area covered by this request is 14.94± acres.)

WHEREAS, a proposed amendment to the Winter Haven Comprehensive Plan, Future Land Use Map Series, has been studied, documented, advertised, and heard by the Winter Haven Planning Commission; and

WHEREAS, the City Commission of the City of Winter Haven, Florida, deems it appropriate to amend the Comprehensive Plan in order to further the public interest and the general welfare of the citizens of the City of Winter Haven; and

WHEREAS, the request implements requirements contained in Part II, Chapter 163 of Florida Statutes, and therefore is exempt from requiring a Business Impact Estimate as set forth by Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)).

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

1. That the Future Land Use Map Series of the Comprehensive Plan of the City of Winter Haven, Florida, is hereby amended by re-designating the area as shown on Exhibit "A" from "Neighborhood Support" and "Traditional Neighborhood Area" Future Land Uses to "Primary Mixed Use Hub" Future Land Use; as classified by the City of Winter Haven's Future Land Use Element.

2. This Ordinance shall not be codified, but the City Clerk shall retain this Ordinance as a permanent record of action taken by the City Commission.

3. All ordinances in conflict herewith are hereby repealed.

4. The correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

5. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

6. The effective date of this small-scale Comprehensive Plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(5), F.S. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Commerce or its functional equivalent, or the Administration Commission, finding amendment in compliance with Section 163.3184, F.S. No development orders, development permits or land use dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of the resolution shall be sent to the Department of Commerce, Division of Community Planning and Development, 107 East Madison Street, Tallahassee, Florida 32399.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

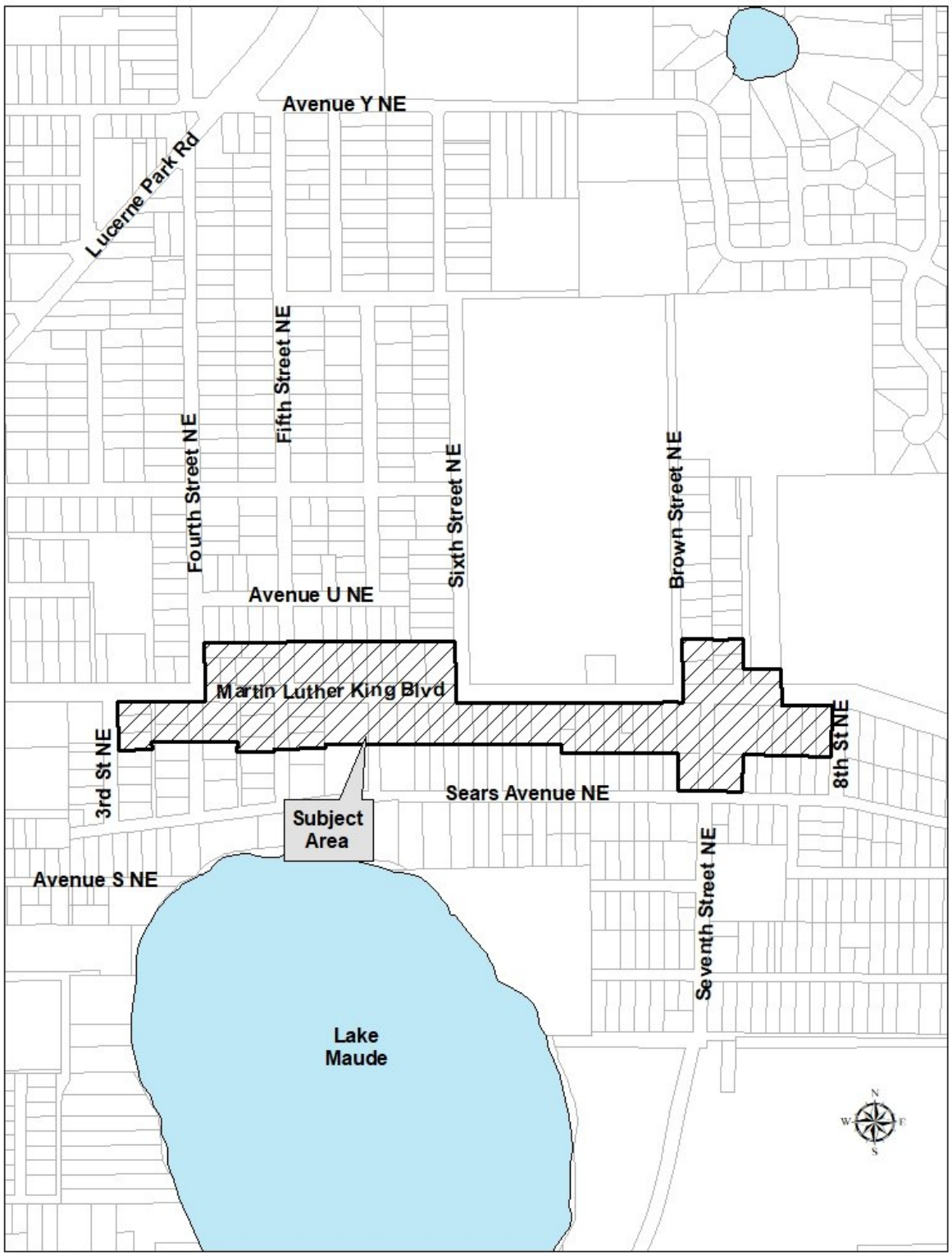
ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

Exhibit “A”


Avenue Y NE
Lucerne Park Rd
Fourth Street NE
Fifth Street NE
Sixth Street NE
Brown Street NE
Avenue U NE
Martin Luther King Blvd
3rd St NE
8th St NE
Sears Avenue NE
Subject Area
Avenue S NE
Seventh Street NE
Lake Maude
N
W
E
S

DATE: August 7, 2024

TO: Honorable Mayor and City Commissioners

VIA: Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager
Heather Reuter, Senior Planner

SUBJECT: Ordinance O-24-39: Administrative request to make a City-wide update of the Official Zoning Map for consistency with the 2035 Winter Haven Comprehensive Plan.

BACKGROUND

The City adopted the *2035 Winter Haven Comprehensive Plan* and corresponding *2035 Future Land Use Map* in August 2023. Most properties in the City retained their same Future Land Use from the *2025 Future Land Use Map*; however, some properties were remapped for various reasons including matching long-term existing uses or smoothing of boundaries. In an effort to bring the City's Official Zoning Map into consistency with the adopted *2035 Future Land Use Map*, staff has undertaken an exercise to identify those parcels which have zoning conflicts with the adopted Future Land Use.

In addition to addressing conflicts with the Future Land Use Map, staff rezoned some parcels for the following reasons:

- Smoothing of zoning boundaries with a focus on following streets, alleys, and mid-blocks;
- Rezoning to reflect the historical use of a property, provided the use is consistent with the adopted Future Land Use;
- Rezoning old or obsolete Planned Unit Developments (PUD) with standard zoning in cases where a standard zoning district aligned with lot sizes, uses, or other development requirements;
- Rezoning old or obsolete PUDs where development conditions have been met. These typically involve those PUDs where specific infrastructure improvements were required. Additionally, in most instances these PUDs did not provide any lot specific development standards or uses.
- Assigned zoning to properties which never received a zoning district at the time they were annexed into the City. In some cases, the properties have been in the City for over 20 years without a zoning designation.

In no case, did staff recommend a rezoning which results in a "downzoning," where the permitted uses are reduced from the current zoning.

INFRASTRUCTURE

As this request mostly addresses developed parcels, there will be minimal immediate impact to the City's supporting utility and transportation systems. For those parcels developed or redeveloped in the future, they will be subject to concurrency requirements at the time they are developed or redeveloped.

NOTIFICATION

All public notification requirements for this request have been met.

FINANCIAL IMPACT

There is no direct financial impact to the City with this request.

This is an ordinance enacted to implement requirements contained in Part II, Chapter 163 of Florida Statutes. In accordance with Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)), ordinances implementing Part II, Chapter 163, F.S. are exempt from providing Business Impact Estimates.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at its August 6, 2024 regular meeting, voted to recommend approval of this request. No members of the public spoke.

CONCLUSION

Staff's review of this request yields the following conclusions:

- Proposed revisions to the Official Zoning Map will bring several parcels into compliance with the adopted *2035 Future Land Use Map*;
- Proposed revisions will smooth boundaries of zoning districts, allowing for more consistency between adjacent property owners; and
- Proposed revisions will not reduce the number of permitted uses for any parcel.

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-39.

ATTACHMENT

- Ordinance O-24-39

ORDINANCE NO. O-24-39

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN, FLORIDA, BY AMENDING THE OFFICIAL ZONING MAP FOR CONSISTENCY WITH THE ADOPTED 2035 FUTURE LAND USE MAP; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary to change zoning district designations on certain properties throughout the City to conform and be consistent with their respective future land use designations as established by the City's Comprehensive Plan, and;

WHEREAS, the action will further the general health, safety, and welfare and be a benefit to the City as a whole;

WHEREAS, the requested zoning designations are consistent with the Future Land Use Element of the Winter Haven Comprehensive Plan, and;

WHEREAS, the request implements requirements contained in Part II, Chapter 163 of Florida Statutes, and therefore is exempt from requiring a Business Impact Estimate as set forth by Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)).

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

1. That Chapter 21 of the Code of Ordinances of the City of Winter Haven, Florida, is hereby amended by changing the zoning district designations on certain land throughout the City as described in Exhibit "A" attached hereto and made a part of this ordinance.

2. This ordinance shall not be codified, but the City Clerk shall retain this ordinance as a permanent record of action taken by the City Commission of the City of Winter Haven.

3. The correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

4. All ordinances in conflict herewith are hereby repealed.

5. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

6. This Ordinance shall be effective immediately upon passage at second reading; however, that such change shall first be noted on the official zoning map of the City of Winter Haven.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

Exhibit "A"
Page 1 of 22

Winter Haven Zoning: Map 1

Lake Hartridge- Lake Idylwild- Lake Jessie Area

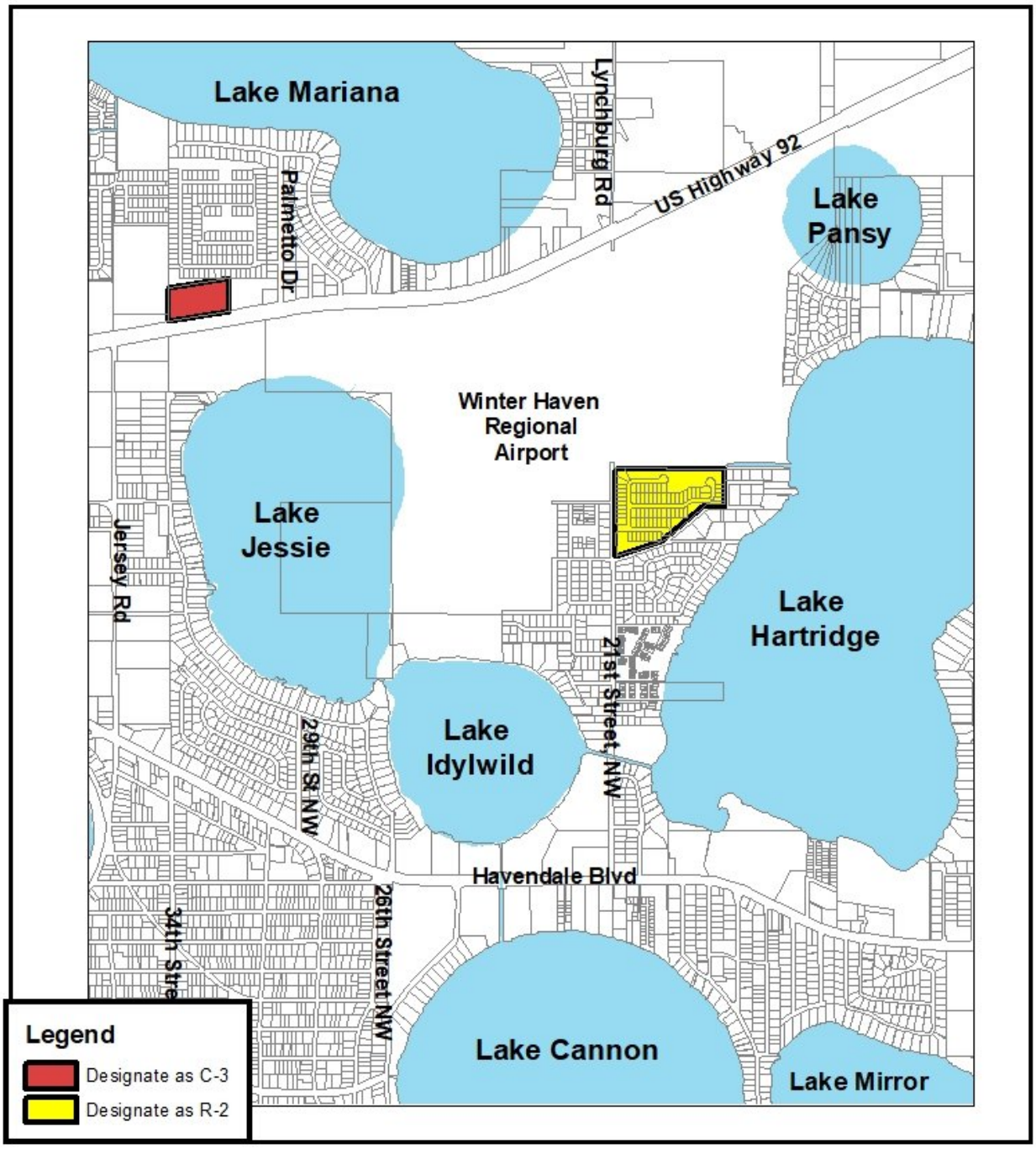


Exhibit "A"
Page 2 of 22

Winter Haven Zoning Map 2

US 17 North- East Lake Hartridge Area

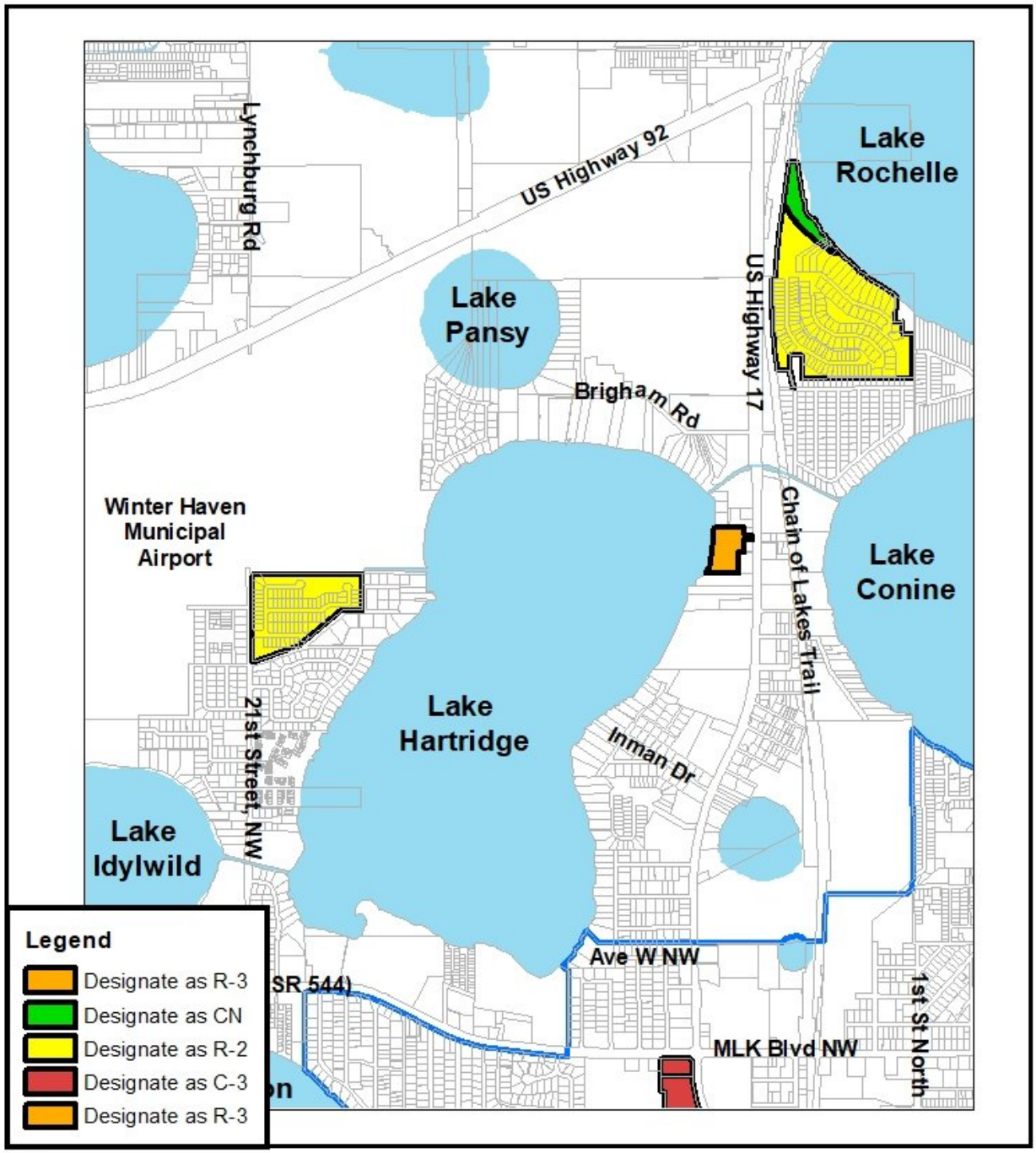


Exhibit "A"
Page 3 of 22

Winter Haven Zoning Map 3

Florence Villa- Lake Conine Area

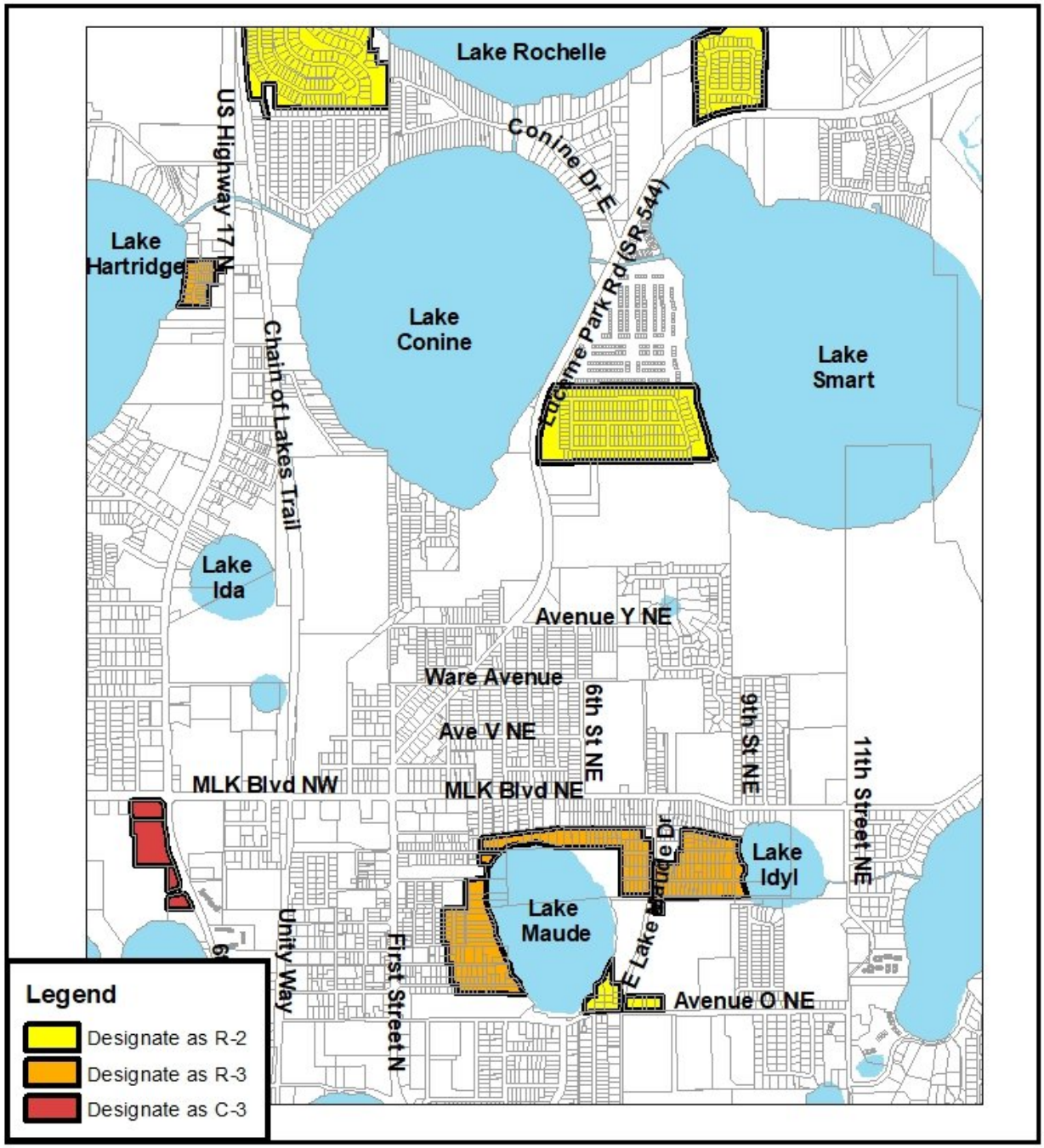


Exhibit "A"
Page 4 of 22

Winter Haven Zoning Map 4

Lake Smart- Lake Fannie- Willowbrook Area

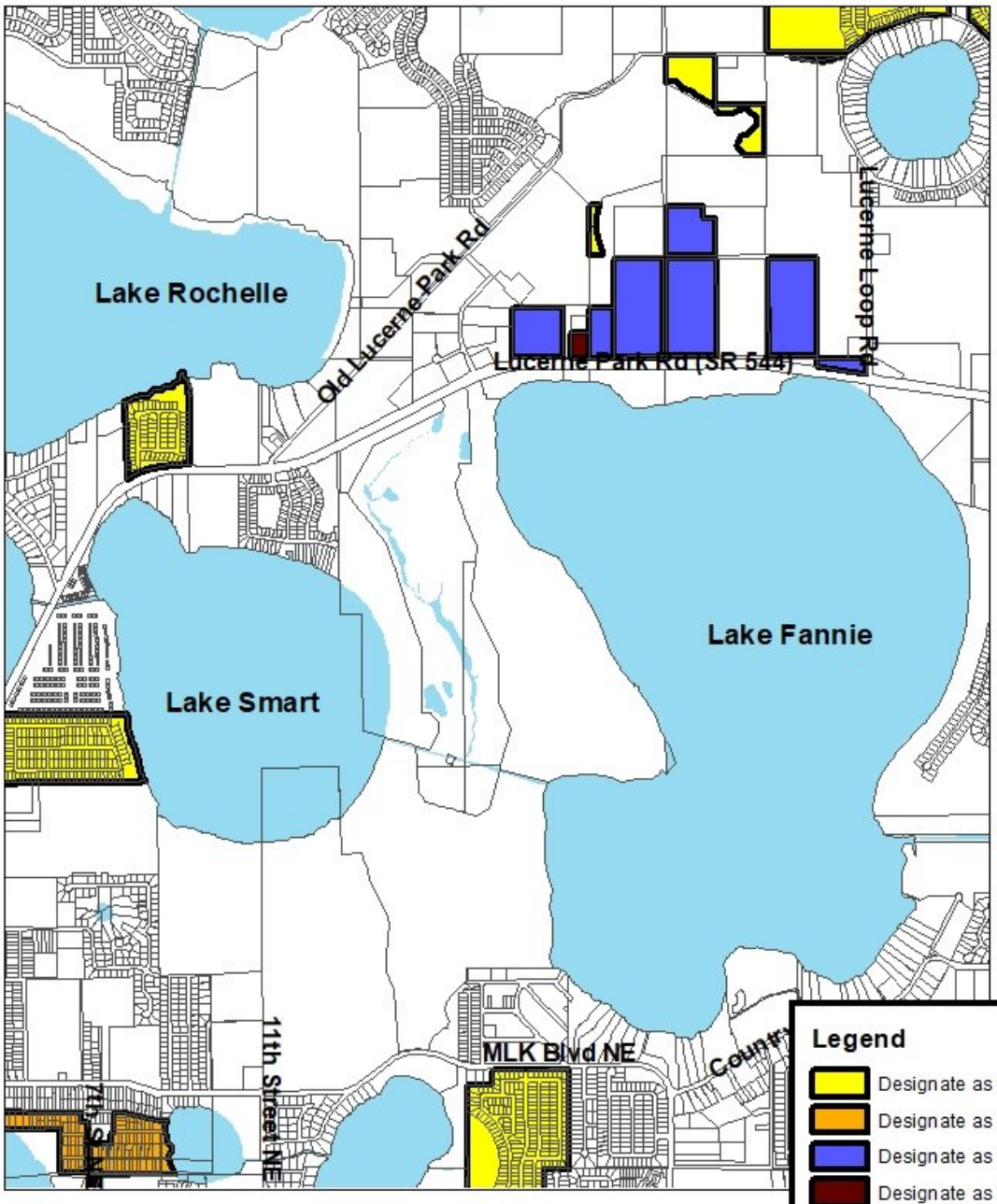


Exhibit "A"
Page 5 of 22

Winter Haven Zoning Map 5

Lake Haines- Lake Lucerne- Lake Henry Area

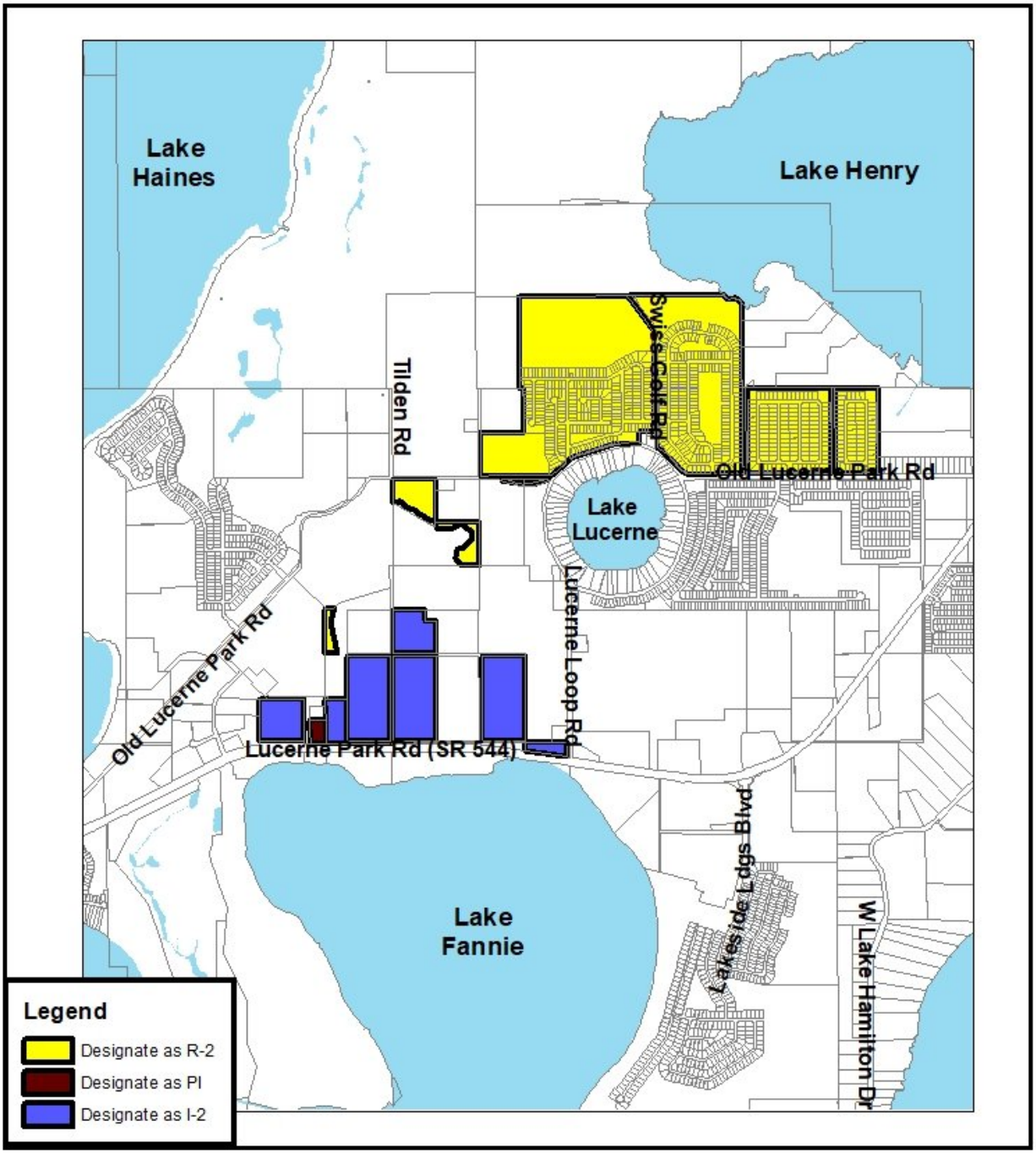


Exhibit "A"
Page 6 of 22

Winter Haven Zoning Map 6

West Lake Hamilton- US Highway 27 Area

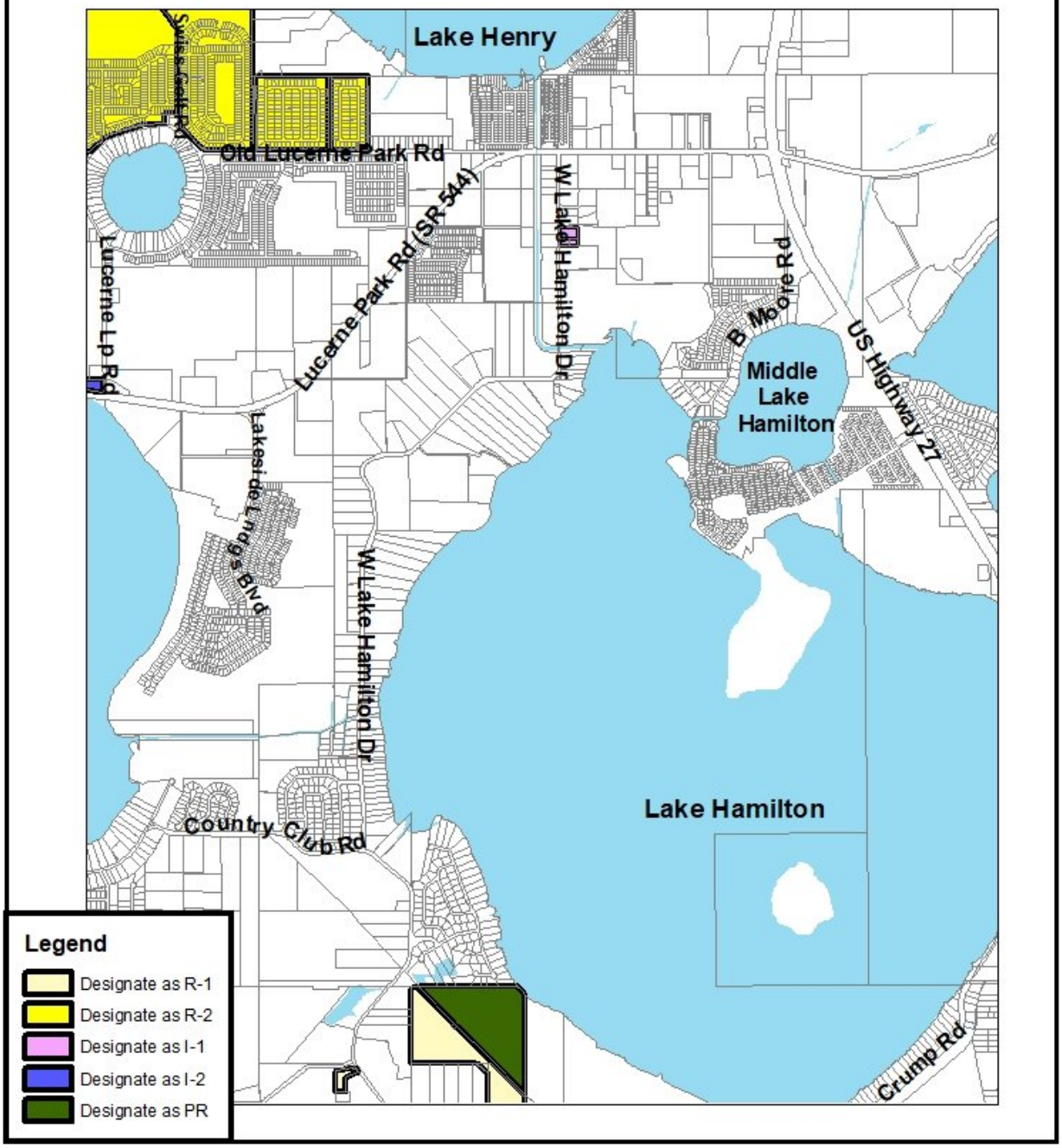


Exhibit "A"
Page 7 of 22

Winter Haven Zoning Map 7

Lake Cannon- Lake Mirror- Lake Spring Area

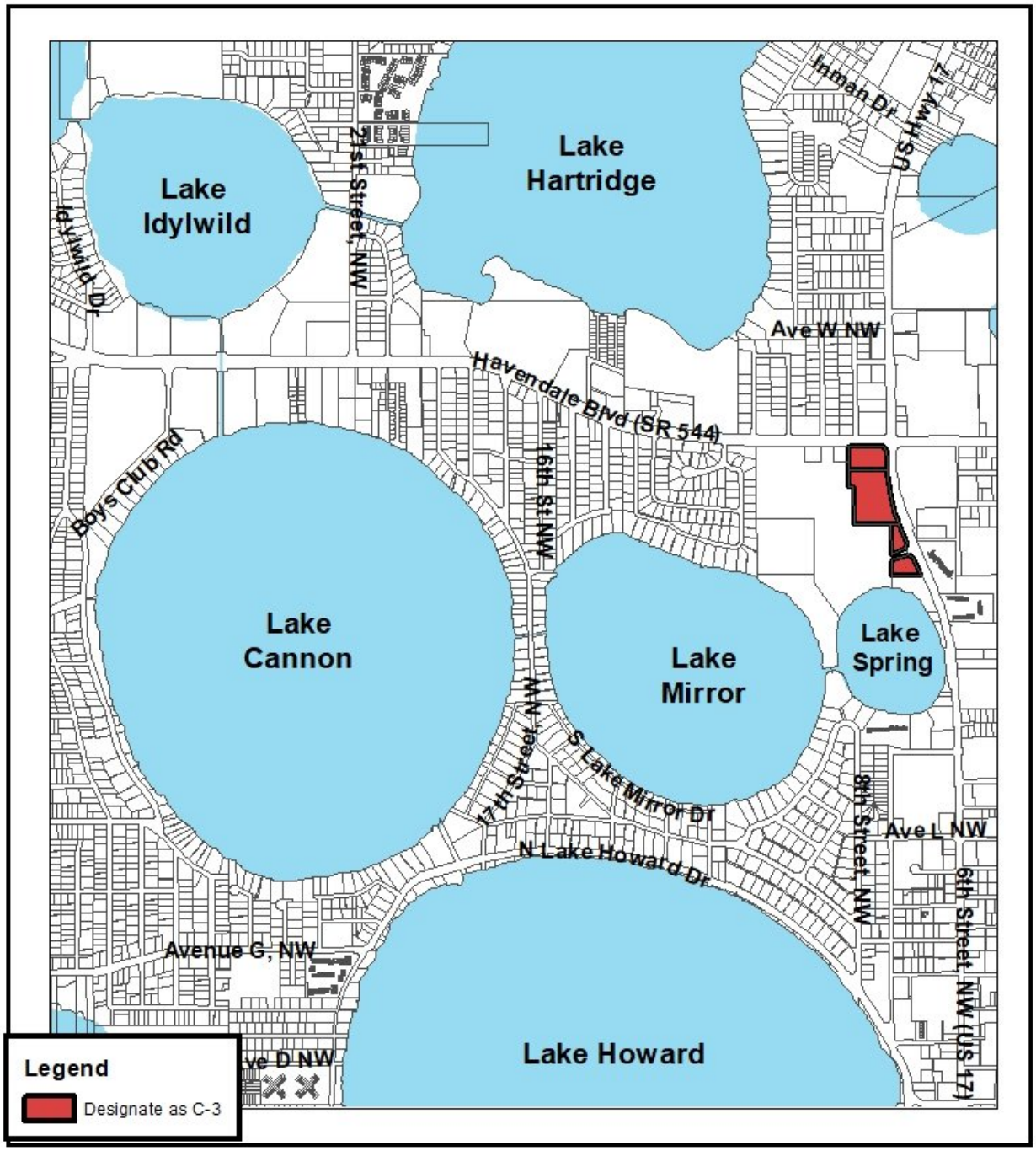


Exhibit "A"
Page 8 of 22

Winter Haven Zoning Map 8

West Lake Howard- West Winter Haven Area

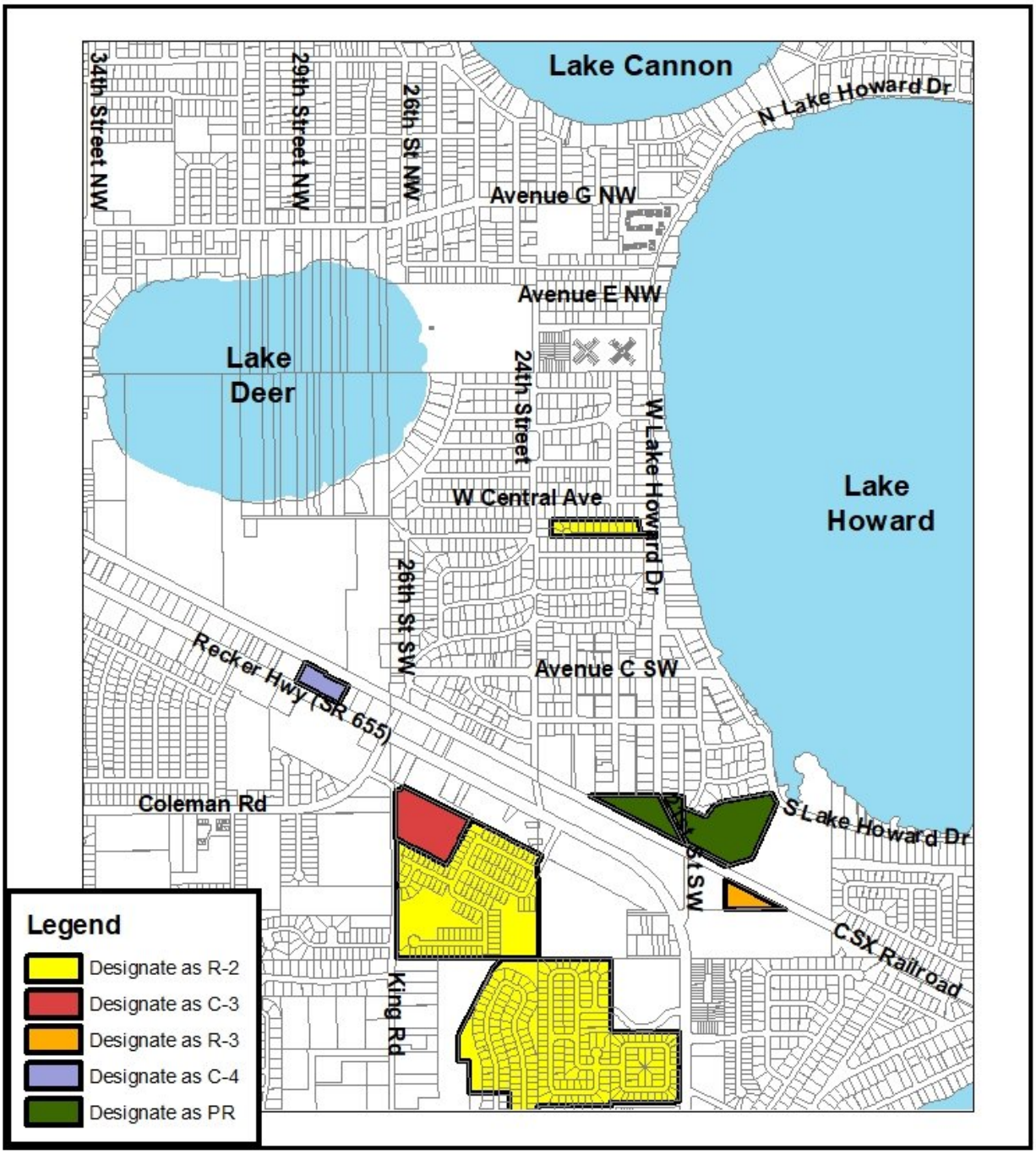


Exhibit "A"
Page 9 of 22

Winter Haven Zoning Map 9
Central Winter Haven Area

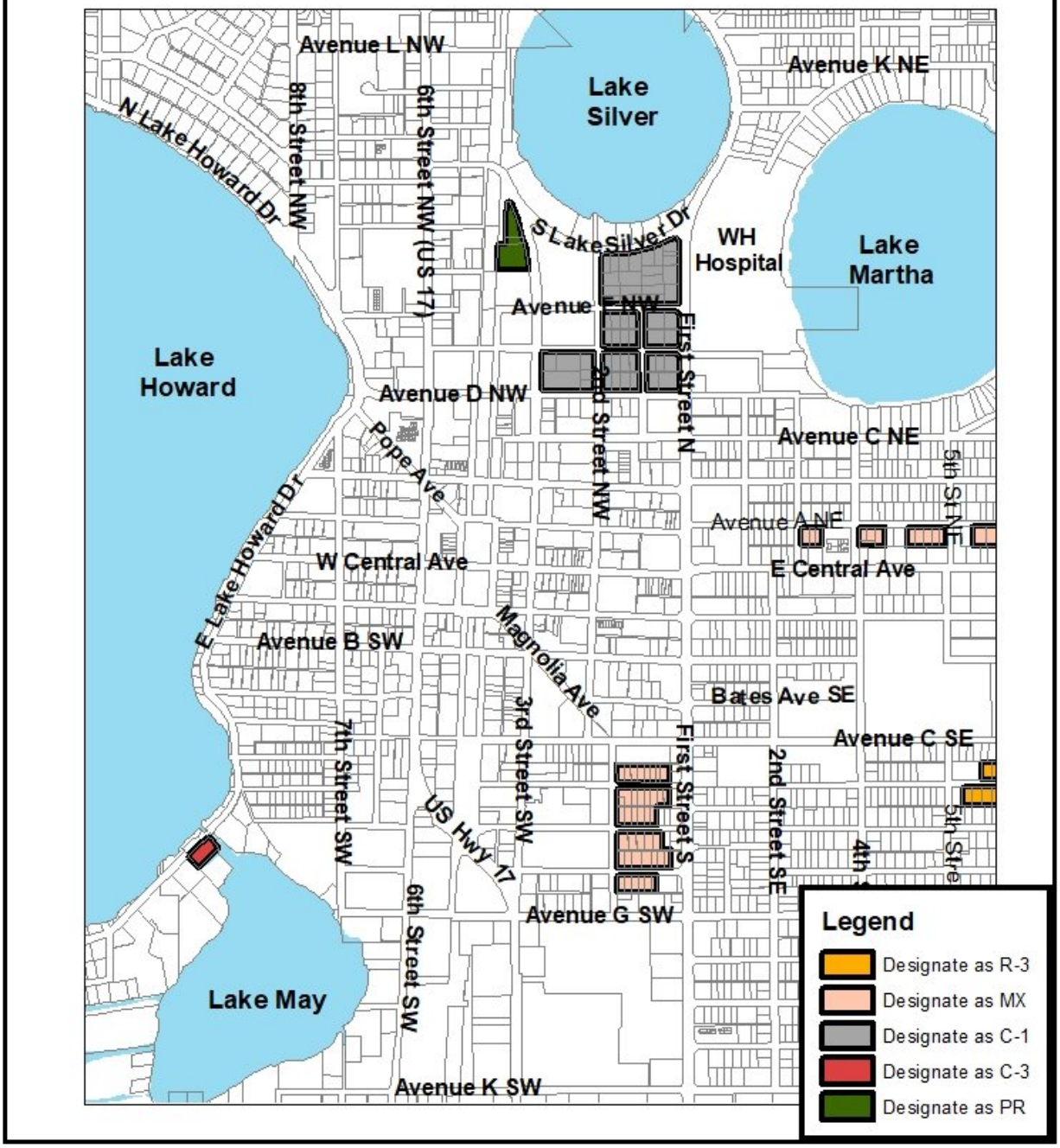


Exhibit "A"
Page 10 of 22

Winter Haven Zoning Map 10
East Central- Lake Martha Area

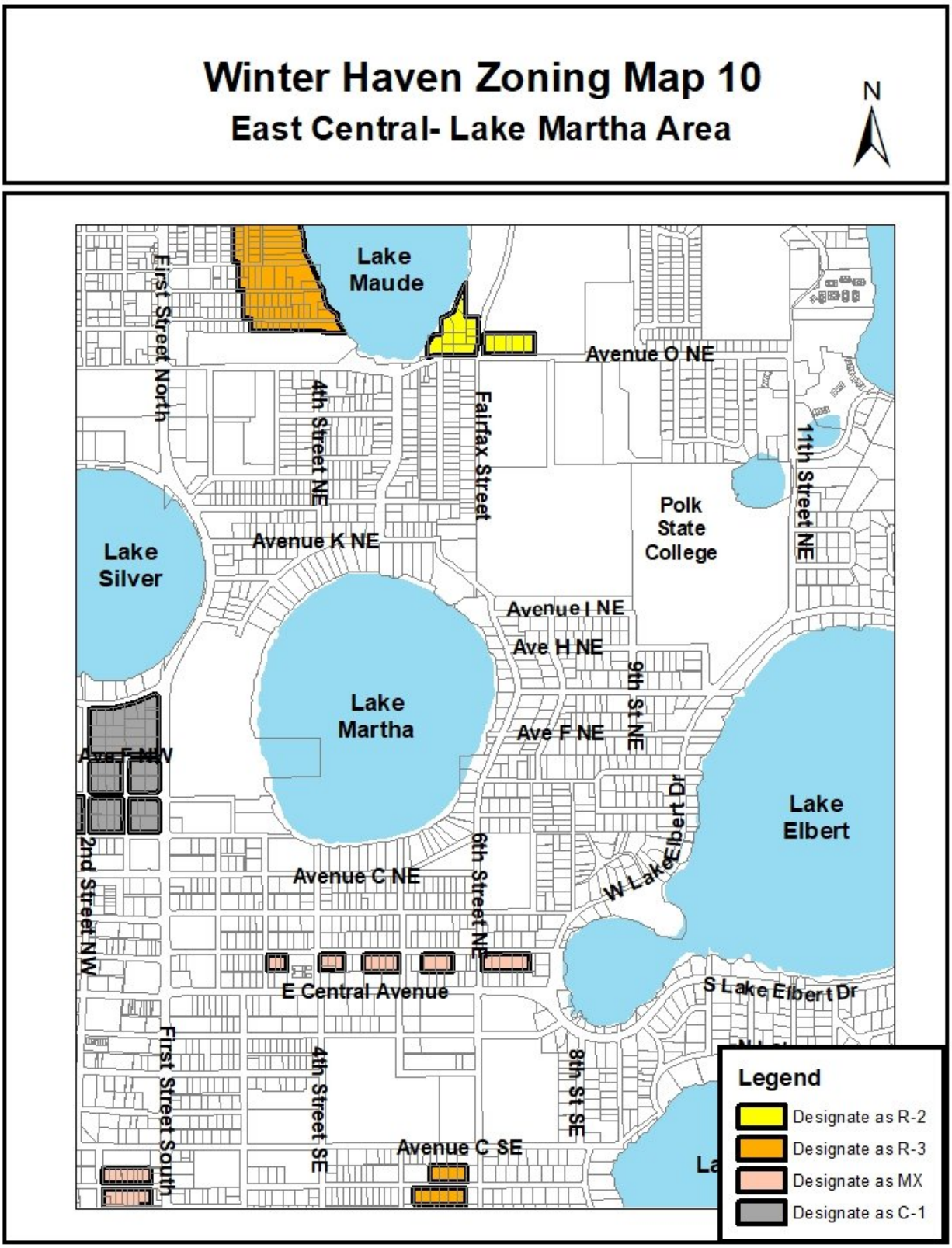


Exhibit "A"
Page 11 of 22

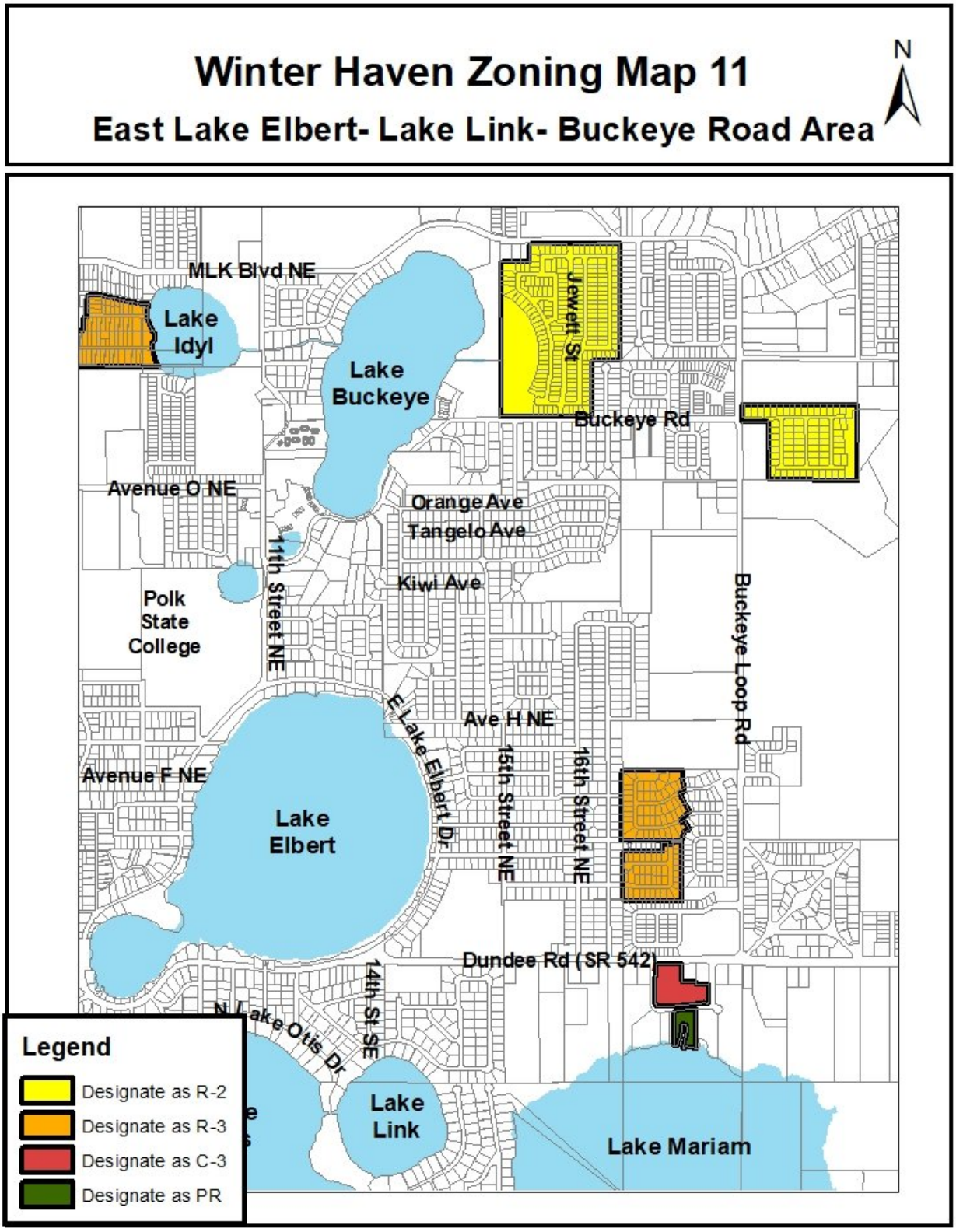


Exhibit "A"
Page 12 of 22

Winter Haven Zoning Map 12

Dundee Road- Carl Floyd Road- Country Club Road Area

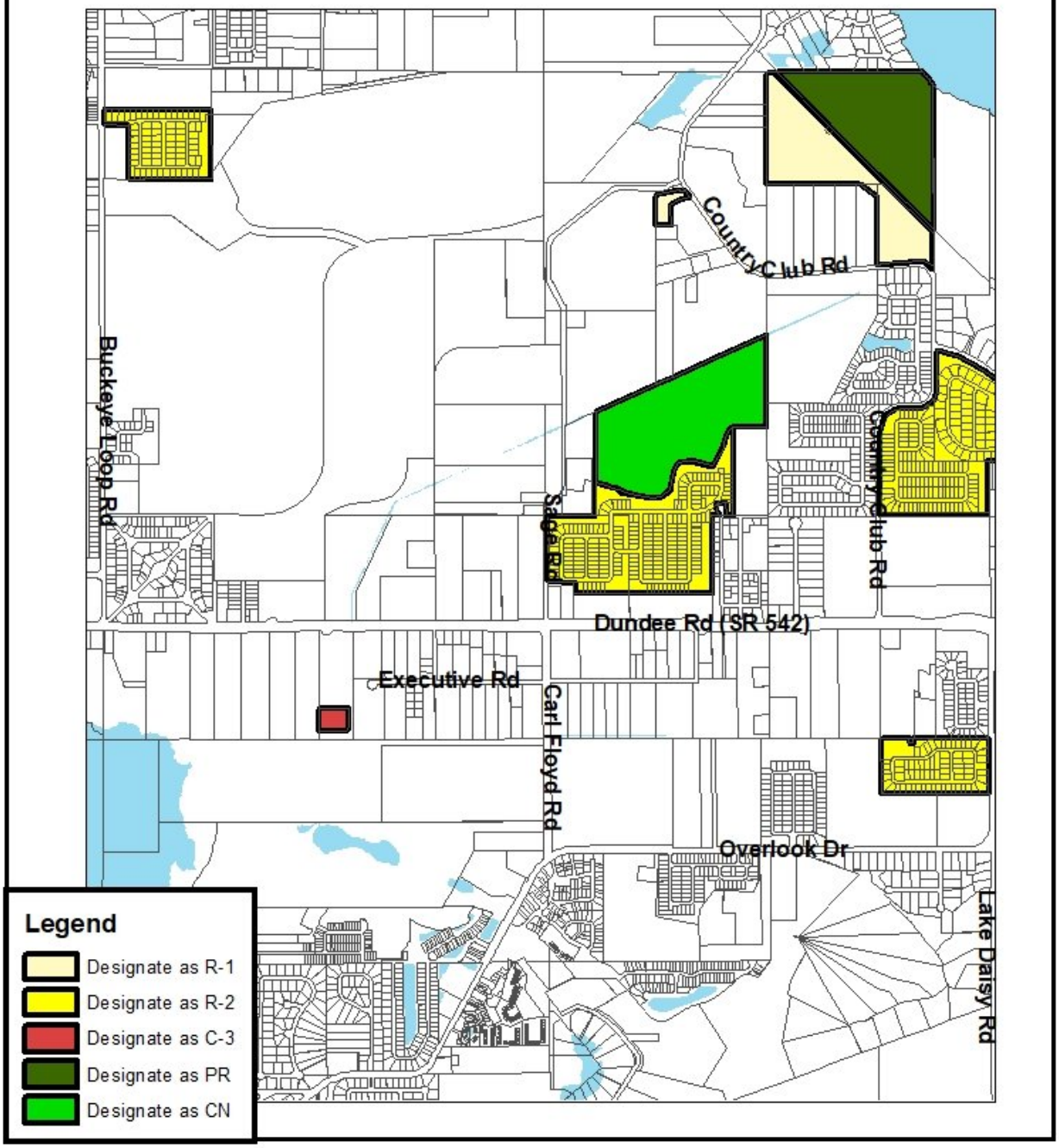


Exhibit "A"
Page 13 of 22

Winter Haven Zoning Map 13

Southwest- Recker Highway- South Lake Shipp Area

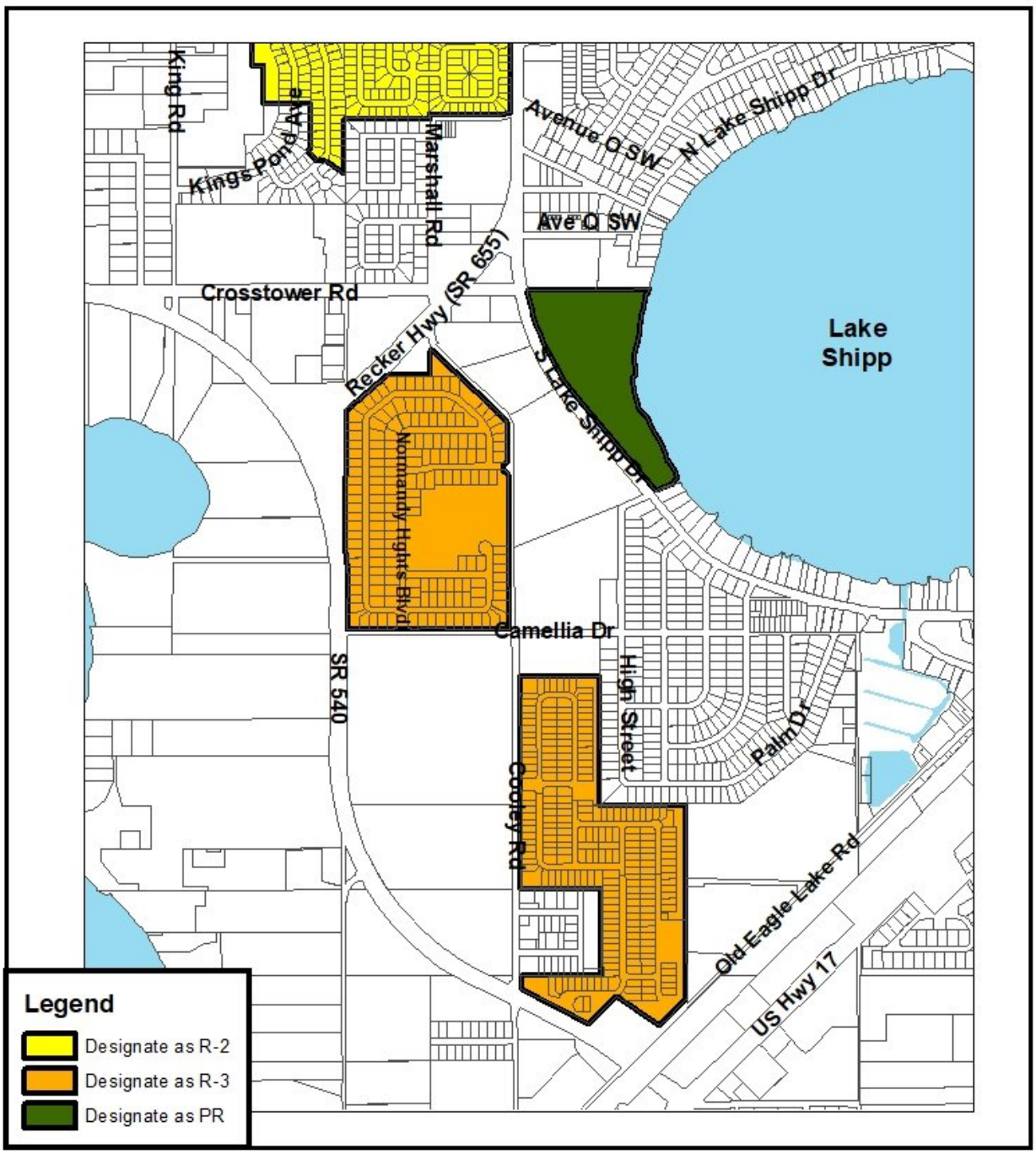


Exhibit "A"
Page 14 of 22

Winter Haven Zoning Map 14

Southwest- Lake May- 7th Street SW Area

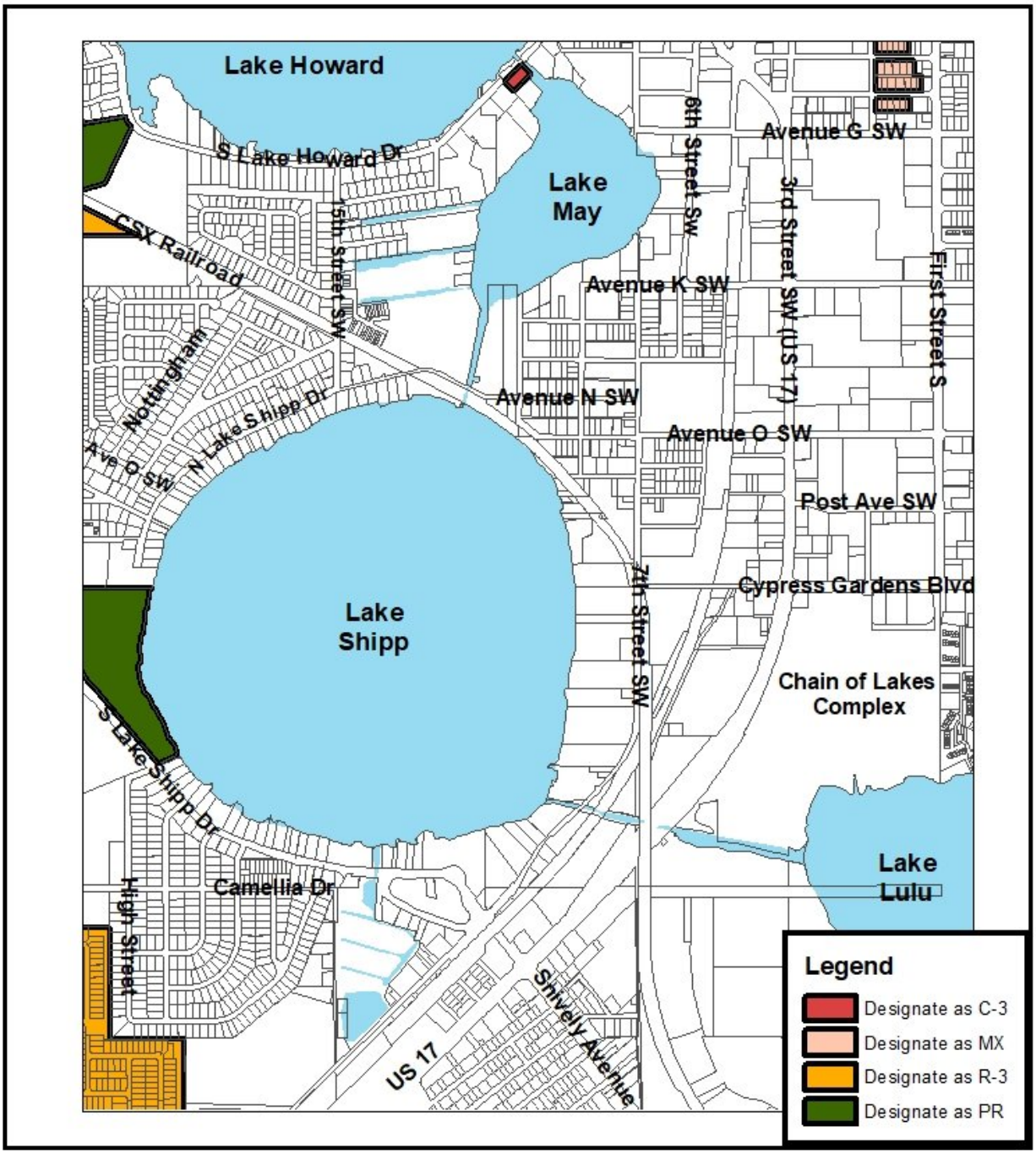


Exhibit "A"
Page 15 of 22

Winter Haven Zoning Map 15

Lake Lulu- Lake Roy- Lake Otis Area

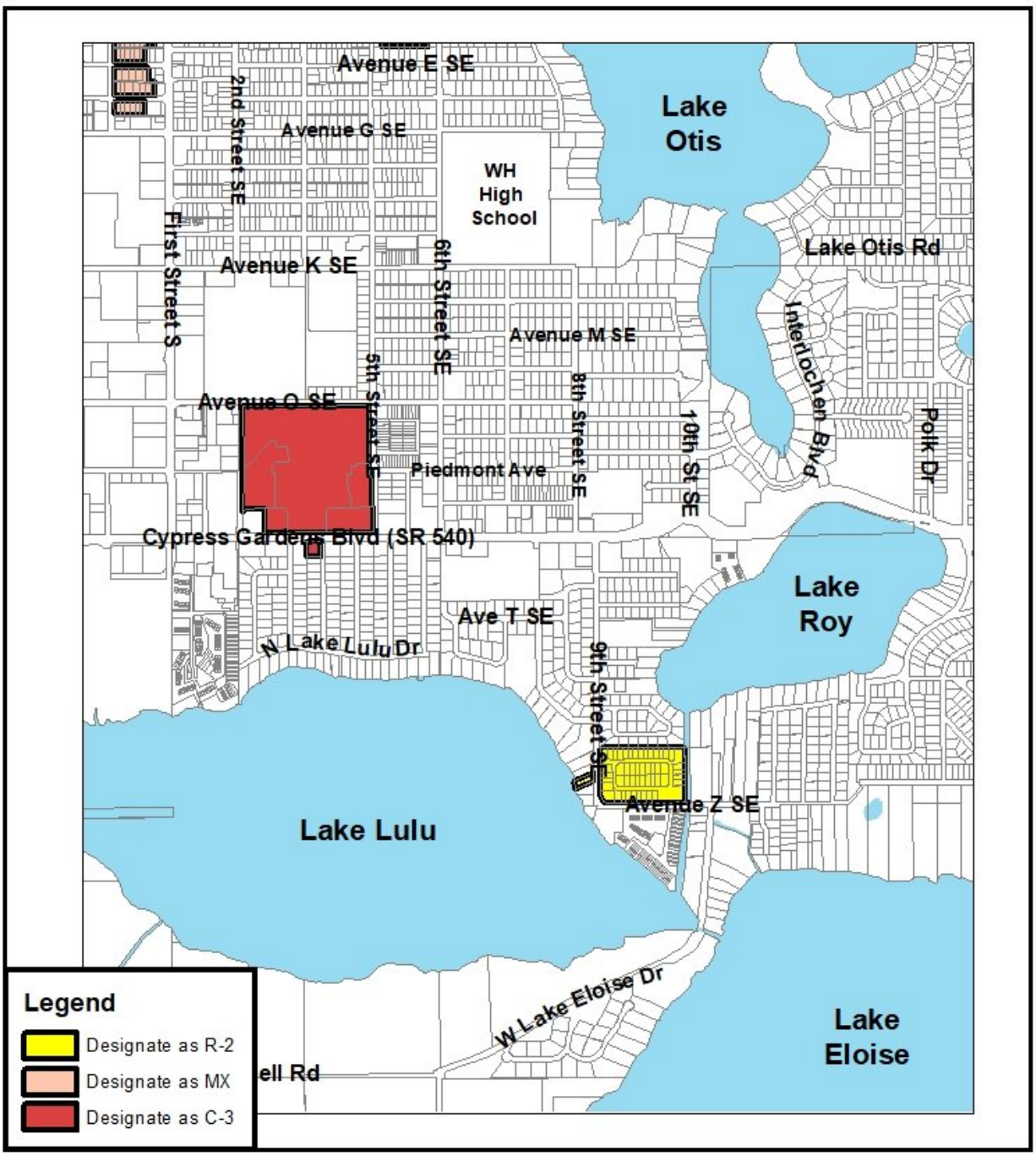


Exhibit "A"
Page 16 of 22

Winter Haven Zoning Map 16

Lake Daisy- Cypresswood- Crump Road Area

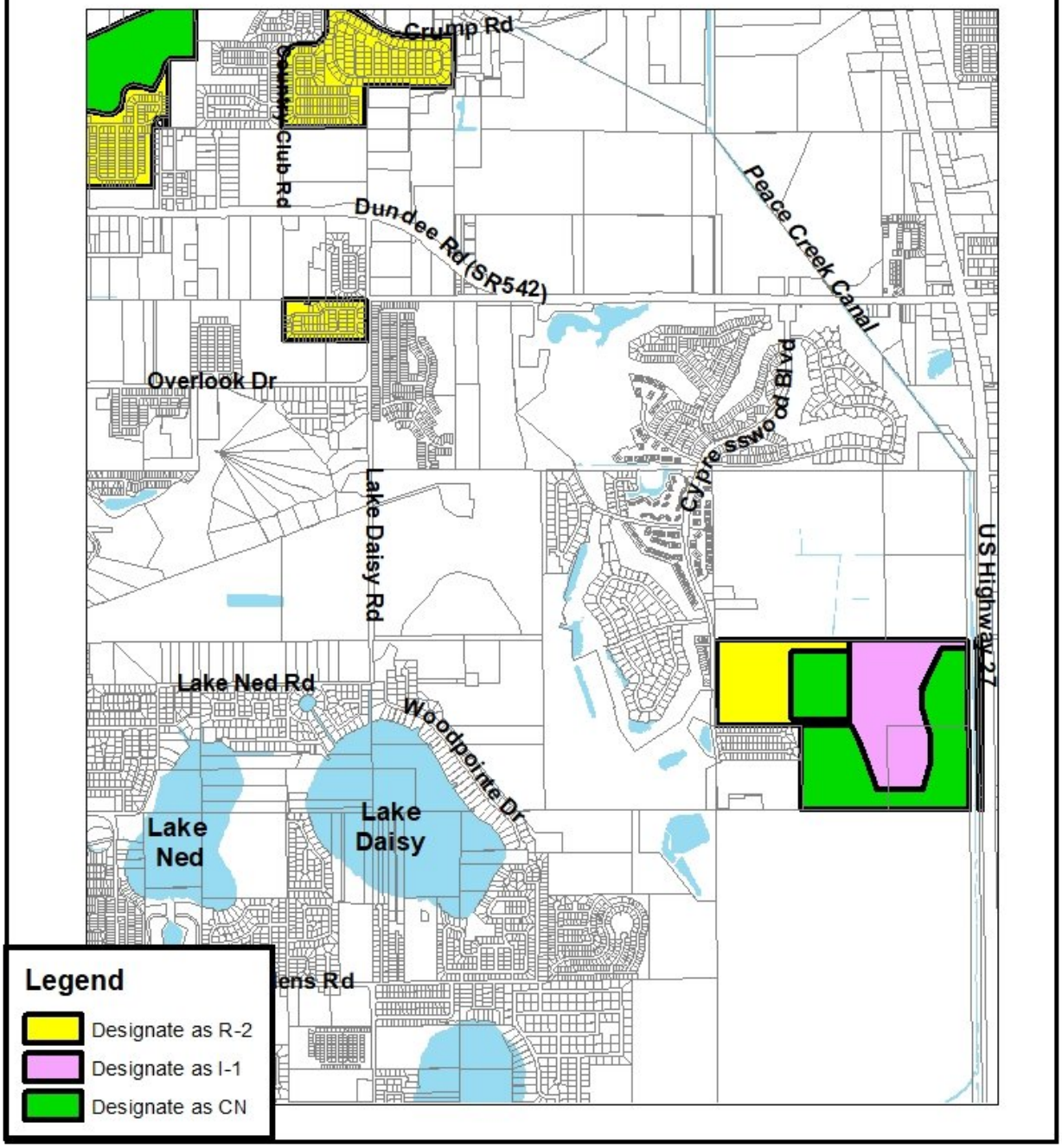


Exhibit "A"
Page 17 of 22

Winter Haven Zoning Map 17

Lake Fox- Lake Ruby- Lake Bess Area

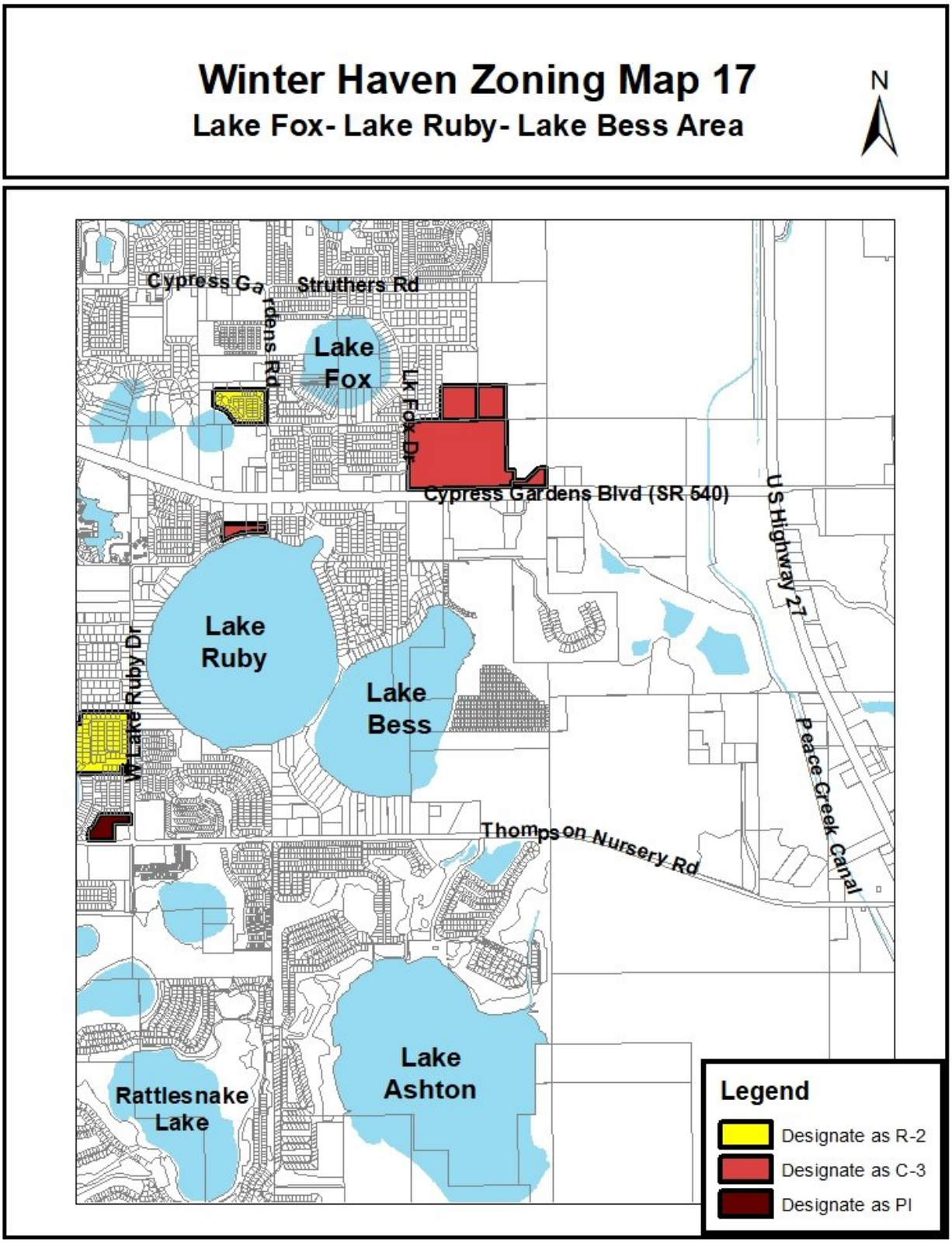


Exhibit "A"
Page 18 of 22

Winter Haven Zoning Map 18

Lake Dexter- Lake Eloise- Lake Winterset Area

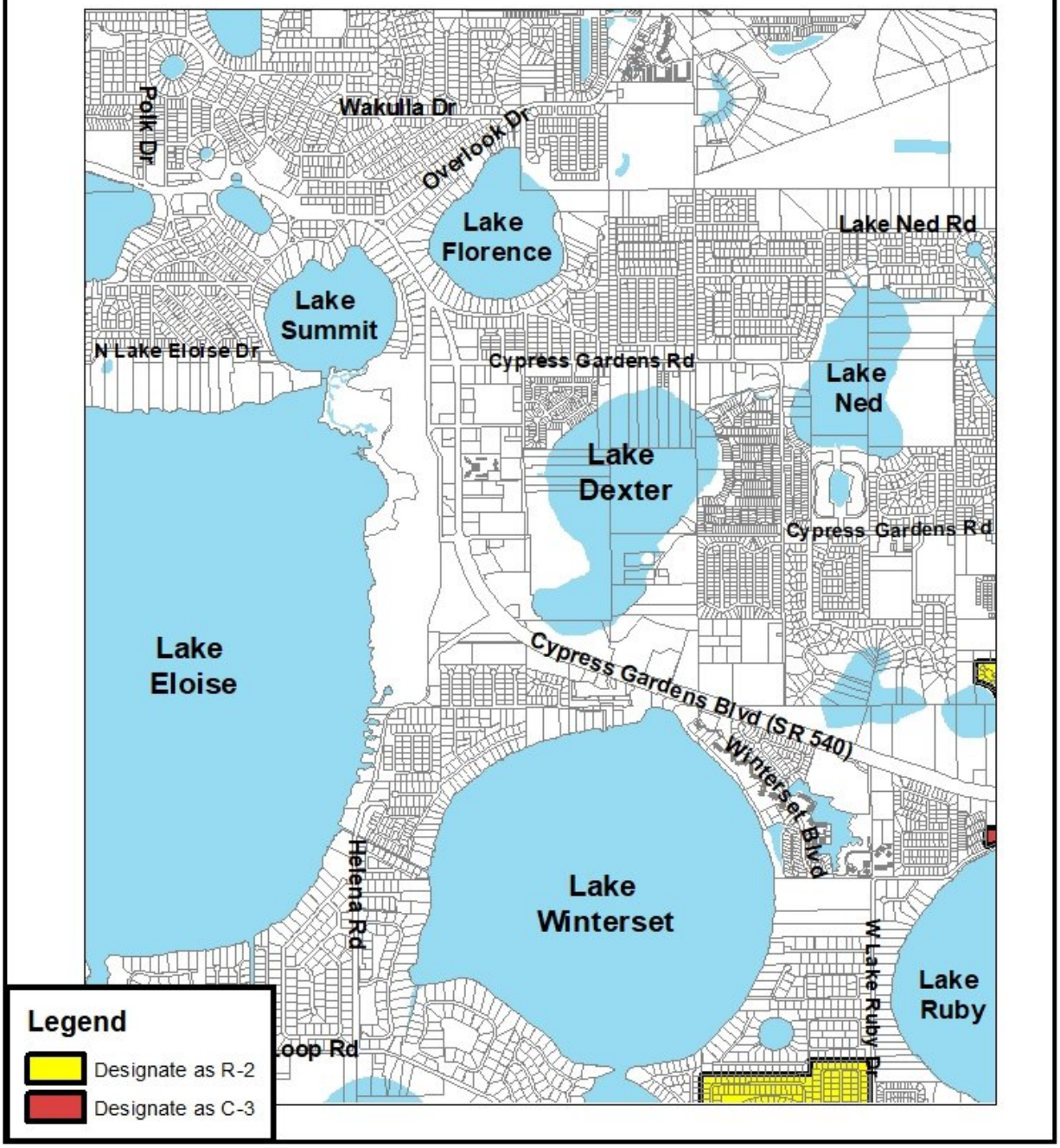


Exhibit "A"
Page 19 of 22

Winter Haven Zoning Map 19

South Lake Eloise- Lake Winterset Area

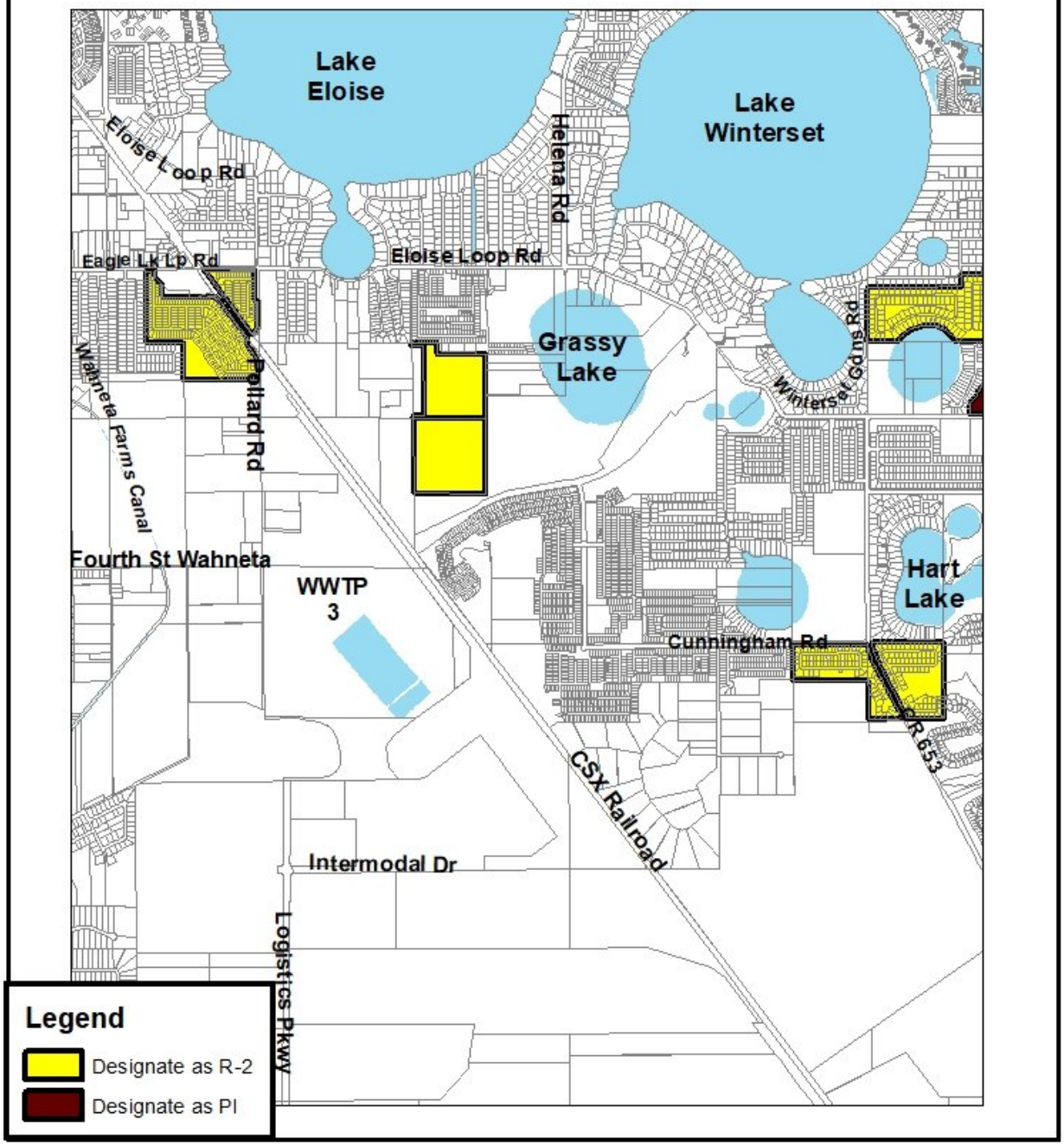


Exhibit "A"
Page 20 of 22

Winter Haven Zoning Map 20
South Lake Lulu Area

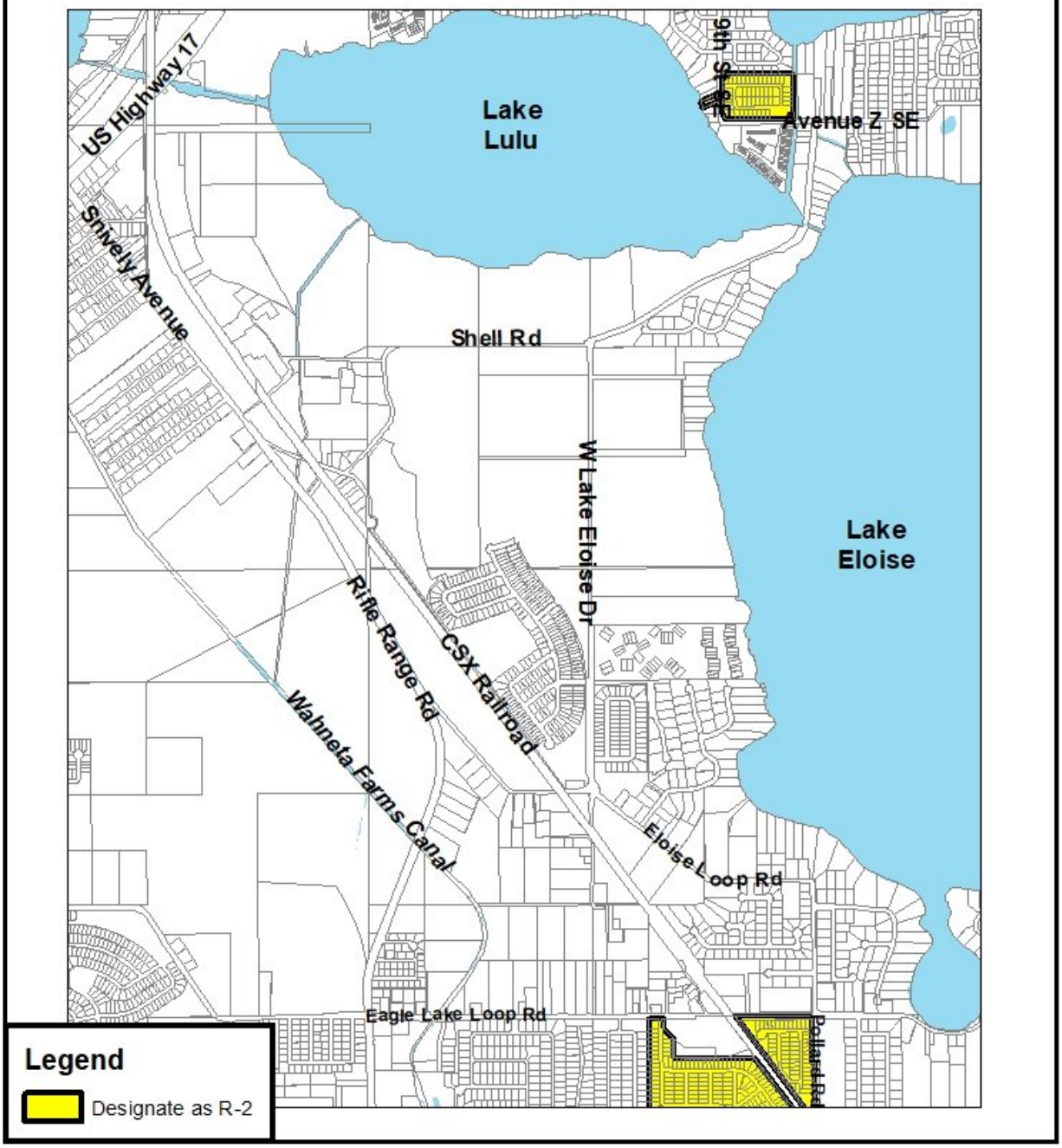


Exhibit "A"
Page 21 of 22

Winter Haven Zoning Map 21

CR 653- Old Bartow/Lake Wales Road Area

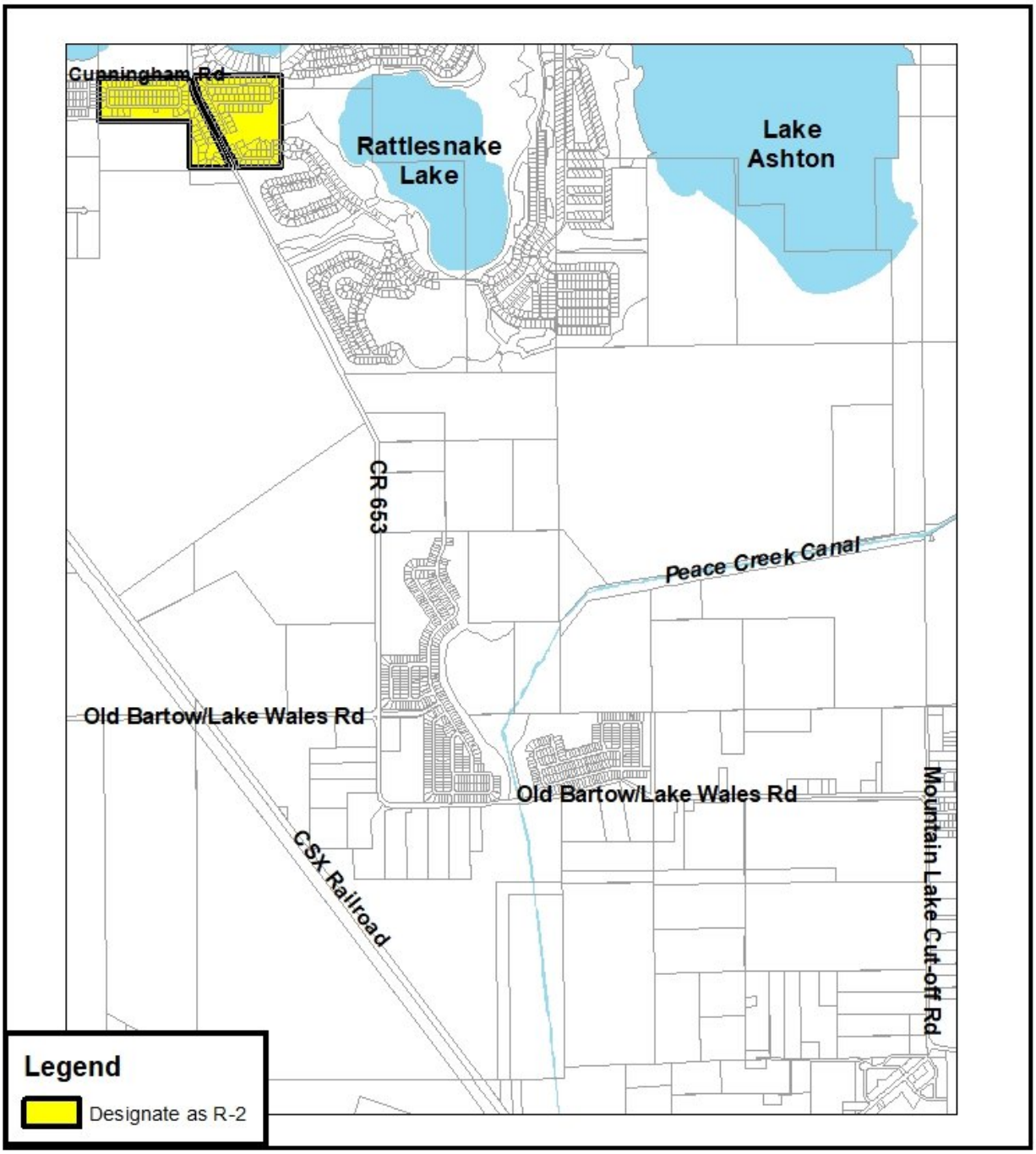
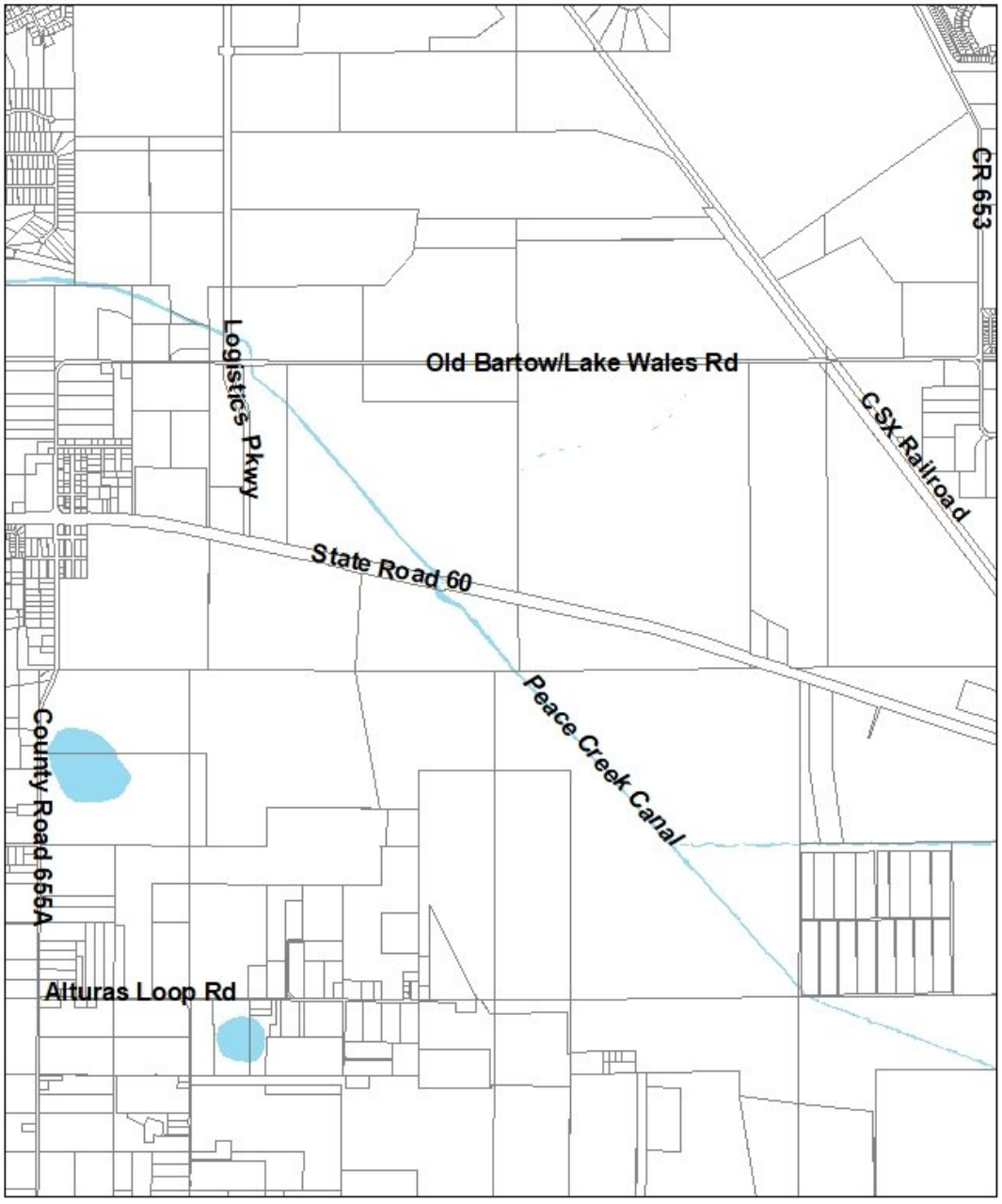


Exhibit "A"
Page 22 of 22

Winter Haven Zoning Map 22

Pollard Road/SR 60 Area



DATE: September 4, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Ordinance O-24-40: Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article III, Division 7 to revise the City's landscape requirements by adding language addressing the City's urban forest.

BACKGROUND

The City's Landscape Ordinance was originally adopted June 1988, with minor modifications being adopted in 1989 and 1990. Since 1990, the document has not been amended and has never been codified into Chapter 21 of the Code of Ordinances. The Ordinance establishes requirements for all new development to provide landscape buffers of varying widths and intensities between the development site and surrounding uses and abutting roadways. The Ordinance provides for ten buffer yard types. The Ordinance also establishes tree canopy coverage requirements for impervious parking and driveway areas ranging between 40 and 50 percent utilizing trees from an adopted list.

In November 2023, the City Commission adopted the *Urban Forestry Master Plan* to address the management of the City's urban forest. The *Master Plan* performed an in depth analysis of the City's trees located within the City's rights-of-way and on public lands. In all, 9,440 trees comprising 135 unique species were analyzed. Following up on this analysis, the *Master Plan* sets forth direction on tree maintenance and planting guidelines, makes recommendations types of trees to be planted, and addresses mitigation and penalties for removed trees which are not diseased or dead. The *Master Plan* also recommends updating the City's Code of Ordinances to adopt language supporting the urban forest.

To aid staff in developing Code language, Kimley-Horn and Associates was hired to evaluate the *Master Plan* and other documents relating to landscaping. With this collaboration, proposed changes to Chapter 21, Article III, Division 7, which addresses development on private property, include:

- Addition of Sections 21-181 through 21-188 focusing on the City's urban forest;

- Establishes a definition section which defines applicable urban forestry terminology;
- Establishes requirements for tree protection during construction projects; and
- Provides a system to mitigate the removal of protected and specimen trees, as well as providing penalties for removal of these trees without obtaining approval.

In the coming months, staff will bring forth updated language addressing the City's landscape buffer yard and parking lot tree canopy coverage requirements for new developments. This updated language will be addressed by new sections within Chapter 21, Article III, Division 7.

FINANCIAL IMPACT

There is no direct financial impact to the City with this request.

This is an ordinance pertaining to the amendment of the City's Land Development Regulations, which is enacted to implement requirements contained in Part II, Chapter 163 of Florida Statutes. In accordance with Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)), ordinances implementing Part II, Chapter 163, F.S. are exempt from providing Business Impact Estimates.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at its September 3, 2024 regular meeting, unanimously voted to recommend approval of this request. There were no public comments.

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-40.

ATTACHMENT

- Ordinance O-24-40

ORDINANCE NO. O-24-40

AN ORDINANCE AMENDING THE WINTER HAVEN CODE OF ORDINANCES, CHAPTER 21, ARTICLE III, DIVISION 7, COMPATIBILITY, LANDSCAPING AND BUFFERING STANDARDS, FOR THE PURPOSE OF ADDING STANDARDS TO PROMOTE AND PROTECT THE CITY'S URBAN FOREST; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proposed amendment to the Winter Haven Land Development Code, has been studied, documented, advertised, and heard by the Winter Haven Planning Commission; and

WHEREAS, the City Commission of the City of Winter Haven, Florida, finds that it is expedient to revise Chapter 21, Article III, Division 7 for the purpose of adding standards to protect and promote the City's urban forest; and

WHEREAS, the request implements requirements contained in Part II, Chapter 163 of Florida Statutes, and therefore is exempt from requiring a Business Impact Estimate as set forth by Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)).

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

1. That Chapter 21, Article III, Division 7, Compatibility, Landscaping and Buffering Standards, of the Code of Ordinances of the City of Winter Haven, Florida is hereby amended to read as shown in Exhibit "A", attached hereto and made a part hereof.

2. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect.

3. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

4. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, section of this Ordinance may be renumbered or relettered and the correction of typographical and/or

scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of the same with the City Clerk.

5. This Ordinance shall become effective immediately upon passage on second reading.

INTRODUCED on first reading this 10th day of September, 2024.

PASSED on second reading this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

Mayor-Commissioner
Nathaniel J. Birdsong, Jr.

ATTEST:

City Clerk
Vanessa Castillo, MMC

Approved as to form:

City Attorney
Frederick J. Murphy, Jr.

Exhibit "A" – Page 1 of 8

New language is underlined and deleted language is ~~stricken through~~.

DIVISION 7. - COMPATIBILITY, LANDSCAPING AND BUFFERING STANDARDS

Sec. 21-181. ~~Generally~~ General purpose and intent.

~~For landscaping requirements, please see the Landscape Ordinance, Appendix A.~~

The purpose of this Division is to protect Winter Haven's urban forest resource, encourage tree species diversity, expand tree canopy cover, grow a sustainable and resilient urban forest, promote the use of street trees, and achieve buffering between incompatible land uses.

This Division establishes the minimum requirements applicable to the protection of trees in Winter Haven, provides standards for the planting of street trees, and provides standards for landscape buffer yards.

Sec. 21-182. Definitions.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Division, have the meanings shown below. Where terms are not defined in this Division and are defined in Section 21-531 of this Code, such terms shall have the meanings ascribed to them in that Section. Where terms are not defined in this Division or by Section 21-531, such terms shall have ordinarily accepted meanings such as the context implies.

ANSI. Acronym for American National Standards Institute.

ANSI A300. The United States industry-developed, national consensus standards of practice for tree care.

ANSI Z133. The United States industry-developed, national consensus safety standards of practice for tree care.

ANSI Z60.1. The United States industry-developed, national consensus standards for nursery stock.

DBH. Diameter at breast height. Measured at 4.5 feet (ft) above ground level with a specially calibrated tape measure called a diameter tape (D-tape).

Drip line. The area defined by the outermost circumference of a tree canopy where water drips from and onto the ground.

Exhibit "A" – Page 2 of 8

Florida Invasive Species. An introduced (intentionally or unintentionally) species which is non-native to the region that causes or is likely to cause environmental harm, economic harm, and/or harm to humans. Invasive species are defined by the Florida Invasive Species Council (FISC). For the purpose of this ordinance, invasive species shall mean any species listed on the most recent FISC "List of Invasive Plant Species".

Hatracking. To flat-cut the top or sides of a tree, severing the leader or leaders; to make internodal cuts; to prune a tree by stubbing off mature wood larger than three inches in diameter, or reducing the total circumference of canopy spread not in conformance with industry standards or best management practices.

Heritage Oak. Any Live oak (*Quercus virginiana*) which measures 34 inches DBH or greater and is in good health. The developer shall preserve all trees identified as grand oak unless authorized for removal by the Administrator.

Grades and Standards for Nursery Plants. The publication Grades and Standards for Nursery Plants, 2nd Edition, February 1998, State of Florida, Department of Agriculture and Consumer Services, Division of Plant Industry, Tallahassee, and amendments thereto. This publication is available from the Division of Plant Industry at *http://www.doacs.state.fl.us/pi/pubs.html*.

ISA Certified Arborist. A professional certified by the International Society of Arboriculture (ISA) who possesses an active certification number and the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants in the residential, commercial, and public landscape.

Large Tree. Trees with an expected height at maturity of over 40 ft.

Medium Tree. Trees with an expected height at maturity between 20-40 ft.

Prohibited tree. Prohibited tree species, reflected in Table A, are not protected by this code and do not require approval or mitigation for removal.

Protected tree. Any tree which measures between 6 inches and 23 inches in diameter at breast height (DBH) and which is not a species identified as a prohibited tree (listed below) or a listed species on the Florida Invasive Species Council's most recent list. In addition, all single-trunk palms with a minimum clear trunk of 8' between the ground level and the lowest frond are considered protected trees.

Exhibit "A" – Page 3 of 8

Pruning. The act of cutting or sawing to remove a dangerous hazard in a tree, or to maintain or improve the structure, form or health of a tree, in a manner generally consistent with the current ANSI A300 Part 1—Pruning, as may be amended.

Small tree. Any tree with an expected height at maturity of below 20 ft.

Specimen tree. Any tree which is 24 inches in diameter at breast height (DBH) and which is not a species identified as a prohibited tree species (listed below) or a listed species on the Florida Invasive Species Council's most recent list.

Topping. According to arboricultural industry standards, topping refers to inappropriate pruning techniques to reduce tree size that may result in unnecessary risk, tree stress, or decay.

Tree Protection/Mitigation Plan. A plan developed per the guidelines in this Division for any person conducting construction activities such as: excavation, filling, tunneling, trenching, compacting, demolition, utility work or other land disturbing activity within close proximity to existing trees. The tree protection/mitigation plan shall depict all existing trees (6" DBH and greater) and existing palms (8' clear trunk and greater) with species identification, as well as methods of protection including, but not limited to, tree protection fencing, limits of root pruning, specifications, and details for implementation.

Tree Relocation. To transplant, reestablish, or move a tree to another place within a site or off-site.

Tree Removal Permit. A permit for the removal, relocation, or replacement of a tree obtained pursuant to the provisions of this Division.

Sec. 21-183. Applicability.

(a) Except as specifically excluded herein, the requirements and regulations of Sections 21-182 through 21-188 of this Division shall apply to all land within the City of Winter Haven.

(b) *Exemptions.* The following are exempt from all tree-related requirements of Sections 21-182 through 21-188 of this Division:

(1) Single-family detached and duplex residential land uses.
(2) Tree removal for the purpose of maintaining existing utility lines or facilities, or for the construction of new public utility lines or facilities.
(3) Removal or relocation of containerized trees and nursery stock trees.
(4) Removal of dead, diseased, or naturally fallen trees.

(5) Removal of any tree species listed on the most recent FISC "List of Invasive Plant Species" list.

(6) Removal, relocation, or replacement of any tree on public property performed by public employees or public contractors.

Sec. 21-184. Tree removal permit required.

No person shall engage in any activity prohibited by Sections 21-182 through 21-285 of this Division without first obtaining a Tree Removal Permit issued by the City Manager or his or her designee issued pursuant to this Division.

Sec. 21-185. Tree mitigation and removal regulations.

(a) *Tree mitigation/removal plan required.* Prior to the issuance of a building permit, the Building Division shall require the submission of a Tree Mitigation/Removal Plan. The Tree Mitigation/Removal Plan shall be drawn to scale with sufficient clarity and detail to indicate the type, nature and character of the improvements required by this Division. The Tree Mitigation/Removal Plan shall contain:

(1) A tree survey with tree list including all existing trees over 6" DBH within the site and clear indication of tree DBH, species identification, and which trees are to be retained or removed;
(2) The location of the proposed development and all site improvements;
(3) The location of all existing and proposed underground utilities;
(4) The location of limits of grading / limits of improvement;
(5) The location of silt fencing;
(6) Proposed methods of tree protection, including but not limited to, tree protection fencing, limits of root pruning, tree protection fencing details, and specifications; and
(7) If trees must be removed, relocated or replaced in order to accomplish the intended on-site construction activity, a summary of tree mitigation calculations and replacement requirements in the form identified in Table 21-185A.

(b) *Tree protection during construction.* Prior to initiating any construction activity, and during all periods of construction activity, all protected trees, specimen trees, and heritage oaks shall be protected by a fence constructed to be a minimum of four (4) feet tall around each minimum tree protection area described herein. All protected trees shall have a minimum protection area of 10' from the outside edge of the trunk (palms shall have a minimum protection area of 5' from the

outside edge of the trunk). All specimen trees shall have a minimum protection area of 15' from the outside edge of the trunk. All heritage oaks shall have a minimum protection area covering the extent of the dripline or a minimum distance of 20' from the outside edge of the trunk, whichever is less.

(c) *Signage required.* Signs shall be installed on the protective fence (minimum of one sign every 300 linear feet) of every required tree protection area. The size of each sign must be a minimum of one (1) foot by one and one half (1.5) feet and shall contain the following bilingual text in both English and Spanish: "TREE PROTECTION ZONE: KEEP OUT."

(d) *Mulch or compost protection required.* A minimum of four (4) inches of mulch or compost shall be spread throughout every required tree protection area for all protected trees and specimen trees and a minimum of six (6) inches of mulch or compost shall be spread throughout every required tree protection area for heritage oaks.

(e) *Professional certification and City inspection.* A signed affidavit shall be furnished by the building permit applicant to serve as confirmation that fencing and protective barricades for the project have been installed and accepted by the project Engineer of Record or Landscape Architect of Record in conformance with the required locations and specifications on the approved tree protection/mitigation plan, and that such protective barricades have been clearly identified on the project construction plans. No tree removal permit shall be issued until the City has inspected and approved the installation of tree protection fencing and signage as required herein.

(d) *No activity permitted within required tree protection areas.* No construction, grading, parking, equipment storage, material storage, or any other construction-related activity shall be allowed within the fenced required tree protection area at any time during a project.

(e) *Mitigation requirements and calculations.*

(1) Each tree protection/mitigation plan shall include a table of tree replacement requirements in the form shown in Table 21-185A of this Code.

(2) *Required replacement ratios for protected trees, specimen trees and heritage oaks:*

(A) If a protected tree, or palm must be removed on the tree protection/mitigation plan, it must be replaced on a one-to-one (1:1) ratio based on the DBH of the removed protected tree.

(B) If a specimen tree is scheduled to be removed on the tree protection/mitigation plan, it must be replaced on a one and a half-to-one (1.5:1) ratio based on the DBH of the removed specimen tree.

(C) If a heritage oak is scheduled to be removed on the tree protection/mitigation plan, it must be replaced on a two-to-one (2:1) ratio based on the DBH of the removed heritage oak tree.

(3) *Preservation Credits*. Credits, based on size, shall be given when existing trees are preserved toward required replacement inches, landscape buffer requirements, interior parking requirements, and/or general site canopy coverage requirements.

(4) *Standards for replacement trees:* Replacement trees shall be Florida Grade A trees with a minimum size of three caliper inches and a minimum height of 10'. Palms shall have a minimum clear trunk of 8'. On-site irrigation is required for replacement trees. Replacement trees shall be planted using generally accepted "Right Tree Right Place" principles.

(the remainder of this page of Exhibit "A" has been left intentionally blank)

Exhibit "A" – Page 7 of 8

Table 21-185A Tree Mitigation Calculations Form and Example

CITY OF WINTER HAVEN TREE MITIGATION CALCULATIONS			
TREES REMOVED			
TREE TYPE	TOTAL INCHES (DBH)	MITIGATION REQUIRED	
(1) PALMS	7 PALMS	1:1 (QTY)	7 PALMS
PROTECTED TREES (6"-23")	30	1:1 DBH REMOVED	30
SPECIMEN TREES (24"+)	60	1.5:1 DBH REMOVED	90
HERITAGE OAKS (34"+)	80	2:1 DBH REMOVED	160
		REPLACEMENT REQUIRED (INCHES)	280
TREES PRESERVED			
TREE TYPE	TOTAL INCHES (DBH)	CREDIT RATIO (IN INCHES)	CREDIT SUBTOTAL
PALMS	3 PALMS	1:1 (QTY)	3 PALMS
PROTECTED TREES (6"-23")	50	50%	25
SPECIMEN TREES (24"+)	60	100%	60
HERITAGE OAKS (34"+)	80	150%	120
		TOTAL PRESERVATION PROVIDED (CREDITS)	205
		TOTAL INCHES OF REPLACEMENT REQUIRED	75
		TOTAL REPLACEMENT PALMS REQUIRED	4
		(2) TOTAL REPLACEMENT INCHES PROVIDED	
		TOTAL REPLACEMENT PALMS PROVIDED	
		(3) INCHES REMAINING TO BE PROVIDED	

1) All single-trunk palms are considered protected trees. In lieu of replacing palms on an inch for inch basis, palms shall be replaced 1:1 (QTY) with either a replacement palm with a minimum clear trunk of 8' or (1) 3" caliper tree.

2) Palms may not be used in lieu of 3" caliper replacement trees.

3) City of Winter Haven will establish a fee to be paid to the City tree fund when replacment inches are not provided in full.

Sec. 21-186. Penalty for noncompliance.

Removing a protected tree or palm, a specimen tree, or a heritage oak tree without first obtaining a tree removal permit, and/or damaging a protected tree or palm, specimen tree, or a heritage oak during construction, shall be punishable by a fine equal to: $200 per inch of DBH removed for protected trees and palms and specimen trees; $400 per inch of DBH removed for heritage oaks; and for trees where DBH cannot be determined, an amount calculated by the City Manager, or his or her designee, based on the latest aerial imagery showing overall canopy coverage removed. In addition, any person who removes a protected tree or palm, a specimen tree, or a heritage oak tree without first obtaining a tree removal permit, and/or damaging a protected tree or palm, specimen tree, or a heritage oak during construction must replace the removed tree or damage tree at double the required replacement ratio identified above in paragraph (e).

Sec. 21-187. Landscape buffer yard and tree canopy requirements.

For landscaping landscape buffer and tree canopy requirements for new developments, please see the Landscape Ordinance, Appendix A.

Exhibit "A" – Page 8 of 8

Sec. 21-188. Certificate of final inspection and landscape inspection required.

No Certificate of Occupancy, Certificate of Completion, or substantial equivalent, shall be issued until the City has conducted a final inspection and landscape inspection and the property is found to be in compliance with this Division.

DATE: September 6, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Water Department Director
Mark W. Bombard, Water Department Assistant Director

SUBJECT: Settlement Agreement between the Casper R. Callen Trust and the City of Winter Haven, Florida

---

BACKGROUND

The City currently has access to the operation of a raw water well (the "Well"), the associated piping, and related infrastructure under a long-term lease on property located at 0 Lake Mariam Lane, Winter Haven, Florida 33884 (Polk County Property Appraiser Parcel Identification No. 262826-592002-000200) (the "Property"). The Casper R. Callen Trust ("Trust") owns the Property.

Since the purchase of the Garden Grove Water System in 1998, the City has carried out the operation of the Well pursuant to the long-term 1986 Lease of Water Well (the "Lease") that was agreed upon during the purchase. The subject Well is part of the City's inventory of available potable water wells under its Water Use Permit ("WUP") issued by the Southwest Florida Water Management District (SWFWMD). A dispute about whether a timely renewal of the Lease had been made by the City for the subject Well arose between the Trust and the City. The City and representatives of the Callen Trust have engaged in settlement discussions to find a satisfactory resolution of any disputes concerning the City's continued potential use and operation of the subject Well. In June of 2022, the City, in an effort to show good faith during the pendency of such settlement discussions, ceased all use of the Well but the Well remains as a permitted Well available for City use under the City's aforementioned WUP.

The Trust and the City have, in good faith, proposed a valuation of the Property including the Well to be $93,000.00. A settlement agreement has been drafted and the settlement terms would allow the City to purchase the Property terminating the long-term Lease; the City will then own the well outright. The Trust will provide a Commitment for Title Insurance and will prepare the Statutory Form Warranty Deed conveying the Property to the City. As part of the Settlement Agreement, the Trust fully releases the City relating to matters arising out of the City's use of the subject Well and Property and any other matters arising out of the terminated Lease.

FINANCIAL IMPACT

The City and the Trust have agreed to a purchase price of $93,000.00 for approximately 0.16 acres including the Well. The closing on the Property shall be held thirty (30) days after approval of the Settlement Agreement by the City Commission. Acquisition costs are budgeted in Fiscal Year commencing October 1, 2024, in account 402-08-305-6101.

RECOMMENDATION

Staff and the City Attorney recommend the City Commission approve the Settlement Agreement which authorizes the purchase of Property including the Well and authorize the City Manager or his designee, and the City Attorney, to execute the Settlement Agreement and all other documents related to such purchase and to take all further necessary actions related thereto.

ATTACHMENT

- Callen Settlement Agreement

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made, entered into, and approved on this ___ day of _____, 2024 (the "Effective Date"), by and between the CASPER R. CALLEN TRUST (the "Trust") and the CITY of WINTER HAVEN (the "City"), a municipal corporation of the State of Florida, successor to the Garden Grove Water Company (collectively, the "Parties").

RECITALS

A. **WHEREAS**, the City currently operates a raw water well (the "Well") and associated piping and related infrastructure under a long term lease on property located at 0 Lake Mariam Lane, Winter Haven, FL 33884 (Polk County Property Appraiser Parcel Identification Number: 262826592002000200) (the "Property"); and

B. **WHEREAS**, the Trust currently owns the Property; and

C. **WHEREAS**, the City has carried out the operation of the Well pursuant to a long-term 1986 Lease of Water Well (the "Lease"); and

D. **WHEREAS**, this Agreement is entered into by the Parties in order to amicably settle current disputes relating to the Lease; and

E. **WHEREAS**, the City holds existing Water Use Permit # 20004607.019; and

F. **WHEREAS**, a dispute about the Well arose between the Trust and the City about the continuing validity of the Lease; and

G. **WHEREAS**, in June of 2022, the City, in an effort to show good faith during the pendency of these settlement proceedings, ceased all use of the Well; and

H. **WHEREAS**, the Trust has, in recognized good faith, proposed a valuation of the Property totaling $93,000.00; and

I. **WHEREAS**, it is in the best interests of the residents and users of the City's water and wastewater utility system to enter into this Agreement.

NOW THEREFORE, with full knowledge and understanding of the laws governing the subject matter of this Agreement, and in consideration of the foregoing recitals and the mutual covenants and conditions contained herein, the Parties, intending to be legally bound, hereby acknowledge and agree as follows:

1. **RECITALS.** The recitals set forth above are specifically incorporated herein by reference and made part of this agreement.

2. **SUFFICIENCY OF CONSIDERATION.** In exchange for valuable consideration provided herein, the Trust and the City, by their signatures below, hereby acknowledge the receipt,

adequacy, and sufficiency of consideration provided pursuant to this Agreement and forever waive the right or privilege to object to or otherwise challenge the same.

3. **PURCHASE AND SALE OF REAL PROPERTY.** In exchange for the consideration provided under the terms of this Agreement, the City hereby agrees to purchase from the Trust, and the Trust hereby agrees to sell to the City, marketable record title to the real property located at 0 Lake Mariam Lane, Winter Haven, Florida 33884 (Polk County Property Appraiser Parcel Identification Number 262826592002000200), for the agreed upon price of $93,000.00 free and clear of all encumbrances and liens and insurable with an Owner's Title Insurance Policy acceptable to the City. This purchase and sale includes only 0 Lake Mariam Lane, Winter Haven, Florida 33884 (Polk County Property Appraiser Parcel Identification Number 262826592002000200) and does not include the real property assigned Polk County Property Appraiser Parcel Identification Number 262826592002000210.

4. **RELEASE OF LIABILITY.** To the maximum extent allowed by applicable law, each party hereto agrees to, upon execution of this Agreement, release and hold harmless the other from any and all liability relating to any and all current or future claims or demands relating to the Property or the Lease, including, but not limited to, any and all actions, causes of action, suits, rights, debts, dues, sums of money, costs, accounts, reckonings, penalties, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, appraisals, variances, trespasses, damages, fees, losses, wages, expenses (including attorneys' fees and costs actually incurred), judgments, executions, claims, or demands whatsoever, in law or in equity.

5. **FURTHER ASSURANCES.** The Parties agree that each Party shall execute, acknowledge, and deliver any further assurances, documents, or instruments reasonably requested by the other so that the settlement provided for in this Agreement may be fully realized.

6. **TRANSFER OF PROPERTY.** The Trust hereby agrees to prepare the Warranty Deed for the transfer of the property, supported by the Owner's Title Insurance Policy, referenced in paragraph 3 above, acceptable to the City and record the Warranty Deed with appropriate document stamps and Trust Certification as required by Section 736.1017 of the Florida Statutes with Polk County, Florida Official Records.

Deleted: all purchase and sale documents, including deeds or assignment documents all

Deleted: a form and manner that are

7. **ATTORNEY FEES.** Each party shall pay its own attorney fees incurred in this matter or under this Agreement.

8. **DUE DILIGENCE FEES.** The City shall pay all costs associated with due diligence matters determined necessary by the City.

9. **TOTAL INTEGRATION.** This Agreement constitutes and merges the entire understanding of the Parties and supersedes all prior and contemporaneous oral or written statements, representations, and negotiations between the Parties. The Parties acknowledge that they have read this Agreement and that it is a complete, written statement of the terms and conditions of the settlement. The Parties agree that all the terms of this Agreement are contractual

and not mere recitals. This Agreement may not be modified or amended except by an instrument in writing signed by the Parties. No provision of this Agreement may be waived except by a writing signed by both Parties. No waiver of any specific provision shall be deemed a waiver of any other provision.

10. **NO ADMISSION OF LIABILITY**. It is understood and agreed that this Agreement is the compromise resulting from disputed claims. Nothing provided herein is to be construed as an admission of liability or damages on the part of either Party to this Agreement, and said Parties deny liability and intend only to avoid litigation and to buy their peace.

11. **NO RELIANCE.** The Parties have entered into this Agreement based solely upon their own independent investigation, knowledge, and judgment of their particular situation, the extent of their claimed damages and injuries, and the facts and circumstances related to their dealings and involvement with the other Party. The Parties represent that they had adequate opportunity to consult with counsel of their choosing for purposes of the same. The Parties agree that any information, facts, statements, or representations they received from the other Party that were relevant to their decision to enter into this Agreement could have been and should have been written into this Agreement, and in signing this Agreement the Parties acknowledge that they have not relied on and have not been influenced by, any oral or written information, facts, statements, representations, or have any other statements made or supplied to them by or on behalf of a Party that are not expressly stated in this Agreement.

12. **JURY TRIAL WAIVER.** The Parties hereby waive the right to trial by jury of any dispute concerning the validity, interpretation, or performance of this Agreement.

13. **INTERPRETATION.** No term or provision of this Agreement shall be interpreted for or against any Party because that Party or that Party's legal representative drafted the provision.

14. **CAPTIONS.** Section titles or captions contained herein are inserted as a matter of convenience and reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

15. **AUTHORITY TO SIGN THIS AGREEMENT.** The persons signing this Agreement on behalf of the Parties represent and warrant that they have full authority to execute this Agreement and make it fully binding upon the Party for whom they have signed. Notwithstanding the foregoing, or the execution of this Agreement by any official, charter officer, or agent of the City, this Agreement shall not be valid, effective, or binding upon or against the City until it is approved by the City Commission of the City of Winter Haven, Florida voting in open public session.

16. **SEVERANCE.** If any section, subsection, clause, or provision of this Agreement is adjudged by a court, agency, or authority of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, all remaining parts of this Agreement shall remain in full force and effect, and the Parties shall be bound thereby so long as the principal purposes of this Agreement remain enforceable.

17. GOVERNING LAW AND VENUE. This Agreement was negotiated and executed in the State of Florida and shall be construed and enforced in accordance with the laws of the State of Florida without regard to any conflicts of laws provisions. The Parties agree that venue for any litigation arising under this Agreement shall lie, be brought, or commenced in a court of competent jurisdiction in the Florida state court system in and for Polk County, Florida, which, as of the effective date of this Agreement, consists of the County Court in and for Polk County, Florida and the Circuit Court of the Tenth Judicial Circuit, in and for Polk County, Florida.

18. **EFFECTIVE DATE**. The Effective Date of this Agreement shall be the date upon which it is approved by the City's governing body.

IN WITNESS WHEREOF, the undersigned Parties have duly executed this Agreement as of the Effective Date.

CITY OF WINTER HAVEN, a Florida municipal corporation
By:

Nathaniel J. Birdsong, Jr.
Mayor
Date Approved:

_____

ATTEST WITH SEAL:

By: Vanessa Castillo, MMC, City Clerk

Approved as to correctness and form:

By: Frederick J. Murphy, Jr., City Attorney

CASPER R. CALLEN TRUST

By:
Name: James K. Mooney Jr
Title: Trustee

DATE: September 13, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Julie Adams, Parks, Recreation & Culture Department Director

FROM: Andy Palmer, Parks Planning & Strategic Initiatives Manager

SUBJECT: Florida Citrus Building HVAC Renovation Project: Mechanical Services of Central Florida Inc. Equipment & Installation & General Piggyback Agreement Authorization

---

BACKGROUND

In 2017, the City entered into a 50 year lease with the State of Florida to utilize the Florida Citrus Building for public use. The lease specifies that the City is responsible for the upkeep and general costs of the building and any modifications including short and long term maintenance. The City leases the building for $300 per year.

To continue these operations, it is necessary to ensure the building systems and envelope are maintained and upgraded as necessary. The HVAC system for the building was last upgraded in the early 1990s and is in need of replacement. Most recently both chillers have failed and a rented temporary chiller is providing cooling to the building. The City's FY 2023/2024 Budget includes $1.5 Million to address the project.

On February 12, 2024 the City Commission authorized an evaluation and design phase to Mechanical Services of Central FL via a Sourcewell Agreement for the design of a new HVAC System at the Florida Citrus Building. The new design is complete and generally includes the following:

- Removal and disposal of existing system
- Replacement of all 13 Air Handlers
- Replacement of the two chillers
- New automation system
- Various repairs/items through the building such as duct sealing & repairs, adjustments to air intakes
- Air curtains for load in/load out areas in rear of building
- Extended 5-year warranty

The lead times for the equipment range from 18-24 weeks for the air handlers and 32 weeks for the chillers. The City originally utilized a Sourcewell Coop Agreement to procure the project. Most recently, MSI worked with the City to piggyback this project on the Lake County School Board Bid ITB 20-0405 in lieu of the Sourcewell Coop Agreement. Utilizing the Lake County School District Piggyback terms is projected to save the City approximately $137,655 in lieu of the Sourcewell Agreement between tax savings and additional fees required by Sourcewell. Under the terms of the Piggyback, the City will issue two Purchase Orders. One for the equipment and one for the installation.

The City has coordinated with the Florida Department of State Lands regarding the HVAC Project. The Florida Department of State Lands has reviewed the proposed work and given their concurrence to proceed with the project.

FINANCIAL IMPACT

The City has $1.5 Million budgeted in FY 2023/2024 for the project. A Purchase Order for Phase I "Evaluation and Development" was issued for $79,915. Phase II, including the equipment, installation, ancillary work and extended warranty total $2,015,174. The project is proposed to be funded through the following funding plan:

- $1,420,085 – Remaining Project Balance
- $100,000 – Available from the Lake Conine Recreation Project Contingency (will not be needed)
- $495,089 – Available from the General Fund Fund Balance
- Total 2,015,174

RECOMMENDATION

Staff recommends the City Commission authorize the General Piggyback Agreement with Mechanical Services of Central Florida, Inc and authorize the City Manager to execute the General Piggyback Agreement and further authorize the City Manager or his designee to approve the proposals for installation & equipment; approve the funding plan and take any other actions necessary regarding this project.

ATTACHMENTS

General Piggyback Agreement
Mechanical Services of Central Florida, Inc Proposals for Installation & Equipment

EMCOR Services
MSI-Mechanical Services

MSI - Mechanical Services
Contact: Amy Strickland
9820 Satellite Blvd.
Orlando, FL 32837
Phone: 1 (407) 902-3246
Email: astrickland@msifla.com
Web: http://msifla.com

City of Winter Haven

Mr. Andy Palmer, CPRE, CPM

Mechanical Recommendations

Revised – Installation Only

Proposal

Date: September 16, 2024

Project: HVAC Mechanical Installation Only
Location: Nora Mayo Facility, 500 3rd St NW, Winter Haven, FL 33881

State License # CMC1250674

Project Overview

This proposal is for upgrades and equipment installation cost at the Nora Mayo facility in Winter Haven. The cost includes installation of the various mechanical upgrade items, and the installation of the Trane equipment purchased under a separate proposal. We have included a price break down per item. All pricing is based on all services being performed at the time of the project. Please review the following information.

Scope of Work:

- Installation of new Honeywell control system, services by ESIS.
    - New Niagara OPEN, web-based BAS of existing equipment.
- Installation of (2) new Trane ACS chillers, pumps, & VFDs.
- Repair of existing VAVs, includes misc. contactors, and motors as diagnosed during project evaluation.
- Sealing of duct where accessible and where leaks have been discovered.
    - This is only portions of duct system, mostly closest to AHU equipment.
- NEBB certified T&B service, performed by MSI personnel.
- Furnish and install new air curtains at (3) locations on loading dock.
- Replacement of AHUs 1 through 13 (excludes 7 & AHU-10).
    - Scope of work per.
        - Demo and remove existing AHU.
        - Furnish and install new AHU based on engineered prints by PEI.
        - Replacement of piping from existing isolation valves in room to new unit.
        - Insulation of piping as required.
        - Disconnect & reconnect electrical.
        - New duct from Outside air intake to new plenum on unit

Scope of Work	Total	Notes
System Installation		
ESIS - HW Controls	$ 376,340.00	Honeywell Niagara Controls
Chillers / Pumps/ VFDs	$ 210,928.00	New chiller and Conversion to variable system - add'l warranty available.
Misc VAV Repair	$ 24,822.00	
Misc Duct Repairs	$ 23,560.00	
T&B	$ 25,889.00	
Air Curtains	$ 30,431.00	
Duct Sealing	$ 28,439.00	
	$ 720,409.00	
Replacement of AHUs		
AHU-1	$ 61,494.00	
AHU-2	$ 44,391.00	All Units - New unit with mixing box, fused disconnect, OA ducting to unit, new piping to isolation valves, new insulation as needed.
AHU-3	$ 54,772.00	
AHU-4	$ 37,699.00	
AHU-5	$ 54,428.00	
AHU-6	$ 55,962.00	
AHU-8	$ 37,609.00	
AHU-9	$ 57,372.00	
AHU-10	$ 61,490.00	Unit refurbished, not replaced
AHU-11	$ 107,422.00	New unit will provide 80% redundancy with multi fans
AHU-12	$ 75,658.00	
AHU-13	$ 91,652.00	
	$ 739,949.00	

Lead Times:

Trane chillers	32 weeks
Standard AHUs	18 – 19 weeks
AHU – 11	24 weeks

***See extended warranty option for new chillers under Project Clarifications on equipment proposal.*

Any item or service that is not listed above is not included, premium labor unless specified, fire/smoke/building management controls, life safety/fire alarm interface, any electrical modifications and or upgrades, any low voltage modifications and or upgrades, any structural modifications and or upgrades (outside of scope above), any roofing modifications and or upgrades (outside of scope above), any ductwork modifications and or upgrades (outside of scope above), any building code upgrades that may be required, bonding, patching/plastering/painting, plumbing, general contracting services, hazardous material mitigation, lighting protection, temporary cooling, ASHRAE Standard 15 upgrades, certified air/water test and balance services, any site specific required safety training or badging. Repairs of any kind to any equipment not listed above. Existing fire alarm shut down and electrical services. New electrical service not included. Dry wall or painting of any kind. Second shift labor – all work to be carried out during normal hours of operation. Repairs of any kind to any equipment not listed above. Roofing and flashing not included. Test and balance not included.

Project Scope Clarification

- Duct sealing – the duct will be sealed at the accessible joints of the medium pressure ductwork that are leaking at the time of inspection. This may not be possible due to limited access.
- During the project inspection, it was observed that none of the exhaust fans were not operating. It is assumed that these fans are operational or need very minor repairs to operate. If there is an unknown issue, there will need to be discussed on additional repairs that are not currently included. This is not expected but is a possibility.
- Extended warranty for chillers - the new chillers will be provided with a 1-year warranty and a 2nd – 5th year compressor parts warranty. Trane does offer a complete 5-year parts, labor, and refrigerant warranty for an additional cost of $ 22,657.00 for repairs.
- All work to be completed during normal business hours.
- Test & Balance will be performed as a proportional comfort balance. Specific cfm values were not part of the design based on individual space load.
- As the units are replaced, there may be a minimal amount of work needed with the fire alarm. This is expected to be limited to the location of the smoke detector and possibly the shut-down. As discussed in the project review meeting, any work associated with the fire alarm will be contracted directly with the City of Winter Haven. MSI will provide relocation of the smoke detectors in the ductwork as needed, other work will be performed by the fire alarm company as needed. More information and coordination will be provided once project direction is decided.

Pricing Summary

Project will be billed per terms of General Piggyback Purchasing Agreement between the City of Winter Haven and MSI. Please note the following items:

- Monthly progress invoices will be submitted monthly.
- Project management time will be billed at the foreman rate.
- All pricing is based on the Trane equipment being purchased under a separate proposal.

Sale Price

Total estimated project installation cost: **$1,460,360.00**

This price will only be valid for thirty days from the proposed date.

This quotation is provided with the understanding that the City of Winter Haven will be utilizing the Lake County Schools Contract #20-0405-B-AR Chiller Preventative Maintenance HVAC Repair, New-Equipment Purchase and Installation as a piggyback agreement for the scope of work and pricing as stated above.

Authorized Customer Signature: _____

Name (Please Print): _____

Date: _____

EMCOR Services
MSI-Mechanical Services

MSI - Mechanical Services
Contact: Amy Strickland
9820 Satellite Blvd.
Orlando, FL 32837
Phone: 1 (407) 902-3246
Email: astrickland@msifla.com
Web: http://msifla.com

City of Winter Haven

Mr. Andy Palmer, CPRE, CPM

Mechanical Recommendations

Revised – Trane Equipment Only

Proposal

Date: September 16, 2024

Project: HVAC Mechanical Trane Equipment Only
Location: Nora Mayo Facility, 500 3rd St NW, Winter Haven, FL 33881

State License # CMC1250674

Project Overview

This proposal is for the purchasing of the Trane equipment for the HVAC Mechanical Upgrade project separately tax free. The cost below is for equipment only based on the General Piggyback Purchasing Agreement between the City of Winter Haven and MSI.

Trane Equipment part of purchase:

- AHU – 1, 2, 3, 4, 5, 6, 8, 9, 10,12, 13.
    - Trane Performance Climate Changer (UCCA) Qty-10
        - 2" double wall construction.
        - Stainless steel drain pan.
        - 460v/3ph
        - 6" base rail, 2" MERV8 filter, Mixing box connection.
- AHU – 11
    - Trane Performance Climate Changer (CSSA) Qty-1
        - 2" double wall construction.
        - Unit size 25.
        - VFD per fan – factory start-up.
        - Stainless steel drain pan.
        - 460v/3ph
        - 6" base rail, 2" MERV8 filter, Mixing box connection.
- ACS Scroll chillers Model # ACSA1402 – QTY-2
    - 140 Nominal Tons
    - Scroll with Variable Volume Ratio
    - 460v/3ph
    - Refrigerant charge – R -454B

Approximate Lead Times (subject to change):

Trane chillers	32 weeks
Standard AHUs	18 – 19 weeks
AHU – 11	24 weeks

Any item or service that is not listed above is not included, premium labor unless specified, fire/smoke/building management controls, life safety/fire alarm interface, any electrical modifications and or upgrades, any low voltage modifications and or upgrades, any structural modifications and or upgrades (outside of scope above), any roofing modifications and or upgrades (outside of scope above), any ductwork modifications and or upgrades (outside of scope above), any building code upgrades that may be required, bonding, patching/plastering/painting, plumbing, general contracting services, hazardous material mitigation, lighting protection, temporary cooling, ASHRAE Standard 15 upgrades, certified air/water test and balance services, any site specific required safety training or badging. Repairs of any kind to any equipment not listed above. Existing fire alarm shut down and electrical services. New electrical service not included. Dry wall or painting of any kind. Second shift labor – all work to be carried out during normal hours of operation. Repairs of any kind to any equipment not listed above. Roofing and flashing not included. Test and balance not included.

EMCOR Services
MSI - Mechanical Services

Pricing Summary

Project will be billed per terms of General Piggyback Purchasing Agreement between the City of Winter Haven and MSI. Please note the following items:

- The amount shown below is without taxes due to the City of Winter Haven being tax exempt.
- All pricing is based on the installation of the equipment being purchased under a separate proposal.

Sale Price

Total tax-exempt cost for Trane Equipment:	**$532,157.00**
Optional Trane Extended Warranty:	+$22,657.00**

**Complete 5-year parts, labor and refrigerant, excludes diagnostics

This price will only be valid for thirty days from the proposed date.

This quotation is provided with the understanding that the City of Winter Haven will be utilizing the Lake County Schools Contract #20-0405-B-AR Chiller Preventative Maintenance HVAC Repair, New-Equipment Purchase and Installation as a piggyback agreement for the scope of work and pricing as stated above.

Authorized Customer Signature: _____

Name (Please Print): _____

Date: _____

GENERAL PIGGYBACK PURCHASING AGREEMENT

This *General Piggyback Purchasing Agreement* (the "*Agreement*") is made by and between the City of Winter Haven, Florida, a Florida municipal corporation, whose address is 451 Third Street NW, Winter Haven, FL 33881 (the "City"), and:

Mechanical Services of Central Florida, Inc.
8646 Elm Fair Boulevard
Tampa, FL 33610

(the "Vendor").

WITNESSETH:

WHEREAS, on **July 12, 2021, Lake County School Board** (the "Original Procuring Government") awarded **ITB 20-0405-B-AR Chiller Preventative Maintenance HVAC Repair, New-Equipment Purchase and Installation – Lot #3** to Vendor for the performance of services and/or the sale and purchase of goods as described therein, a copy of which is on file with the City's Procurement office and incorporated herein by reference (the "Original Procurement Bid and Contract"); and

WHEREAS, the City is in need of a similar performance of services and/or is in need to purchase a similar set of goods as described in the Original Procurement Bid and Contract; and

WHEREAS, the Vendor is willing to provide "piggyback" services and/or goods to the City on the same terms and conditions as those offered to Original Procuring Government, as outlined in the Original Procurement Bid and Contract documents;

NOW THEREFORE, in exchange for the mutual promises contained herein, the sufficiency of which is acknowledged, the City and Vendor agree as follows:

§ 1. Incorporation of Recitals.

The foregoing recitals, deemed by the parties to be true and correct, are incorporated herein by reference.

§ 2. Terms of Agreement; Purchasing Authority.

(a) This is a piggyback purchasing *Agreement.* The terms and conditions of this *Agreement* shall be the same as those specified in the Original Procurement Bid and Contract documents, specifically including:

(1) All instructions to bidders and general information in the Original Procurement Bid and Contract Documents;
(2) All special conditions of the Original Procurement Bid and Contract Documents;
(3) All definitions of terms contained in the Original Procurement Bid and Contract Documents;
(4) All specifications, scopes of services, and/or descriptions of goods

to be sold contained in the Original Procurement Bid and Contract Documents;

(5) All addenda to the Original Procurement Bid and Contract Documents;

(6) All insurance requirements outlined in the Original Procurement Bid and Contract Documents;

(7) All safety requirements outlined in the Original Procurement Bid and Contract Documents; and

(8) All responses of the Vendor in the Original Procurement Bid and Contract Documents, including all affidavits and statements of the Vendor required by law, which the Vendor: (A) affirms to continue to be true and correct as of the date of this *Agreement*; or (B) has updated with supplemental information and provided the same to the City in advance of this *Agreement*, in a form which the City finds acceptable;

unless such terms are expressly modified herein to conform to City-specific standards and requirements. All references to the Original Procuring Government, the Original Procuring Government's governing body, specific departments of the Original Procuring Government and the like or equivalent shall be replaced with the "City of Winter Haven, Florida," the "City Commission of the City of Winter Haven, Florida," specific City Departments, and the like or equivalent.

(b) The City is authorized to enter into this purchasing *Agreement* as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. This purchasing *Agreement* is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes. The City ratifies the bidding process performed by the Original Procuring Government as being full, fair and representative of the quantity and quality of bids that would be received by the City if written quotations were obtained or an advertisement for bids was published.

(c) To the extent there is any conflict between this *Agreement* and the Original Procurement Bid and Contract, (1) the text of this *Agreement* shall control and (2) the text of the solicitation issued by the Original Procuring Government shall control over the Original Procuring Government's contract with the vendor excepting any express items where the Original Procurement documents should control or where the City believes the other government's contract should control over the bid documents.

§ 3. Period of Performance; Renewal Periods.

The period of performance of this *Agreement* is from the date of execution by both parties through the end of the initial term of the Original Procurement Bid and Contract and the first of two, one-year renewals, **July 11, 2025**. This *Agreement* may be renewed for **one additional, one-year term through July 11, 2026** as provided for in the Original Procurement Bid and Contract at the option of the City.

§ 4. Invoices.

Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com . Payments shall be made to the Vendor in accordance with the *Florida Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes.

§ 5. Price for Services.

The City reserves the right to increase/decrease prices after this *Agreement* has been in place for the initial period when it is in the best interest of the City of Winter Haven. Increases/decreases may be determined utilizing an appropriate price index, if a price index is used in the customary transaction of business in the Vendor's industry and/or the customary transaction of government purchases in the City of Winter Haven, Polk County, or the State of Florida. Vendor agrees to notify the City if the Original Procuring Government takes an increase or decrease on prices for work performed or goods sold under the Original Procurement Bid and Contract and the basis for such increase or decrease.

§ 6. Sovereign Immunity; Limitation of Liability.

City is a sovereign Florida municipal government. Nothing contained in this *Agreement*, nor any City indemnification made herein, if any such indemnification exists, is intended or shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the parties agree that the total liability of the City to the Vendor shall not exceed the agreed-upon price established in each order issued hereunder. For all other matters, the parties agree that the total liability of the City to the Vendor shall not exceed the City's limits of liability as set forth in § 768.28(5) of the Florida Statutes in effect as of the date of this *Agreement*, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise.

§ 7. Public Records.

Pursuant to Florida law, if the Vendor is a "contractor" as defined in § 119.0701(1)(a), Florida Statutes, Vendor must comply with Florida's public records laws, specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the services herein.

(b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as

authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Vendor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City agency in a format that is compatible with the City's information technology systems.

Notice Required by F.S. § 119.0701:

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER HAVEN, FL 33881.

§ 8. Insurance and Indemnification.

The City's standard contract terms for insurance and indemnification as set forth in Exhibit 'A' are incorporated into this *Agreement* as if set forth herein in full. Conflicts between the City's standard contract terms for insurance and indemnification and the Original Procurement Bid and Contract shall be resolved as follows:

(a) *Insurance.* All provisions of this *Agreement* shall be construed harmoniously to provide the City with the maximum amount of insurance for the identified peril to be covered on the terms most favorable to the City. If a specific form, endorsement, basis or agreed-upon interpretation is identified in Exhibit 'A', that form, endorsement, basis or interpretation shall control. To the extent of any conflict between a particular minimum insurance amount identified in Exhibit 'A' to this *Agreement* and the minimum insurance amount required by the Original Procurement Bid and Contract for the same peril, the requirement which provides greater coverage to the City shall control.

(b) *Indemnification*. The indemnification provided by Vendor to the City in Exhibit 'A' to this *Agreement* shall be in addition to, and not in lieu of, any other remedy available to the City under this *Agreement*.

§ 9. E-Verify, Chapter 2023-40, Laws of Florida.

By entering into this *Agreement*, the Vendor becomes obligated to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this *Agreement*, or if a subcontractor

knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this *Agreement* is terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

Vendor:

Executed this 9th day of August, 2024

By: _____
Name: David Goerke
Title: President

City of Winter Haven, Florida:

Executed this ____ day of _____, 2024

By: _____
T. Michael Stavres, City Manager

Attest:

_____
Vanessa Castillo, City Clerk

Approved as to Form and Legal Sufficiency:

_____
Frederick J. Murphy, Jr., City Attorney

EXHIBIT 'A'
STANDARD INSURANCE AND INDEMNIFICATION EXHIBIT

Insurance Requirements – City of Winter Haven

The Consultant/Contractor shall, at its own expense, procure and maintain, with insurers acceptable to the City (Owner), the types and amounts of insurance conforming to the minimum requirements set forth herein. The Consultant/Contractor shall not commence work until the required insurance is in force and evidence of insurance acceptable to the Owner has been provided to and approved by the Owner. As evidence of compliance with the insurance required herein, Consultant/Contractor shall furnish Owner with:

(a) a fully completed satisfactory Certificate of Insurance (ACORD Form 25 or equivalent) evidencing all coverage required herein, with a copy of the actual notice of cancellation endorsement(s) as issued on the policies and a copy of the actual additional insured endorsement as issued on the Commercial General Liability policy, signed by an authorized representative of the insurer(s) verifying inclusion of Owner's officials, officers and employees as Additional Insureds in the Commercial General Liability coverage;

(b) the original of the policy(ies); or

(c) other evidence satisfactory to Owner. Such evidence shall include thirty (30) days written notice of cancellation to the Owner for all coverage. With respect to Property Insurance, an appropriate Evidence of Property Insurance form (ACORD Form 28 or equivalent), or a copy of the policy itself shall be satisfactory evidence of insurance. Until such insurance is no longer required by this Contract, the Consultant/Contractor shall provide the Owner with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance.

Type I - Workers' Compensation Insurance

(a) Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Council of Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal or State law. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

(i)	Part One:	"Statutory"	
(ii)	Part Two:	$1,000,000	Each Accident
		$1,000,000	Disease-Policy Limit

$1,000,000 Disease-Each Employee

Type II - General Liability Insurance

(a) Such insurance shall be no more restrictive than that provided by the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those required by ISO or the State of Florida or those described below. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. The coverage may include restrictive endorsements which exclude coverage for liability arising out of:

(i) Mold, fungus, or bacteria
(ii) Terrorism
(iii) Sexual molestation

(b) The Owner and the Owner's officials, officers and employees shall be included as an "Additional Insured" on a form no more restrictive than ISO Form (CG 20 10), Additional Insured - Owners, Lessees, or Contractors. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

(i) $1,000,000 General Aggregate
(ii) $1,000,000 Products/Completed Operations Aggregate
(iii) $1,000,000 Personal and Advertising Injury
(iv) $1,000,000 Each Occurrence

Type III - Automobile Liability Insurance

(a) Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of the work. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. Such insurance shall not be subject to any aggregate limit and the minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

(i) $1,000,000 Each Occurrence - Bodily Injury and Property Damage Combined

Type IV - Professional Liability Insurance

(a) Such insurance shall be on a form acceptable to the Owner and shall cover the Consultant/Contractor for those sources of liability arising out of the rendering or failure to render professional services in the performance of the services required in the agreement. Coverage must either be on an

occurrence basis; or, if on a claim made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have covered had the coverage been on an occurrence basis. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

(i) $1,000,000 Each Claim/Occurrence
(ii) $1,000,000 Annual Aggregate

The Professional Liability Insurance may be subject to a deductible not to exceed $5,000 per claim.

Additional Requirements

(a) All insurance policies provided by the Consultant/Contractor shall be endorsed to provide that the Insurer waives its rights against the Owner and Owner's officials, officers and employees.

(b) Compliance with these insurance requirements shall not limit the liability of the Consultant/Contractor or its Subcontractors. Any remedy provided to the Owner by the insurance provided by the Consultant/Contractor and its Subcontractors shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the Consultant/Contractor) available to the Owner under this Contract or otherwise.

(c) Neither approval nor failure to disapprove insurance furnished by the Consultant/Contractor shall relieve the Consultant/Contractor from responsibility to provide insurance as required by this Contract.

(d) The insurance provided by Consultant/Contractor shall apply on a primary basis. Any insurance, or self-insurance, maintained by the City of Winter Haven shall be excess of, and shall not contribute with, the insurance provided by Consultant/Contractor.

(e) Except where prior written approval has been obtained hereunder, the insurance maintained by Consultant/Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. Consultant/Contractor shall pay on behalf of the Owner and Owner's officials, officers and employees any deductible or self-insured retention applicable to a claim against the Owner and Owner's officials, officers and employees.

(f) Certificates of Insurance must be completed as follows:

1. Certificate Holder:
City of Winter Haven
451 Third Street, N.W.

Winter Haven, FL 33881

2. Additional Insured for General Liability:
City of Winter Haven and its officials, officers and employees

INDEMNIFICATION BY CONSULTANT/CONTRACTOR

(a) The Consultant/Contractor shall indemnify and hold harmless the City (Owner), and its officers and employees, from liabilities, damages, losses, and costs including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Consultant/Contractor and persons employed or utilized by the Consultant/Contractor in the performance of this Contract.

(b) The remedy provided to an indemnitee by Paragraph (a), shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.

(c) The remedy provided to an indemnitee by this Contract shall survive this Contract and shall not be limited in any manner by acceptance, final completion or final payment.

(d) A claim for indemnity pursuant to this Contract shall be commenced within the period established under Florida law for commencement of an action founded on the design, planning or construction of an improvement to real property.

(e) The provisions herein are severable and if, for any reason, any one or more of such provisions shall be held by a court of competent jurisdiction to be invalid, illegal, against public policy or unenforceable in any respect, the invalidity, illegality, being against public policy or unenforceability shall not affect any other provision herein which shall remain in effect and be construed as if the invalid, illegal, against public policy or unenforceable provision had never been contained herein.

EXHIBIT ‘B’
PRICE FOR SERVICES

DATE: September 6, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Water Department Director

SUBJECT: Third Amendment to Developers Agreement with VMAR DEV, LLC

BACKGROUND

VMAR DEV, LLC the Developer of the Villamar Subdivision has been partnering with the City through Developer's Agreements for the installation of the Alternate Water Supply (Reclaimed Water) Transmission Main from May 11, 2022. As the Villamar Subdivision expands, the Developer has agreed to include the design, permitting and construction of the City's AWS system.

In this Third Amendment, the Developer is widening Cunningham Road to include a right turn lane at the intersection of CR653 for access to to the Villamar Subdivision. The City has requested the Developer to extend the 20 inch AWS transmission main from its existing termination point approximatly 300 feet along Cunningham road to CR653, in conjuntion with the roadwidening. The work is expected to be completed by January 1, 2025.

FINANCIAL IMPACT

The Not To Exceed cost for the City of Winter Haven for the design, permitting and installation of the AWS transmission main is $670,071.58. Funds are available in Fiscal Years 2023/2024 and 2024/2025 in account 402-08-324-6301 to complete the design, permitting and construction.

RECOMMENDATION

Staff recommends the City Commission approve the Third Amendment to the Developer's Agreement with VMAR DEV, LLC, the Villamar Community Development District (CDD) and Cassify Properties, Inc. and authorize the Mayor and other City Officials to execute the Third Amendment and for the City Manager or his designee to take all further necessary actions related thereto.

ATTACHMENTS

Third Amendment to Developer's Agreement

THIRD AMENDMENT TO DEVELOPER'S AGREEMENT

This Third Amendment to Developer's Agreement (hereinafter "Third Amendment") is entered into between the City of Winter Haven, a Florida municipal corporation (hereinafter "City"), and Villamar Community Development District, a local unit of special purpose government created under Florida law, VMAR DEV, LLC, a Florida limited liability company, and Cassidy Properties, Inc., a Florida corporation {collectively may be referred to as "Developer").

WHEREAS, Villamar Community Development District, Villamar FG, LLC, VMAR DEV, LLC, a Florida limited liability company, and Gerald Keith Bowen and Marsha L. Bowen, and the City entered into a Developer's Agreement (hereinafter "Agreement") dated May 11, 2020, and First Amendment to Developers Agreement on July 26, 2021 (hereafter "First Amendment"); and

WHEREAS, Villamar Community Development District, Villamar FG, LLC, VMAR DEV, LLC, a Florida limited liability company, and Cassidy Properties, Inc., a Florida corporation, and the City entered into a Second Amendment to Developer's Agreement on June 8, 2023 (hereafter "Second Amendment"); and

WHEREAS, pursuant to paragraph 13 of the Agreement the parties agreed to allow amendments so long as such amendments were in writing and executed by authorized representatives of the parties and approved by the governing body of the City; and

WHEREAS, the City has already agreed to pay the sum of not to exceed $469,609.53 for extension of the City's 20 inch AWS Transmission Main (re-use) as more specifically set forth in the Second Amendment entered into between the Parties; and

WHEREAS, the City of Winter Haven desires that the City's 20 inch Alternate Water Source ("AWS") Transmission Main (re-use) within the Villamar Subdivision be further extended from its existing termination point at the easterly line in the Villamar Subdivision Phase 1, (beyond what was contemplated in the Second Amendment) easterly approximately 381 feet consisting of 20 inch PVC pipe running to the east of CR 653 and then running north for approximately 300 feet. Also, crossing Cunningham Rd., west of CR 653, approximately 57 feet consisting of 12 inch PVC Pipe, and designed to serve future development within the Villamar Subdivision and in the general area of the Villamar Subdivision; and

WHEREAS, the Developer is also widening Cunningham Road for an addition of an eastbound right turn lane at the intersection of CR 653 for access to the Villamar subdivision as more specifically identified on **Exhibit "A"** attached hereto and incorporated herein by reference; and

WHEREAS, the City has agreed to pay the surveying, design, permitting. and construction for the extension of the City's 20 inch AWS Transmission Main (reuse) as more specifically identified herein for a not to exceed amount of $200,462.00 through the lands constituting the Villamar Subdivision and on lands in the general vicinity as generally depicted on the conceptual development plan attached hereto as **Exhibit "A"** and incorporated herein by reference; and

WHEREAS, the City has agreed to pay the costs for the extension of the City's 20 inch AWS Transmission Main (reuse) for a not to exceed amount of $200,462.00 in accordance with the terms of the Agreement, First Amendment, Second Amendment and this Third Amendment and as further described on the Developer's

Engineer's Estimate of Costs of extending the City's 20 inch AWS Transmission Main (reuse), a copy of which is attached hereto as **Exhibit "B"** and Incorporated herein by reference; and

WHEREAS, the City's Engineer has reviewed the information submitted by the Developer regarding the additional costs for the design, construction, and Installation of the further extension of the City's 20 inch AWS Transmission Main (reuse) and which is further described in the Developer's Engineer's Estimate of Costs which is attached hereto as **Exhibit "B";** and

WHEREAS, the further extension of the City's 20 inch AWS Transmission Main (reuse) and associated infrastructure and appurtenances ("Facilities") as more specifically identified herein and described on **Exhibit "B"** attached hereto are designed and permitted and are under construction; and

WHEREAS, requests for payments for the design, construction, and installation of the Facilities shall be submitted to the City Engineer based on the work completed and with sufficient information as deemed adequate by the City Engineer in order for the City Engineer to approve any such payment requests, but final payment shall not be submitted until the Facilities are fully complete and have passed all required tests and inspections and are ready for operation and accepted by the City as determined by the City Engineer; and

WHEREAS, the entry into this Third Amendment by the City is for a proper municipal purpose and will advance and enhance the City's public utility system as well as the health, safety, and welfare of the residents, citizens, and users of the City's public utility system.

NOW, THEREFORE, the City and Developer agree as follows:

1. The above Whereas clauses are hereby incorporated into this Third Amendment and shall be made part hereof. Defined terms unless otherwise provided in this Third Amendment, shall have the meaning provided in the Agreement and/or First Amendment and/or Second Amendment.

2. The costs for the matters addressed in this Third Amendment will be shared between the City and Developer based on the following:

A. Developer - the Developer will pay 100% of any and all costs of the widening of Cunningham Road for an addition of an eastbound right tum lane at the intersection of CR 653 ("Turn Lane"). The Developer shall adhere to all applicable City Ordinances, Codes, standards, and regulations relating to the design and construction of the Turn Lane which shall be verified and approved by the City Engineer prior to the City's acceptance of the Turn Lane and/or acceptance by any entity with jurisdiction of Cunningham Road.

B. City - the City agrees to pay 100% for the actual costs associated with the further extension of the City's 20 inch AWS Transmission Main (re-use) from its existing termination point at the easterly line in the Villamar Subdivision Phase 1, running easterly for approximately 381 feet consisting of 20 inch PVC pipe running to the east of CR 653 and then running north for approximately 300 feet. Also, Crossing Cunningham Rd., west of CR 653, approximately 57 feet consisting of 12 inch PVC Pipe ("Facilities") in a not to exceed amount of $200,462.00 and as more particularly set forth below. Provided further that the new total amount of not to excess $670,071.58 as reflected on **Exhibit "B"**

attached hereto and incorporated by reference is the new total amount not to exceed for which the City has agreed to provide reimbursement under the provisions of the Agreement, the First Amendment, the Second Amendment, and this Third Amendment for the identified Facilities as set forth in **Exhibit "B"** attached hereto and incorporated herein by reference.

C. Appropriate and sufficient documentation as determined by the City Engineer shall be submitted by the Developer or its agent to the City Engineer with each request for payment based on the work completed for the Facilities which are the subject of reimbursement under this Third Amendment. Upon receipt of adequate documentation as determined solely by the City Engineer, the City Engineer will then review and determine if same is acceptable and approve payment. Redline as-builts shall be submitted to the City with each application submittal for payment to be processed and approved. Upon the City Engineer's approval for payment then payment shall be made within thirty (30) business days of the date of the City Engineer's approval. All surveys; design drawings; applications; reports of inspections; and Engineer's certifications in a form and format determined acceptable by the City Engineer shall be provided to the City Engineer prior to payment.

D. The City must approve in writing by a further Amendment any amount of payment over $670,071.58 in order for the City to have any obligation to pay the Developer under the Agreement, and/or the First Amendment, and/or the Second Amendment, and/or this Third Amendment.

E. Final payment will occur after clearance to place the Facilities into operation and acceptance by the City. All reimbursements will be in cleared funds payable to VMAR DEV, LLC, and not in the form of connection fee credits.

The City and Developer agree that, if necessary, as future phases of the Villamar Subdivision are reviewed and approved for site plan approvals that the City and the Developer may agree to negotiate acceptable cost-sharing protocols for any upsized water, wastewater, and/or re-use water utility lines and related infrastructure that the City may determine are necessary, if any, and before the Developer incurs any such costs and/or expenses for upsizing and that a further amendment to the Agreement will be submitted to the City's governing body for approval as recommended by the City Manager.

3. This Third Amendment shall be effective upon its execution by all parties hereto and approval by the Governing Body of the City.

4. All other provisions and terms of the Agreement, First Amendment, and Second Amendment, not expressly amended herein shall remain in full force and effect, and the parties to Include VILLAMAR CDD, VMAR DEV, LLC, and Cassidy Properties, Inc., hereto agree to be bound and perform in accordance with the terms of the Agreement, the First Amendment, the Second Amendment, and this Third Amendment.

[*The balance of this page intentionally left blank.*]

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the date noted below.

Villamar Community Development District

Lauren Durham
WITNESS Lauren Durham

BY _____
Warren K. Heath, Chairman

Joe D. Brady
WITNESS JOE D BRADY

STATE OF FLORIDA)
COUNTY OF POLK)

Before me, by means of ☒ physical presence or ☐ online notarization, personally appeared, Warren K. Heath as Chairman of Villamar Community Development District, who is ☒ personally known to me, or ☐ produced a driver's license as Identification, and who executed the foregoing Instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and seal on this 1st day of August, 2024.

Bobbie Henley
NOTARY PUBLIC, STATE OF FLORIDA

Notary Public State of Florida
Bobbie Henley
My Commission
HH 191373
Exp. 2/17/2026

VMAR DEV, LLC, a Florida limited liability company

BY _____
Adam Rhinehart, Manager

_____
WITNESS Joe D. Brady

_____
WITNESS Lauren Durham

STATE OF FLORIDA)
COUNTY OF POLK)

Before me, by means of ☒ physical presence or ☐ online notarization, personally appeared, Adam Rhinehart, as Manager of VMAR DEV, LLC, a Florida limited liability company, who is ☒ personally known to me, or ☐ produced a driver's license as Identification, and who executed the foregoing Instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and seal on this 1st day of August, 2024.

Notary Public State of Florida
Bobbie Henley
My Commission
HH 191373
Exp. 2/17/2026

_____
NOTARY PUBLIC, STATE OF FLORIDA

CASSIDY PROPERTIES, INC., a Florida corporation

Lauren Durham
WITNESS Lauren Durham

BY _____
Albert B. Cassidy, Director

Lindsey Roden
WITNESS Lindsey Roden

STATE OF FLORIDA)
COUNTY OF POLK)

Before me, by means of ☒ physical presence or ☐ online notarization, personally appeared, Albert B. Cassidy, as Director of CASSIDY PROPERTIES, INC., a Florida corporation, who is ☒ personally known to me, or ☐ produced a driver's license as Identification, and who executed the foregoing Instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and seal on this 5th day of August 2024.

Notary Public State of Florida
Bobbie Henley
My Commission
HH 191373
Exp. 2/17/2026

Bobbie Henley
NOTARY PUBLIC, STATE OF FLORIDA

CITY OF WINTER HAVEN, FLORIDA, a Florida municipal corporation

BY_____
MAYOR - COMMISSIONER

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
Frederick J. Murphy, Jr., City Attorney

EXHIBIT "A"
Cunningham Road Improvements
Third Amendment

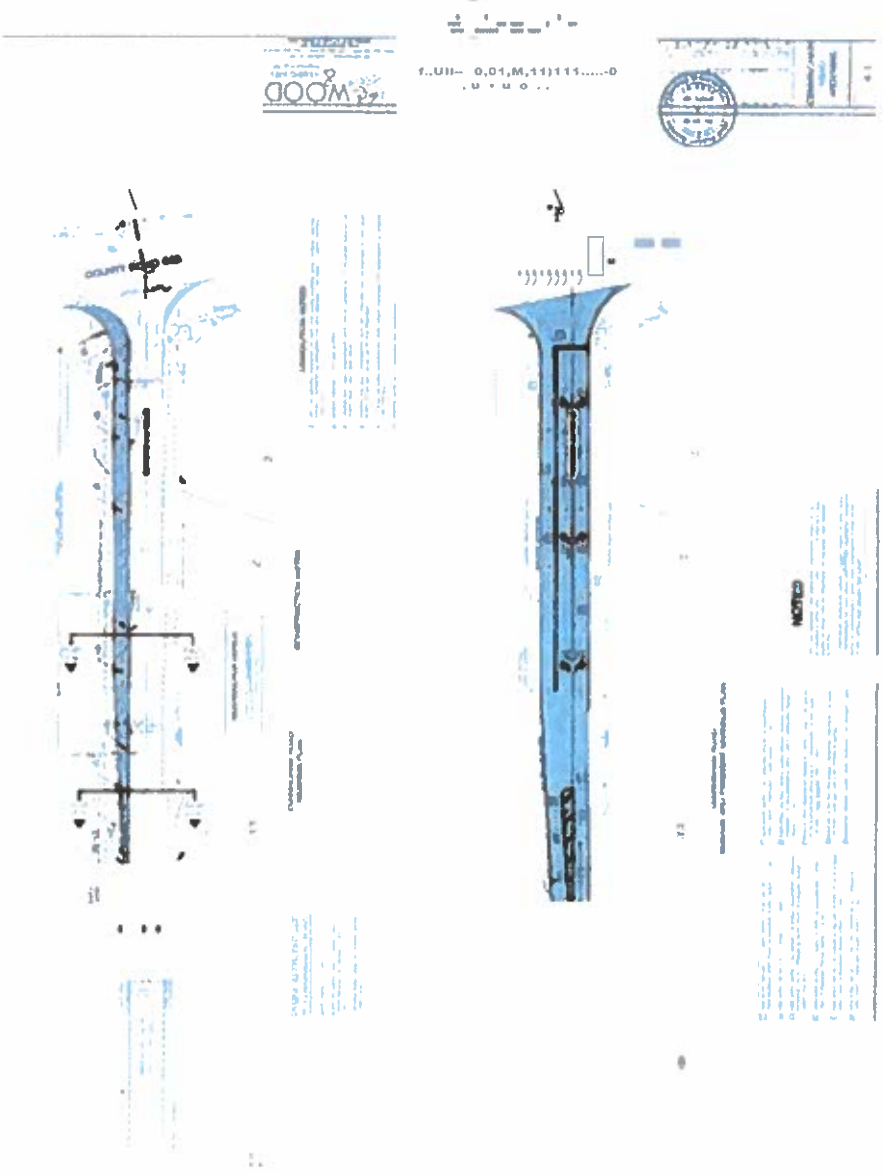


EXHIBIT "A"
Cunningham Road Improvements
Third Amendment

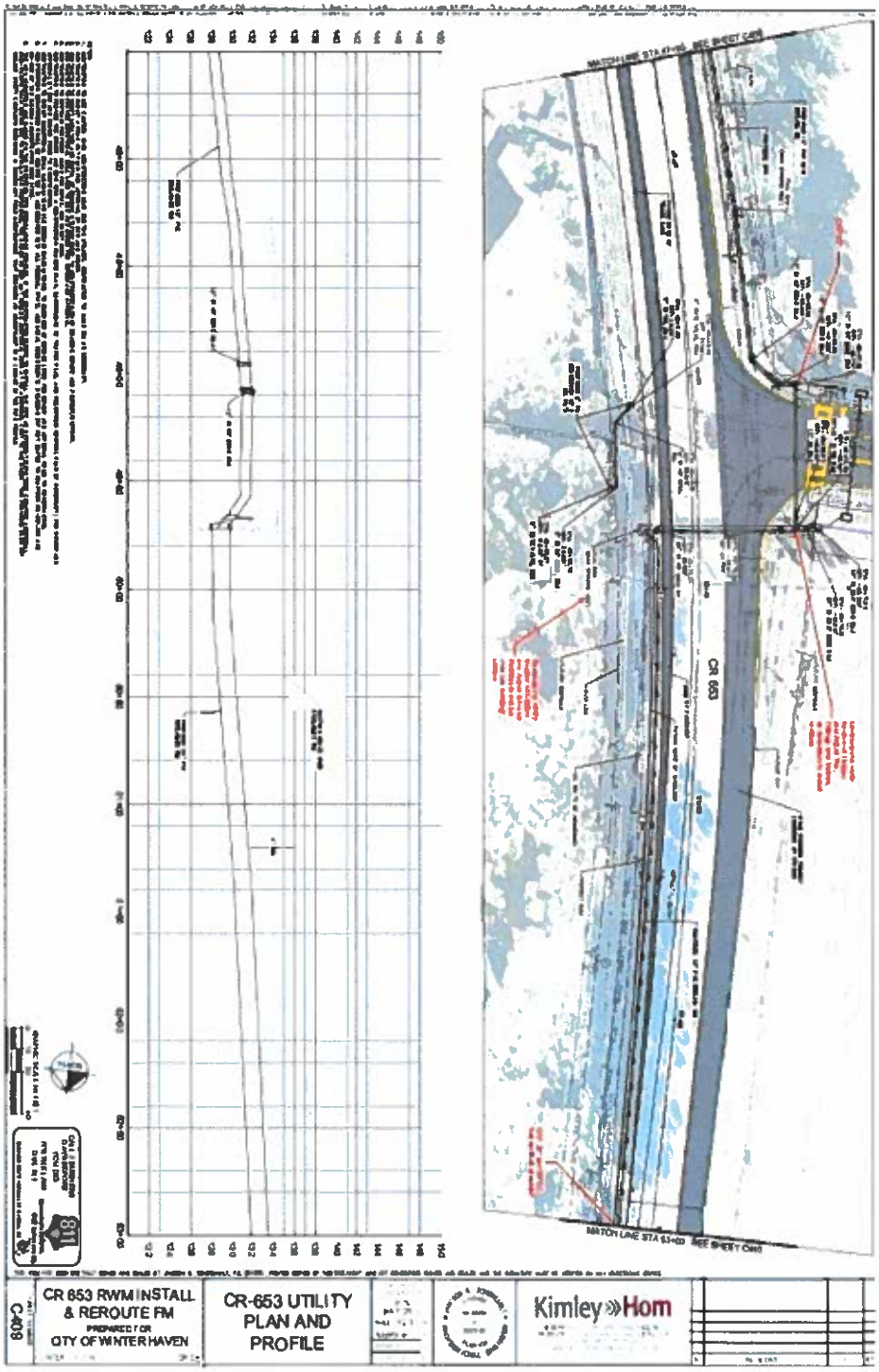


EXHIBIT "B"

ENGINEER'S ESTIMATE
CUNNINGHAM ROAD IMPROVMENTS
5/19/2023

Description	Quantity	Unit	Unit Price	Amount
Reclaim Water				
Temporary Jumper Connection	1	EA	$ 5,537.14	$ 5,537.14
Connect to Existing	1	EA	$ 1,460.91	$ 1,460.91
20" DR18 Reclaimed Pipe	1360	LF	$ 230.25	$ 313,140.00
20" MJ Gate Valve w/Box/Tag	1	EA	$ 19,497.97	$ 19,497.97
Flush Valve Assembly	1	EA	$ 2,948.94	$ 2,948.94
Pressure Testing	1	LS	$ 3,004.04	$ 3,004.04
Open Cut & Repair Sidewalk for Reclaim Pipe Installation				
Repair with 4" Sidewalk	1360	LF	$ 58.33	$ 79,328.80
Design & Permitting	1	LS	$ 2,000.00	$ 2,000.00
			Subtotal	**$ 426,917.80**
			10% Contingency	$ 42,691.78
			Total Estimate	**$ 469,609.58**

John R. Bannon, P.E. #84128
Wood & Associates Engineering LLC CA #32508
1925 Bartow Rd Suite
Lakeland, FL 33801

ORIGINAL DEVELOPER'S AGREEMENT = $469,609.58
CHANGE ORDER FOR ADDITIONAL RECLAIM INSTALLATION* = $200,462.00
TOTAL = $670,071.58

***See Contractor's Change Order R3 for details**

GARNER COMPLETESITE, INC.
220 7th STREET SW -- WINTER HAVEN, FL 33880
PHONE# 863-875-7040 EMAIL: tim@garnercompletesite.com CELL# 863-221-2677

REQUEST FOR CHANGE ORDER # 1 R3

DATE: 05/06/24 **REVISED DATE:** 05/14/24 6/6/2024

JOB: CR 653 & Cunningham Road CR 653 & Cunningham Road
Winter Haven, FL

CONTRACTOR: Villamar CDD c/o Wood & Associates, LLC

DESCRIPTION: 12" & 20" Reuse Road Crossings

ITEM #	DESCRIPTION	QTY	UNIT COST	COST
1	Saw Cut	126	$4.82 LF	$607.32
2	Demo Asphalt	84	$9.64 SY	$809.76
3	Demo Base	84	$4.82 SY	$404.88
4	12" PVC DR18 Reuse	57	$150.67 LF	$8,588.19
5	20" PVC	381	$249.34 EA	$94,998.54
6	20x12 MJ Tee	1	$7,311.65 EA	$7,311.65
7	20" MJ 11.25 Bend	1	$4,450.95 EA	$4,450.95
8	20" MJ 45 Bend	3	$4,470.39 EA	$13,411.17
9	12" MJ Cap	1	$861.18 EA	$861.18
10	20" Gate Valve	0	$26,883.63 EA	$0.00
11	12" Gate Valve	1	$4,621.78 EA	$4,621.78
12	Magnetic Marking Tape/Wire	438	$1.56 LF	$683.28
13	Pig Reuse Main	438	$5.81 LF	$2,544.78
14	Testing - Pressure	438	$5.93 LF	$2,597.34
15	Flowable Fill	68	$283.32 CY	$19,265.76
16	Asphalt Patch	84	$95.88 SY	$8,053.92
17	MOT (flagmen)	96	$62.63 MH	$6,012.48
18	Restoration	600	$6.22 SY	$3,732.00
19	2" PVC SCH 80	160	$20.52 LF	$3,283.20
	NOTE		$0.00 EA	$0.00
	If 20" PVC unavailable add $71.65/lf for DIP		$0.00 EA	$0.00
			$0.00 EA	$0.00
			$0.00 EA	$0.00
			SUB TOTAL	$182,238.18
			OH&P 10.0%	$18,223.82
			TOTAL	$200,462.00

COWH: *Pedro A. Berrios* 6-7-24

GARNER COMPLETESITE, INC. WILL FURNISH LABOR,EQUIPMENT AND MATERIALS TO DO THE WORK AS DESCRIBED IN THIS SCOPE.

DATE: September 6, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Agreement for Transfer of Public Roads – West Lake Eloise Drive and Shell Road

---

BACKGROUND

West Lake Eloise Drive is a two-lane, County right-of-way that runs from Avenue Z, SE, on the north, to Eloise Loop Road, on the south. The portion of West Lake Eloise Drive to be transferred to the City lies between Shell Road on the north and Hidden Oaks Lane to the south, and is approximately 4,000 feet in length and lies within a 40-foot right-of-way. All properties adjacent to the portion of West Lake Eloise Drive to be transferred are located within the municipal limits of the City of Winter Haven and consist of the Valhalla Subdivision and future phases of the Harmony at Lake Eloise development. The portion of West Lake Eloise Drive to be transferred contains approximately 1.51 lane miles.

Shell Road is a two-lane County right-of-way generally 38 feet in width that runs from Hoover Road on the west to West Lake Eloise Drive on the east. The portion of Shell Road to be transferred forms the northern boundary of the Harmony at Lake Eloise development and extends westward from West Lake Eloise Drive approximately 667 feet. The transferred portion of Shell Road contains approximately 0.25 lane miles.

As part of the Harmony at Lake Eloise development, West Lake Eloise Drive will be realigned a short distance to the west, beginning at Shell Road on the north, and reconnecting with the current roadway alignment near the Valhalla Subdivision on the south. With this new alignment, in conjunction with the newly reconstructed portion south of Valhalla, the entire portion of West Lake Eloise Drive south of Shell Road, will have been constructed in the last two years. A short portion of Shell Road will be realigned to the south to a new intersection with West Lake Eloise Drive. Upon completion of the realigned roadways, the portions of Shell Road and West Lake Eloise Drive being transferred to the City, will be vacated.

Given the conditions described above, it is appropriate to transfer ownership, maintenance, and operational responsibilities for a portion of West Lake Eloise Drive and a portion of Shell Road from Polk County to the City of Winter Haven.

FINANCIAL IMPACT

There is no direct financial impact associated with this transfer. However, the City will be responsible for the long-term maintenance of these roadways. They will be included as part of the City's road right-of-way inventory, increasing the mileage used to determine the City's percentage distribution of the local gas tax revenue.

RECOMMENDATION

Staff recommends the City Commission approve the transfer of portions of West Lake Eloise Drive and Shell Road from Polk County to the City of Winter Haven, authorize the Mayor to execute the Agreement for Transfer of Roads for each roadway, and authorize the City Manager to execute any such necessary documents to facilitate the transfer of portions of West Lake Eloise Drive and Shell Road from Polk County to the City and take any other actions necessary thereto.

ATTACHMENTS

- Agreement for Transfer of Public Roads- West Lake Eloise Drive
- Agreement for Transfer of Public Roads- Shell Road

AGREEMENT FOR TRANSFER OF PUBLIC ROADS

between

THE CITY OF WINTER HAVEN, FLORIDA

and

POLK COUNTY, FLORIDA

A PORTION OF LAKE ELOISE DRIVE WEST FROM NORTH OF THE NEWLY CONSTRUCTED ROUND ABOUT, NORTH TO SHELL ROAD AT ITS CURVE TO THE NORTHEAST, IN WINTER HAVEN, FLORIDA.

This is an Agreement by and between the City of Winter Haven, a municipal corporation of the State of Florida (CITY), and Polk County, a political subdivision of the State of Florida (POLK), their respective successors and assigns.

WITNESSETH

WHEREAS, Chapter 335, Florida Statutes, Subsection 335.0415(3) authorizes the transfer of public roads between jurisdictions by mutual agreement of the affected governmental entities; and

WHEREAS, a portion of LAKE ELOISE DRIVE WEST (hereinafter known as the ROAD) is a Urban Collector Road and is within the County Road System that lies within and adjacent to the corporate limits of the CITY; and

WHEREAS, CITY has requested, and POLK has agreed to the transfer of the ROAD from north of the newly constructed Round About, north to Shell Road at its curve to the northeast, in order to accommodate the transfer of maintenance and operational responsibilities to CITY; and

WHEREAS, Chapter 337, Florida Statutes, Subsection 337.29(3) provides that upon such transfer, liability for torts shall be in the governmental entity having operation and maintenance responsibility for such roads; and

WHEREAS, a transfer of the ROAD is in the best interests of CITY and of POLK; and

NOW, THEREFORE, in consideration of the promises, mutual covenants, and conditions hereinafter contained, the parties agree as follows:

SECTION 1: Recitals

The above recitals are true and correct and incorporated herein.

SECTION 2: Description of public roads subject to agreement

THE ROAD as depicted on the map attached hereto and made a part hereof as Attachment "B", and more particularly described as:

See Attachment "A"

SECTION 3: Transfer and acceptance of roads

POLK agrees to transfer, by County Deed, the ROAD as described above, and CITY agrees to acknowledge and accept this transfer via Resolution adopted by the Governing Body of the CITY. Upon the delivery and recording of a COUNTY Deed and affirmative acceptance by the CITY via Resolution adopted by the Governing Body of the CITY both parties agree that, the ROAD thus transferred will no longer be a part of the Polk County Road System, will become part of the City of Winter Haven Road System, and all jurisdiction over the road and the responsibility for operation and maintenance of the road and associated infrastructure will be with CITY.

SECTION 4: Liability for torts

As provided in Sections 335.0415 and 337.29, Florida Statutes, upon transfer of the ROAD from POLK to CITY, liability for torts shall be in the CITY, subject to the limitations of liability set forth in Section 768.28, Florida Statutes, and any other applicable sovereign immunity defense and /or defenses available under application Florida law.

Nothing contained in this Agreement shall be deemed a waiver, expressed or implied, of the City's or County's sovereign immunity or an increase in the limits of liability contained in Section 768.28, Florida Statutes, regardless of whether any such obligations are based in tort, contract, statute, strict liability, negligence, product liability or otherwise.

SECTION 5: Costs of transfer of public roads

COUNTY will record the Agreement and County Deed. Any and all costs associated with this transfer of public roads shall be borne by CITY.

SECTION 6: Amendments

No modification, amendment, or alterations of the terms or conditions contained herein shall be effective unless contained in the written document executed by the parties hereto with the same formality, and of equal dignity herewith.

SECTION 7: Severability

In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability shall not effect the remainder of the Agreement which shall remain in full force and effect and enforceable in accordance with its terms.

SECTION 8: Term

This Agreement is effective upon approval of the parties respective Governing Bodies and execution by both parties set out below.

IN WITNESS WHEREOF, the City of Winter Haven has made and executed this Agreement on the date shown below, through its City Commissioners, signing by and through its Mayor, as authorized to execute the same by City Commission action on the _____ day of _____, 2024.

ATTEST:
Vanessa Castillo, Clerk

By: _____
City Clerk

CITY OF WINTER HAVEN

By: _____
Nathanial J. Birdsong, Jr, Mayor

This ___ day of _____, 2024

Reviewed as to form and legality

_____
Frederick J. Murphy, Jr., City Attorney Date

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Polk County has made and executed this Agreement on the date shown below, through its Board of County Commissioners, signing by and through its Chairman, as authorized to execute the same by Board action on the _____ day of _____, 2024.

ATTEST:
Stacy M. Butterfield, Clerk

By: _____
Deputy Clerk

POLK COUNTY
Board of County Commissioners

_____
W.C. Braswell, Chairman

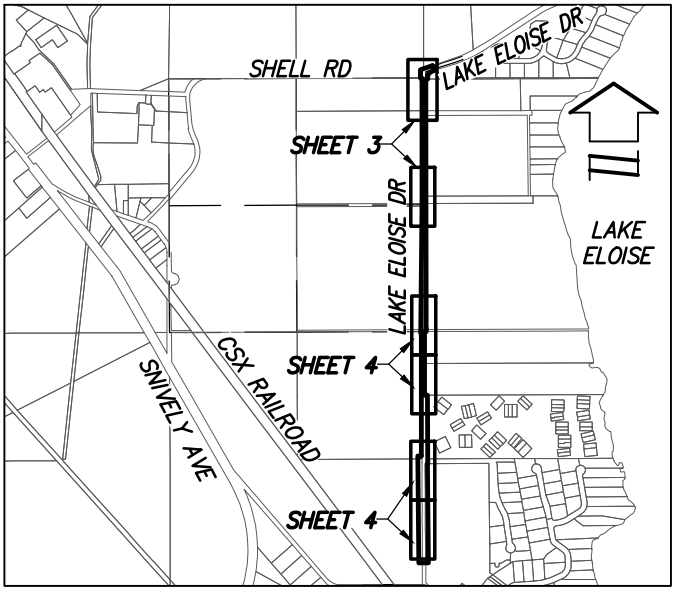
This ____ day of _____, 2024

Reviewed as to form and legality

_____
County Attorney's Office

Remainder of Page Intentionally Left Blank

ATTACHMENT "A"
Sheet 1



VICINITY MAP
NOT TO SCALE

LEGEND:

	LINE BREAK	L	LENGTH
PC	POINT OF CURVATURE	R	RADIUS
PRC	POINT OF REVERSE CURVATURE	Δ	CENTRAL ANGLE
PCC	POINT OF COMPOUND CURVATURE	CB	CHORD BEARING
PNT	POINT OF NON-TANGENCY	CH	CHORD LENGTH
PT	POINT OF TANGENCY	SF	SQUARE FEET
R/W	RIGHT OF WAY	AC	ACRES
ORB	OFFICIAL RECORDS BOOK	SEC	SECTION
PB	PLAT BOOK	P.O.B.	POINT OF BEGINNING
PG(S)	PAGE(S)		

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST, AS BEING S89°49'14"W.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, ADJOINERS OR OTHER INSTRUMENTS OF RECORD.
3. THIS SKETCH MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J17.050-.052, FLORIDA ADMINISTRATIVE CODE.
4. THIS IS NOT A BOUNDARY SURVEY.
5. THE ELECTRONIC SIGNATURE HEREON IS IN COMPLIANCE WITH FLORIDA ADMINISTRATIVE CODE (FAC) 5J-17.062(3)
6. THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY WILLIAM P. HINKLE, PSM 4633, ON 04/12/2023 PER FAC 5J-17.062(2).

WILLIAM P. HINKLE — DATE
FLORIDA LICENSED SURVEYOR & MAPPER
NO. LS 4633
NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHEET 1 OF 5

(SEE SHEET 2 FOR SKETCH OF DESCRIPTION)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION
-OF-
WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry
131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:
FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 1 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 2

LEGAL DESCRIPTION:

THAT PORTION OF THE WEST LAKE ELOISE DRIVE, RECORDED IN MAP BOOK 2, PAGE(S) 306–308 OF THE PUBLIC RECORD OF POLK COUNTY, FLORIDA LOCATED IN SECTIONS 4 & 9, TOWNSHIP 29 SOUTH, RANGE 26 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 4; THENCE RUN S89°49'14"W ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE OF SAID SECTION 4, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTH LINE, S89°49'14"W, A DISTANCE OF 15.00 FEET; THENCE DEPARTING SAID NORTH LINE, RUN N00°50'00"W, A DISTANCE OF 87.54 FEET; THENCE N71°24'48"E, A DISTANCE OF 135.18 FEET; THENCE S16°56'11"E, A DISTANCE OF 54.56 FEET; THENCE S73°03'49"W, A DISTANCE OF 19.16 FEET TO A POINT ON A NON–TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 83.00 FEET, A CENTRAL ANGLE OF 46°10'11", A CHORD BEARING OF S49°20'35"W AND A CHORD DISTANCE OF 65.09 FEET; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 66.88 FEET TO THE END OF SAID CURVE; THENCE S00°13'14"W, A DISTANCE OF 40.29 FEET; THENCE S89°59'46"W, A DISTANCE OF 19.88 FEET TO A POINT ON THE EAST MAINTAINED RIGHT OF WAY LINE OF SAID WEST LAKE ELOISE DRIVE; THENCE ALONG THE EAST MAINTAINED RIGHT OF WAY LINE OF WEST LAKE ELOISE DRIVE, THE FOLLOWING (10) TEN COURSES AND DISTANCES; S00°06'01"E, A DISTANCE OF 331.88 FEET; THENCE S00°06'08"E, A DISTANCE OF 50.00 FEET; THENCE S00°06'02"E, A DISTANCE OF 2247.53 FEET; THENCE S89°49'55"W, A DISTANCE OF 15.73 FEET; THENCE S00°19'43"E, A DISTANCE OF 69.70 FEET; THENCE S00°00'41"W, A DISTANCE OF 200.00 FEET; THENCE S00°01'02"E, A DISTANCE OF 200.00 FEET; THENCE S00°09'17"W, A DISTANCE OF 193.00 FEET; THENCE N89°47'32"E, A DISTANCE OF 28.68 FEET; THENCE S00°15'00"E, A DISTANCE OF 712.70 FEET TO A POINT ON THE NORTH LINE OF HARMONY ON LAKE ELOISE, PHASE 1, PART B, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 196, PAGE(S) 45 THROUGH 48 OF THE PUBLIC RECORDS OF POLK COUNTY ; THENCE ALONG THE NORTH AND EAST LINE OF SAID HARMONY ON LAKE ELOISE, PHASE 1, PART B FOR THE FOLLOWING (2) TWO COURSES AND DISTANCES: S89°47'55"W, A DISTANCE OF 1.41 FEET; THENCE S00°29'10"E, A DISTANCE OF 1032.33 FEET; THENCE DEPARTING SAID SAID EAST LINE, RUN S89°30'50"W, A DISTANCE OF 100.00 FEET TO A POINT ON THE WEST LINE OF HARMONY ON LAKE ELOISE, PHASE 1, PART A; THENCE N00°29'10"W, ALONG THE WEST LINE OF HARMONY ON LAKE ELOISE, PHASE 1, PART A, A DISTANCE OF 1114.05 FEET; THENCE DEPARTING SAID WEST LINE, RUN N89°10'47"E, A DISTANCE OF 36.45 FEET TO A POINT ON THE WEST MAINTAINED RIGHT OF WAY LINE OF WEST LAKE ELOISE DRIVE, THE FOLLOWING (8) EIGHT COURSES AND DISTANCES; N00°00'04"E, A DISTANCE OF 824.05 FEET; THENCE N00°14'26"E, A DISTANCE OF 200.01 FEET; THENCE N00°02'24"E, A DISTANCE OF 200.00 FEET; THENCE N00°14'47"W, A DISTANCE OF 49.72 FEET; THENCE S89°47'47"W, A DISTANCE OF 6.28 FEET; THENCE N00°33'02"E, A DISTANCE OF 1324.77 FEET; THENCE N00°06'26"W, A DISTANCE OF 30.00 FEET; THENCE N00°05'34"W, A DISTANCE OF 1304.80 FEET TO THE POINT OF BEGINNING.

CONTAINING 301,502 SQUARE FEET OR 6.92 ACRES MORE OR LESS.

SHEET 2 OF 5

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

–OF–

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

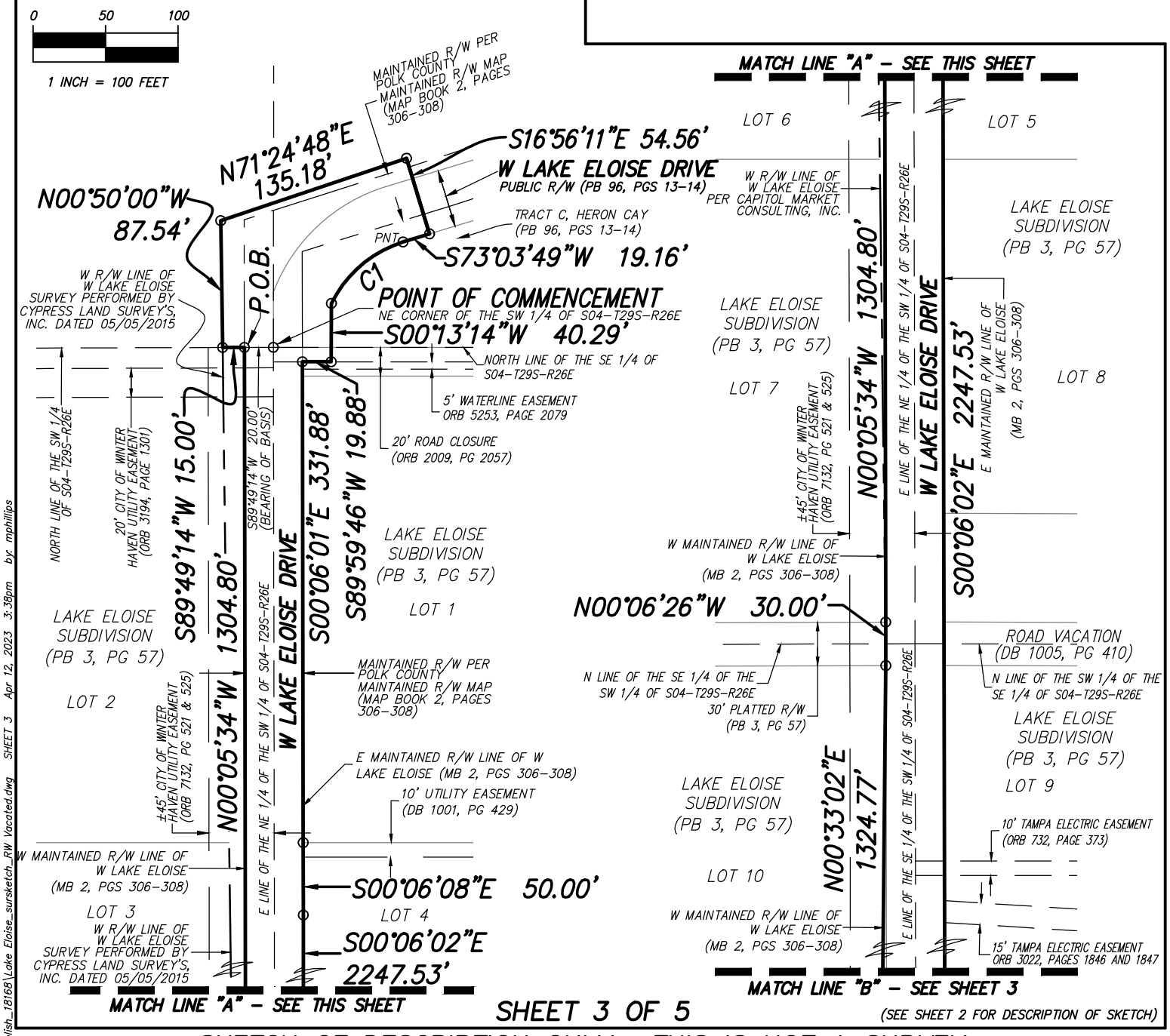
DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 2 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 3

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING
C1	66.88'	83.00	46°10'11"	65.09'	S49°20'35"W



SHEET 3 OF 5

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

-OF-

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

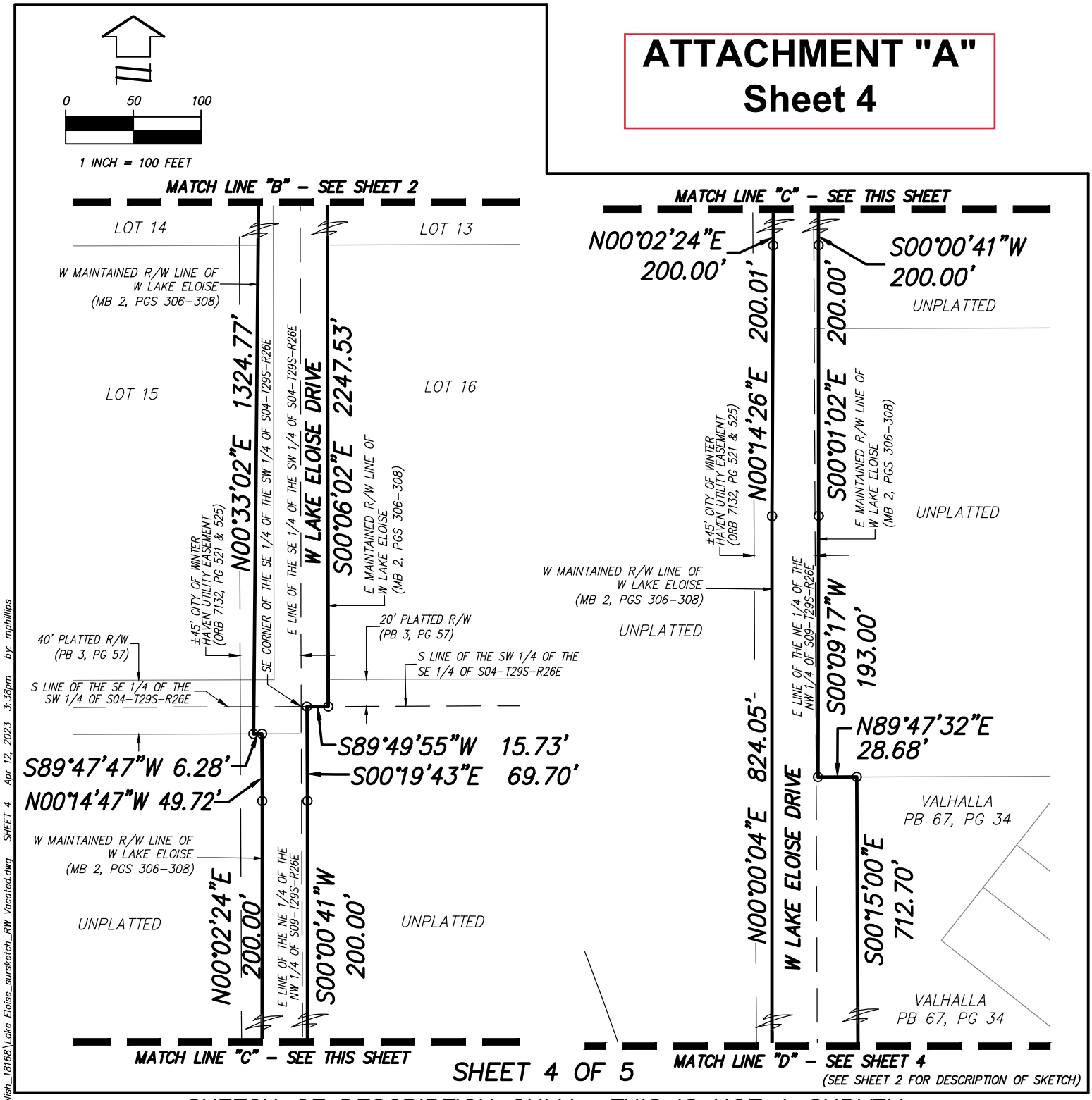
FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 3 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 4



SHEET 4 OF 5

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

–OF–

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

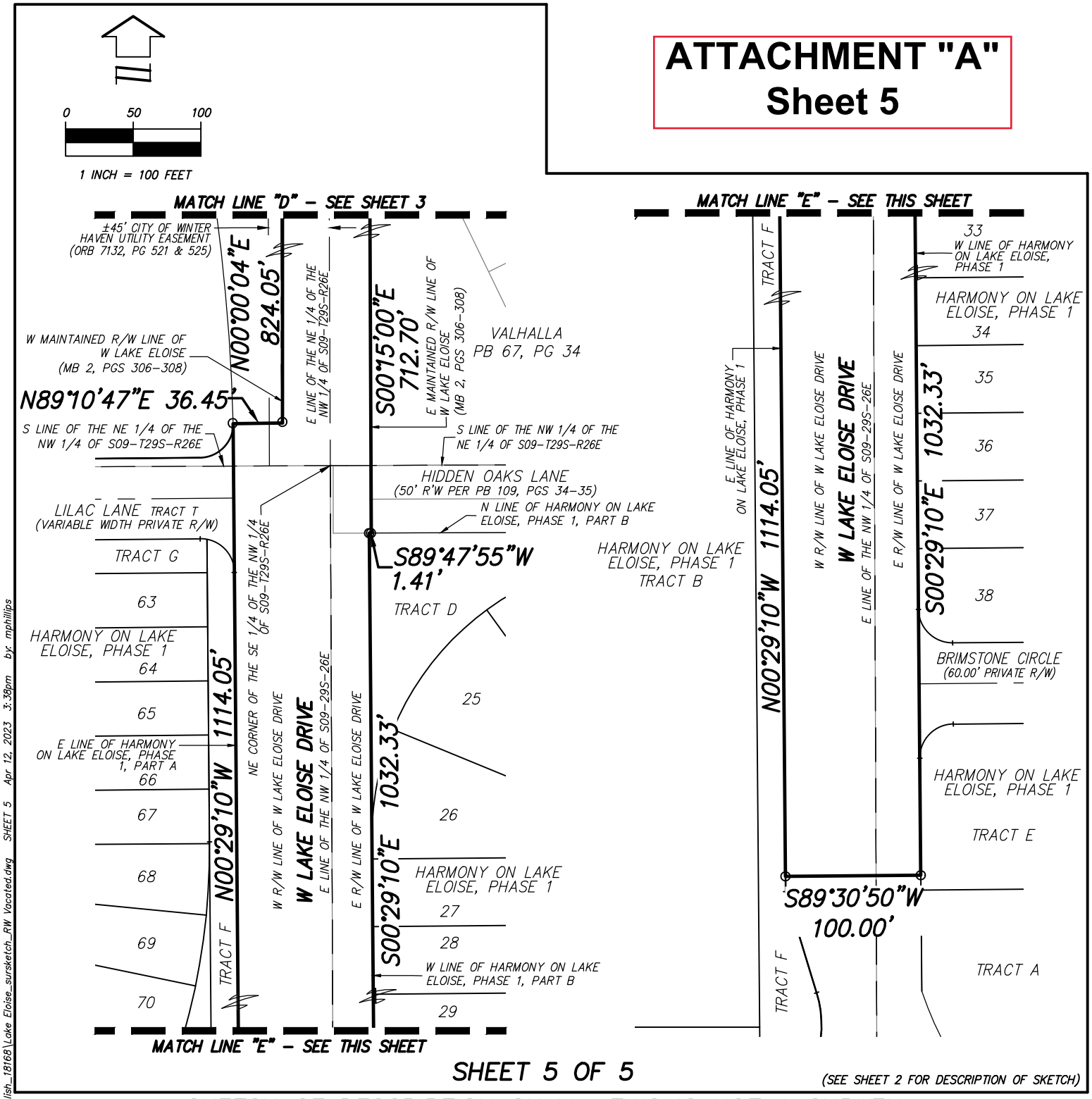
FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_surskетch_RW Vacated.dwg SHEET 4 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 5



SHEET 5 OF 5

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

–OF–

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 5 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "B"

DeLorme Street Atlas USA® 2010



Data use subject to license.
© DeLorme. DeLorme Street Atlas USA® 2010.
www.delorme.com

TN
MN (6.1°W)

Scale 1 : 25,000

1" = 2,083.3 ft Data Zoom 13-0

This instrument prepared under
The direction of:
R. Wade Allen, Administrator
Polk County Real Estate Services
P. O. Box 9005, Drawer RE 01
Bartow, Florida 33831-9005
By: Chris Peterson
Road Transfer: Portion of Lake Eloise Drive West

COUNTY DEED

THIS DEED, made this _____ day of _____, 2024 by **POLK COUNTY**, a political subdivision of the State of Florida, Grantor, to the **CITY OF WINTER HAVEN,** a Florida Municipal Corporation, whose address is, P.O. Box 2277, Winter Haven, FL 33883-2277, Grantee.

WITNESSETH: That the Grantor, for and in consideration of the sum of $1.00, to it in hand paid by the Grantee, receipt whereof is hereby acknowledged, has granted, bargained, and sold to Grantee, its successors and assigns forever, all the right, title, interest, including interests, if any, in rights which may have been reserved by operation of Section 270.11 Florida Statutes, claim, and demand, which the Grantor has in and to the following described land lying and being in Polk County, Florida, to wit:

SEE ATTACHMENT "A"

The purpose of this County Deed is to convey the Grantor's interest in the right-of-way pursuant to Florida Statutes 335.0415 and 337.29 for that portion of the public road as described in ATTACHMENT "A".

IN WITNESS WHEREOF, said grantor has caused these presents to be executed in its name by its Board of County Commissioners, acting by the Chair or Vice-Chair of said board, the day and year aforesaid.

ATTEST:

Stacy M. Butterfield
Clerk to the Board

By: _____
Deputy Clerk

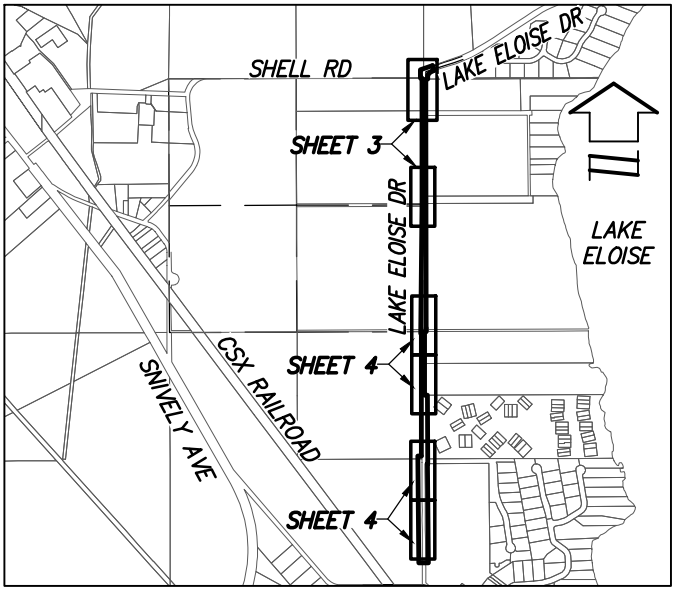
GRANTOR:

Polk County, Florida

By: _____
W.C. Braswell, Chairman
Board of County Commissioners

(Seal)

ATTACHMENT "A"
Sheet 1



VICINITY MAP
NOT TO SCALE

LEGEND:

—\\—	LINE BREAK	L	LENGTH
PC	POINT OF CURVATURE	R	RADIUS
PRC	POINT OF REVERSE CURVATURE	Δ	CENTRAL ANGLE
PCC	POINT OF COMPOUND CURVATURE	CB	CHORD BEARING
PNT	POINT OF NON-TANGENCY	CH	CHORD LENGTH
PT	POINT OF TANGENCY	SF	SQUARE FEET
R/W	RIGHT OF WAY	AC	ACRES
ORB	OFFICIAL RECORDS BOOK	SEC	SECTION
PB	PLAT BOOK	P.O.B.	POINT OF BEGINNING
PG(S)	PAGE(S)		

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST, AS BEING S89°49'14"W.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, ADJOINERS OR OTHER INSTRUMENTS OF RECORD.
3. THIS SKETCH MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J17.050-.052, FLORIDA ADMINISTRATIVE CODE.
4. THIS IS NOT A BOUNDARY SURVEY.
5. THE ELECTRONIC SIGNATURE HEREON IS IN COMPLIANCE WITH FLORIDA ADMINISTRATIVE CODE (FAC) 5J-17.062(3)
6. THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY WILLIAM P. HINKLE, PSM 4633, ON 04/12/2023 PER FAC 5J-17.062(2).

WILLIAM P. HINKLE — DATE
FLORIDA LICENSED SURVEYOR & MAPPER
NO. LS 4633
NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHEET 1 OF 5

(SEE SHEET 2 FOR SKETCH OF DESCRIPTION)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION
-OF-
WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry
131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:
FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 1 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 2

LEGAL DESCRIPTION:

THAT PORTION OF THE WEST LAKE ELOISE DRIVE, RECORDED IN MAP BOOK 2, PAGE(S) 306–308 OF THE PUBLIC RECORD OF POLK COUNTY, FLORIDA LOCATED IN SECTIONS 4 & 9, TOWNSHIP 29 SOUTH, RANGE 26 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 4; THENCE RUN S89°49'14"W ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE OF SAID SECTION 4, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTH LINE, S89°49'14"W, A DISTANCE OF 15.00 FEET; THENCE DEPARTING SAID NORTH LINE, RUN N00°50'00"W, A DISTANCE OF 87.54 FEET; THENCE N71°24'48"E, A DISTANCE OF 135.18 FEET; THENCE S16°56'11"E, A DISTANCE OF 54.56 FEET; THENCE S73°03'49"W, A DISTANCE OF 19.16 FEET TO A POINT ON A NON–TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 83.00 FEET, A CENTRAL ANGLE OF 46°10'11", A CHORD BEARING OF S49°20'35"W AND A CHORD DISTANCE OF 65.09 FEET; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 66.88 FEET TO THE END OF SAID CURVE; THENCE S00°13'14"W, A DISTANCE OF 40.29 FEET; THENCE S89°59'46"W, A DISTANCE OF 19.88 FEET TO A POINT ON THE EAST MAINTAINED RIGHT OF WAY LINE OF SAID WEST LAKE ELOISE DRIVE; THENCE ALONG THE EAST MAINTAINED RIGHT OF WAY LINE OF WEST LAKE ELOISE DRIVE, THE FOLLOWING (10) TEN COURSES AND DISTANCES; S00°06'01"E, A DISTANCE OF 331.88 FEET; THENCE S00°06'08"E, A DISTANCE OF 50.00 FEET; THENCE S00°06'02"E, A DISTANCE OF 2247.53 FEET; THENCE S89°49'55"W, A DISTANCE OF 15.73 FEET; THENCE S00°19'43"E, A DISTANCE OF 69.70 FEET; THENCE S00°00'41"W, A DISTANCE OF 200.00 FEET; THENCE S00°01'02"E, A DISTANCE OF 200.00 FEET; THENCE S00°09'17"W, A DISTANCE OF 193.00 FEET; THENCE N89°47'32"E, A DISTANCE OF 28.68 FEET; THENCE S00°15'00"E, A DISTANCE OF 712.70 FEET TO A POINT ON THE NORTH LINE OF HARMONY ON LAKE ELOISE, PHASE 1, PART B, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 196, PAGE(S) 45 THROUGH 48 OF THE PUBLIC RECORDS OF POLK COUNTY ; THENCE ALONG THE NORTH AND EAST LINE OF SAID HARMONY ON LAKE ELOISE, PHASE 1, PART B FOR THE FOLLOWING (2) TWO COURSES AND DISTANCES: S89°47'55"W, A DISTANCE OF 1.41 FEET; THENCE S00°29'10"E, A DISTANCE OF 1032.33 FEET; THENCE DEPARTING SAID SAID EAST LINE, RUN S89°30'50"W, A DISTANCE OF 100.00 FEET TO A POINT ON THE WEST LINE OF HARMONY ON LAKE ELOISE, PHASE 1, PART A; THENCE N00°29'10"W, ALONG THE WEST LINE OF HARMONY ON LAKE ELOISE, PHASE 1, PART A, A DISTANCE OF 1114.05 FEET; THENCE DEPARTING SAID WEST LINE, RUN N89°10'47"E, A DISTANCE OF 36.45 FEET TO A POINT ON THE WEST MAINTAINED RIGHT OF WAY LINE OF WEST LAKE ELOISE DRIVE, THE FOLLOWING (8) EIGHT COURSES AND DISTANCES; N00°00'04"E, A DISTANCE OF 824.05 FEET; THENCE N00°14'26"E, A DISTANCE OF 200.01 FEET; THENCE N00°02'24"E, A DISTANCE OF 200.00 FEET; THENCE N00°14'47"W, A DISTANCE OF 49.72 FEET; THENCE S89°47'47"W, A DISTANCE OF 6.28 FEET; THENCE N00°33'02"E, A DISTANCE OF 1324.77 FEET; THENCE N00°06'26"W, A DISTANCE OF 30.00 FEET; THENCE N00°05'34"W, A DISTANCE OF 1304.80 FEET TO THE POINT OF BEGINNING.

CONTAINING 301,502 SQUARE FEET OR 6.92 ACRES MORE OR LESS.

SHEET 2 OF 5

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

–OF–

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

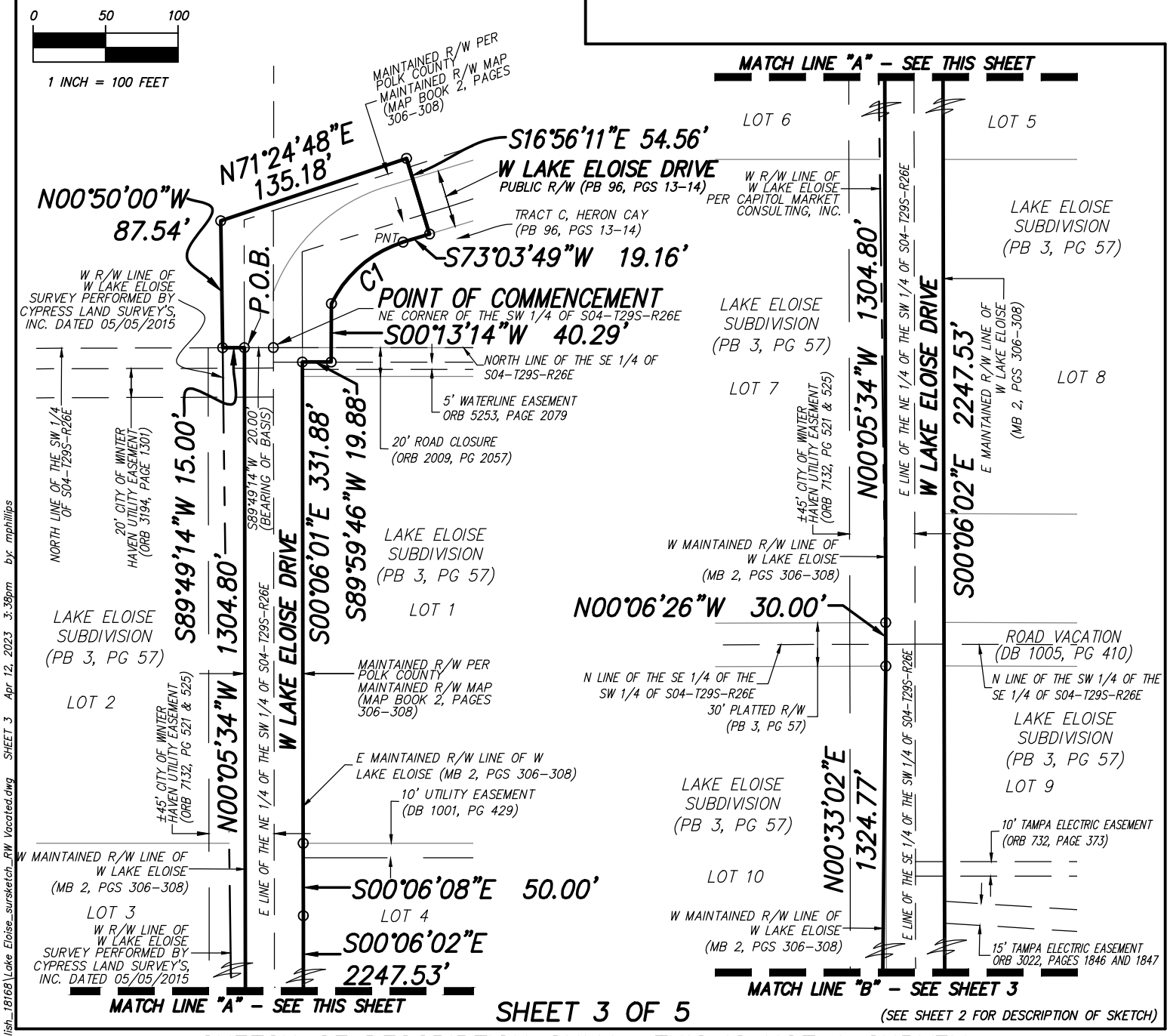
DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 2 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 3

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING
C1	66.88'	83.00	46°10'11"	65.09'	S49°20'35"W



SHEET 3 OF 5

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

-OF-

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

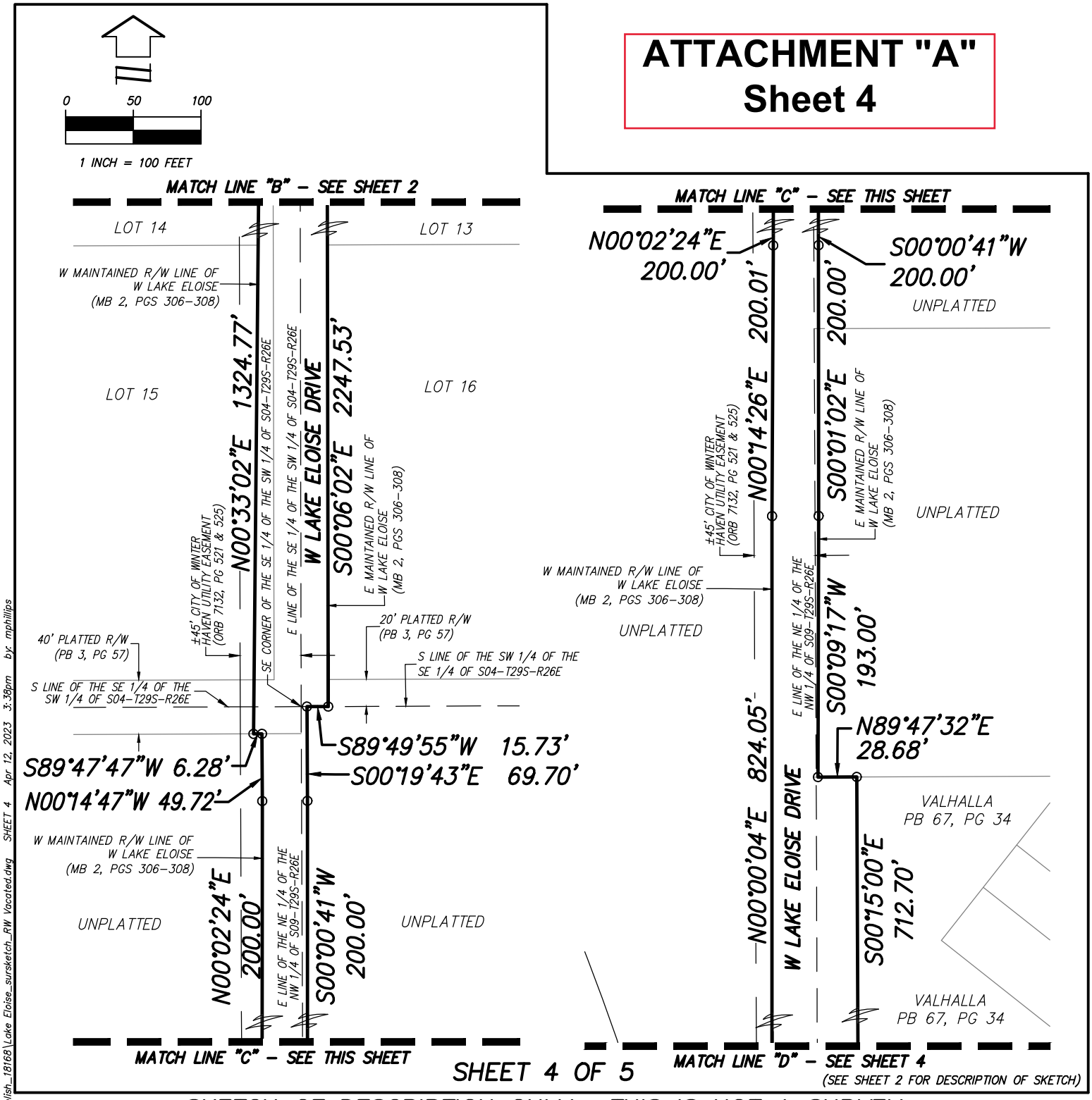
FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 3 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 4



SHEET 4 OF 5

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

–OF–

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

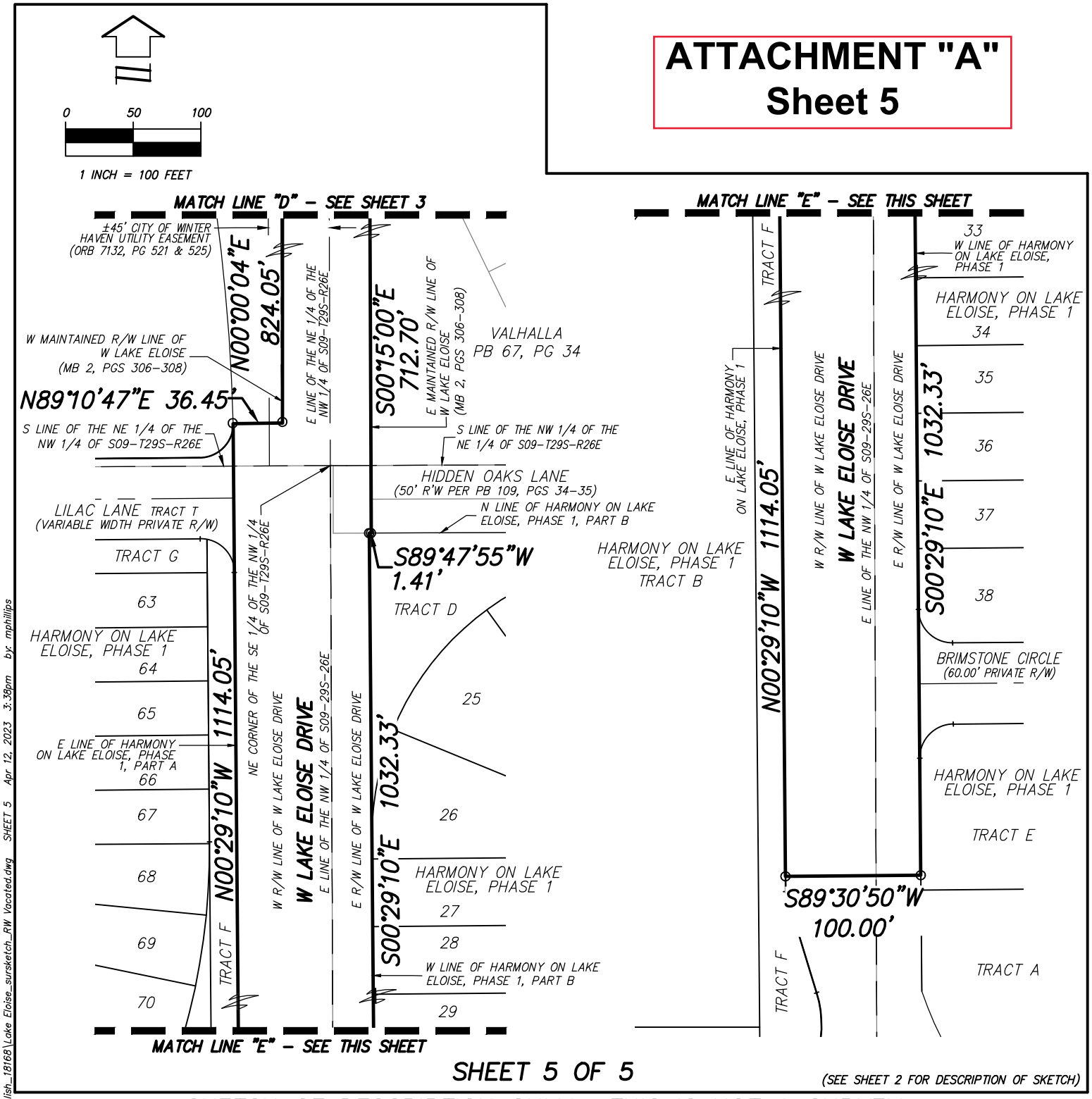
FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_surskетch_RW Vacated.dwg SHEET 4 Apr 12, 2023 3:38pm by: mphillips

ATTACHMENT "A"
Sheet 5



SHEET 5 OF 5

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

–OF–

WEST LAKE ELOISE DRIVE CONVEYED

SECTIONS 4 & 9, TOWNSHIP 24 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 04/11/23
REV DATE:
SCALE 1" = 100'

PROJ: 50155783
DRAWN BY: WS
CHECKED BY: WPH

Drawing name: S:_Employee\Mike Phillips\Autosave\AcPublish_18168\Lake Eloise_sursketch_RW Vacated.dwg SHEET 5 Apr 12, 2023 3:38pm by: mphillips

AGREEMENT FOR TRANSFER OF PUBLIC ROADS

between

THE CITY OF WINTER HAVEN, FLORIDA

and

POLK COUNTY, FLORIDA

A PORTION OF SHELL ROAD FROM LAKE ELOISE DRIVE WEST, WESTERLY APPROXIMATELY 670 FEEET, IN WINTER HAVEN, FLORIDA.

This is an Agreement by and between the City of Winter Haven, a municipal corporation of the State of Florida (CITY), and Polk County, a political subdivision of the State of Florida (POLK), their respective successors and assigns.

WITNESSETH

WHEREAS, Chapter 335, Florida Statutes, Subsection 335.0415(3) authorizes the transfer of public roads between jurisdictions by mutual agreement of the affected governmental entities; and

WHEREAS, a portion of SHELL ROAD (hereinafter known as the ROAD) is a Urban Collector Road and is within the County Road System that lies within and adjacent to the corporate limits of the CITY; and

WHEREAS, CITY has requested, and POLK has agreed to the transfer of the ROAD from Lake Eloise Drive West, westerly approximately 670 feet, in order to accommodate the transfer of maintenance and operational responsibilities to CITY; and

WHEREAS, Chapter 337, Florida Statutes, Subsection 337.29(3) provides that upon such transfer, liability for torts shall be in the governmental entity having operation and maintenance responsibility for such roads; and

WHEREAS, a transfer of the ROAD is in the best interests of CITY and of POLK; and

NOW, THEREFORE, in consideration of the promises, mutual covenants, and conditions hereinafter contained, the parties agree as follows:

SECTION 1: Recitals

The above recitals are true and correct and incorporated herein.

SECTION 2: Description of public roads subject to agreement

THE ROAD as depicted on the map attached hereto and made a part hereof as Attachment "B", and more particularly described as:

Attachment "A"

SECTION 3: Transfer and acceptance of roads

POLK agrees to transfer, by County Deed, the ROAD as described above, and CITY agrees to acknowledge and accept this transfer via Resolution adopted by the Governing Body of the CITY. Upon the delivery and recording of a COUNTY Deed and affirmative acceptance by the CITY via Resolution adopted by the Governing Body of the CITY both parties agree that, the ROAD thus transferred will no longer be a part of the Polk County Road System, will become part of the City of Winter Haven Road System, and all jurisdiction over the road and the responsibility for operation and maintenance of the road and associated infrastructure will be with CITY.

SECTION 4: Liability for torts

As provided in Sections 335.0415 and 337.29, Florida Statutes, upon transfer of the ROAD from POLK to CITY, liability for torts shall be in the CITY, subject to the limitations of liability set forth in Section 768.28, Florida Statutes, and any other applicable sovereign immunity defense and /or defenses available under application Florida law.

Nothing contained in this Agreement shall be deemed a waiver, expressed or implied, of the City's or County's sovereign immunity or an increase in the limits of liability contained in Section 768.28, Florida Statutes, regardless of whether any such obligations are based in tort, contract, statute, strict liability, negligence, product liability or otherwise.

SECTION 5: Costs of transfer of public roads

COUNTY will record the Agreement and County Deed. Any and all costs associated with this transfer of public roads shall be borne by CITY.

SECTION 6: Amendments

No modification, amendment, or alterations of the terms or conditions contained herein shall be effective unless contained in the written document executed by the parties hereto with the same formality, and of equal dignity herewith.

SECTION 7: Severability

In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability shall not effect the remainder of the Agreement which shall remain in full force and effect and enforceable in accordance with its terms.

SECTION 8: Term

This Agreement is effective upon approval of the parties respective Governing Bodies and execution by both parties set out below.

IN WITNESS WHEREOF, the City of Winter Haven has made and executed this Agreement on the date shown below, through its City Commissioners, signing by and through its Mayor, as authorized to execute the same by City Commission action on the _____ day of _____, 2024.

ATTEST:
Vanessa Castillo, Clerk

By: _____
City Clerk

CITY OF WINTER HAVEN

By: _____
Nathanial J. Birdsong, Jr, Mayor

This ___ day of _____, 2024

Reviewed as to form and legality

_____
Frederick J. Murphy, Jr., City Attorney Date

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Polk County has made and executed this Agreement on the date shown below, through its Board of County Commissioners, signing by and through its Chairman, as authorized to execute the same by Board action on the _____ day of _____, 2024.

ATTEST:
Stacy M. Butterfield, Clerk

By: _____
Deputy Clerk

POLK COUNTY
Board of County Commissioners

_____
W.C. Braswell, Chairman

This ____ day of _____, 2024

Reviewed as to form and legality

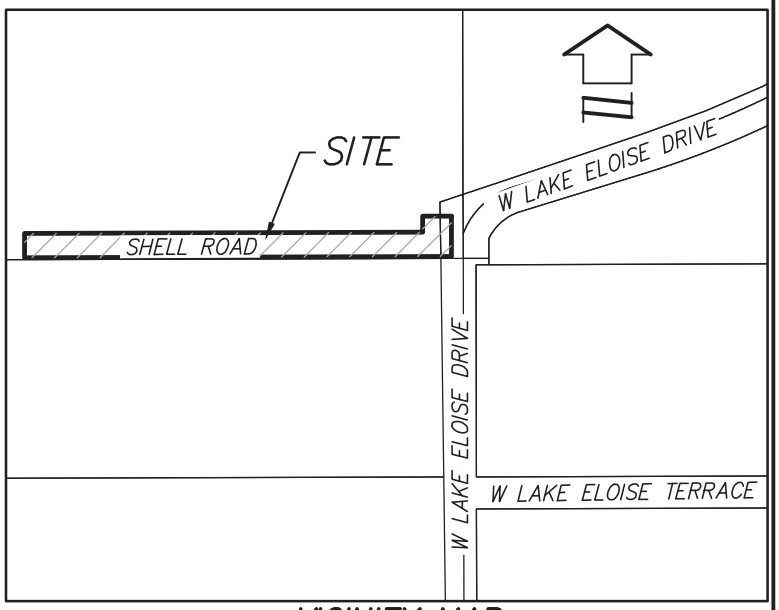
_____
County Attorney's Office

Remainder of Page Intentionally Left Blank

ATTACHMENT "A" Sheet 1 of 3

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST, AS BEING S89°49'26"W.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, ADJOINERS OR OTHER INSTRUMENTS OF RECORD.
3. THIS SKETCH MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J17.050-.052, FLORIDA ADMINISTRATIVE CODE.
4. THIS IS NOT A BOUNDARY SURVEY.
5. THE ELECTRONIC SIGNATURE HEREON IS IN COMPLIANCE WITH FLORIDA ADMINISTRATIVE CODE (FAC) 5J-17.062(3)
6. THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY WILLIAM P. HINKLE, PSM 4633, ON 08/11/2023 PER FAC 5J-17.062(2).



VICINITY MAP
(NOT TO SCALE)

WILLIAM P. HINKLE
Licensed Number
4633
STATE OF FLORIDA
Professional Surveyor & Mapper

William P Hinkle
Digitally signed by William P Hinkle
Date: 2023.08.11 11:09:06 -04'00'

WILLIAM P. HINKLE — DATE
FLORIDA LICENSED SURVEYOR & MAPPER
NO. LS 4633
THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 1 OF 3

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

-OF-

SHELL ROAD RIGHT OF WAY SWAP PARCEL

SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 08/11/23
REV DATE:
SCALE: 1" = N/A

PROJ: 50155783
DRAWN BY: SCC
CHECKED BY: MHH

Drawing name: S:\Lake Eloise_ Winter Haven\DWG-Civil 3D\East Shell Rd rw_sursketch.dwg DEW desc. & sketch Sheet 1 Aug 11, 2023 9:42am by: scline

ATTACHMENT "A" Sheet 2 of 3

LEGAL DESCRIPTION:

A PORTION OF LAND LYING IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST, POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4; THENCE RUN S89°49'26"W ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 19.98 FEET TO THE POINT OF BEGINNING. THENCE CONTINUE S89°49'26"W ALONG SAID NORTH LINE, A DISTANCE OF 667.06 FEET; THENCE DEPARTING SAID NORTH LINE RUN N00°06'02"W 38.00 FEET; THENCE RUN N89°49'26"E, A DISTANCE OF 622.23 FEET; THENCE RUN N00°06'02"W, A DISTANCE OF 24.95 FEET; THENCE RUN N89°49'26"E, A DISTANCE OF 44.83 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF WEST LAKE ELOISE DRIVE, (A COUNTY MAINTAINED RIGHT OF WAY) AS RECORDED IN RIGHT OF WAY MAP BOOK 2, PAGES 306 THROUGH 308 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, THENCE RUN S00°06'02"E ALONG THE SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 62.95 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 26,467 SQUARE FEET OR 0.60 ACRES OF LAND, MORE OR LESS.

SHEET 2 OF 3

(SEE SHEET 3 FOR SKETCH OF DESCRIPTION)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

—OF—

SHELL ROAD RIGHT OF WAY SWAP PARCEL

SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

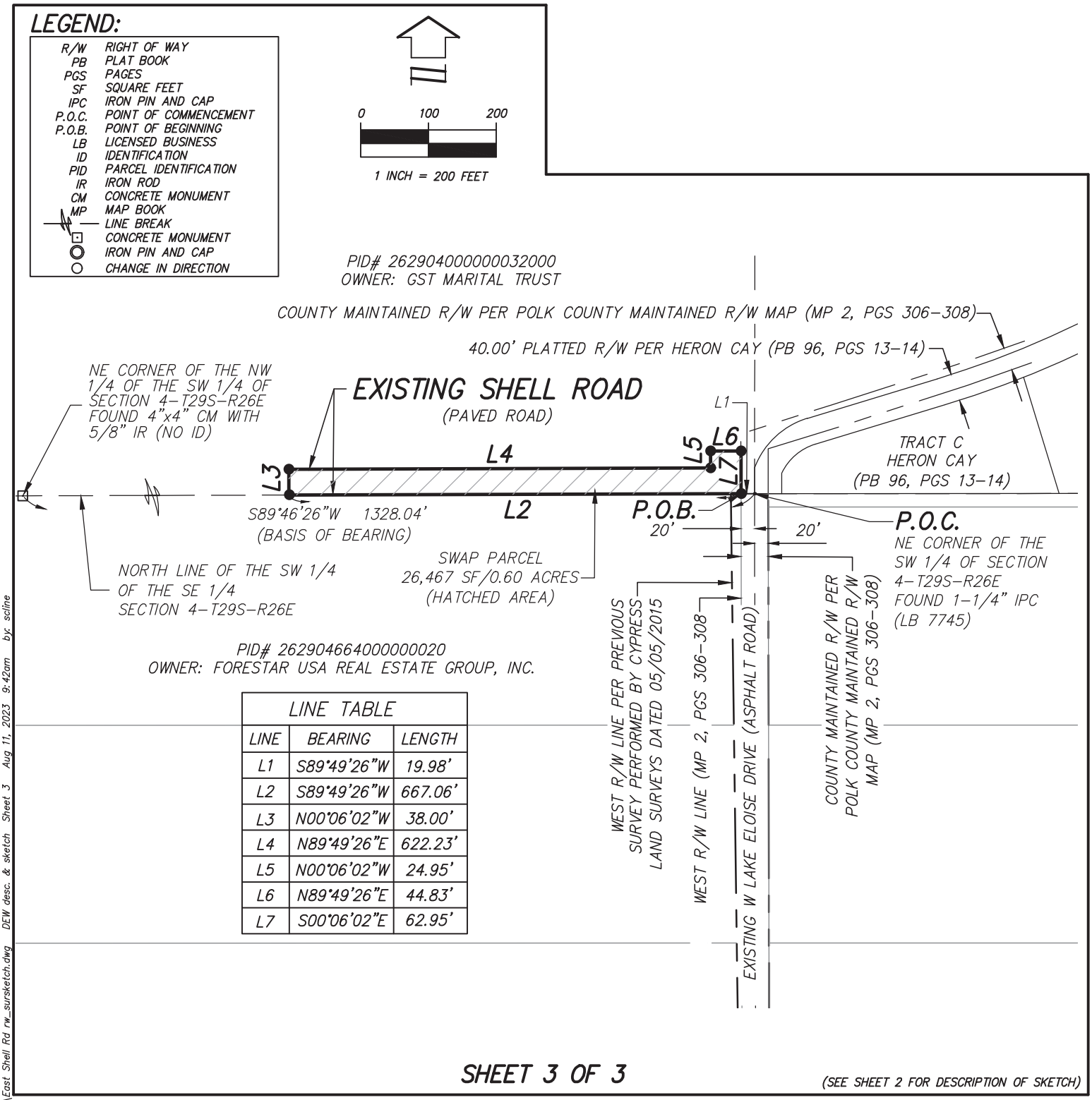
PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 08/11/23 PROJ: 50155783
REV DATE: DRAWN BY: SCC
SCALE: 1" = N/A CHECKED BY: MHF

Drawing name: S:\Lake Eloise_ Winter Haven\DWG-Civil 3D\East Shell Rd rw_sursketch.dwg DEW desc. & sketch Sheet 2 Aug 11, 2023 9:42am by: scline

ATTACHMENT "A" Sheet 3 of 3



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°49'26"W	19.98'
L2	S89°49'26"W	667.06'
L3	N00°06'02"W	38.00'
L4	N89°49'26"E	622.23'
L5	N00°06'02"W	24.95'
L6	N89°49'26"E	44.83'
L7	S00°06'02"E	62.95'

SHEET 3 OF 3

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION
—OF—
SHELL ROAD RIGHT OF WAY SWAP PARCEL

SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

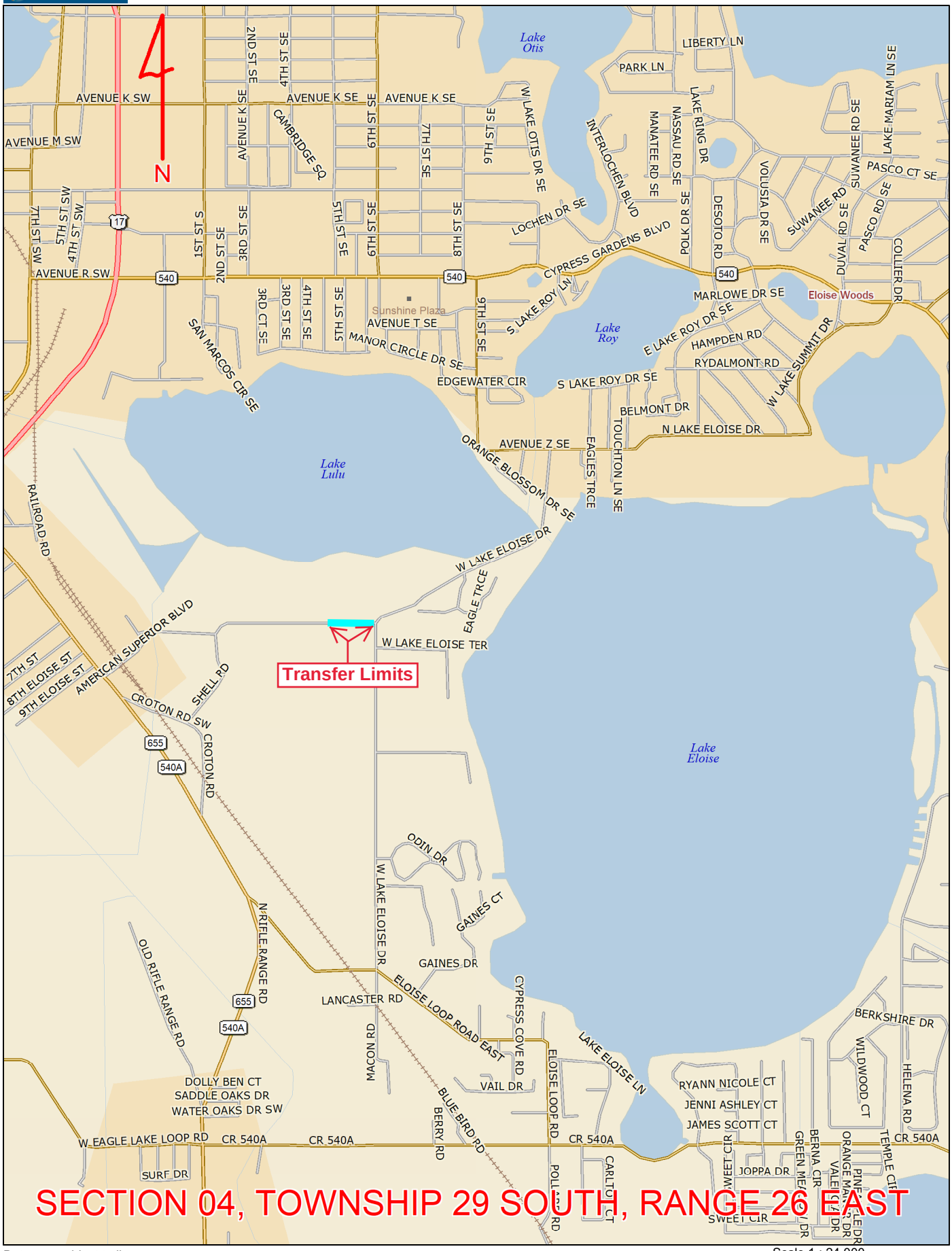
DATE: 08/11/23
REV DATE:
SCALE: 1" = 200'

PROJ: 50155783
DRAWN BY: SCC
CHECKED BY: MHH

Drawing name: S:\Lake Eloise_ Winter Haven\DWG-Civil 3D\East Shell Rd rw_sursketch.dwg DEW desc. & sketch Sheet 3 Aug 11, 2023 9:42am by: scline

ATTACHMENT "B"

DeLorme Street Atlas USA® 2010



SECTION 04, TOWNSHIP 29 SOUTH, RANGE 26 EAST

Data use subject to license.
© DeLorme. DeLorme Street Atlas USA® 2010.
www.delorme.com

TN
MN (6.3°W)

Scale 1 : 24,000

1" = 2,000.0 ft Data Zoom 13-1

This instrument prepared under
The direction of:
R. Wade Allen, Administrator
Polk County Real Estate Services
P. O. Box 9005, Drawer RE 01
Bartow, Florida 33831-9005
By: Chris Peterson
Road Transfer: Portion of Shell Road

COUNTY DEED

THIS DEED, made this _____ day of _____, 2024 by **POLK COUNTY**, a political subdivision of the State of Florida, Grantor, to the **CITY OF WINTER HAVEN,** a Florida Municipal Corporation, whose address is, P.O. Box 2277, Winter Haven, FL 33883-2277, Grantee

WITNESSETH: That the Grantor, for and in consideration of the sum of $1.00, to it in hand paid by the Grantee, receipt whereof is hereby acknowledged, has granted, bargained, and sold to Grantee, its successors and assigns forever, all the right, title, interest, including interests, if any, in rights which may have been reserved by operation of Section 270.11 Florida Statutes, claim, and demand, which the Grantor has in and to the following described land lying and being in Polk County, Florida, to wit:

SEE ATTACHMENT "A"

The purpose of this County Deed is to convey the Grantor's interest in the right-of-way pursuant to Florida Statutes 335.0415 and 337.29 for that portion of the public road as described in ATTACHMENT "A".

IN WITNESS WHEREOF, said grantor has caused these presents to be executed in its name by its Board of County Commissioners, acting by the Chair or Vice-Chair of said board, the day and year aforesaid.

ATTEST:

Stacy M. Butterfield
Clerk to the Board

By: _____
Deputy Clerk

GRANTOR:

Polk County, Florida

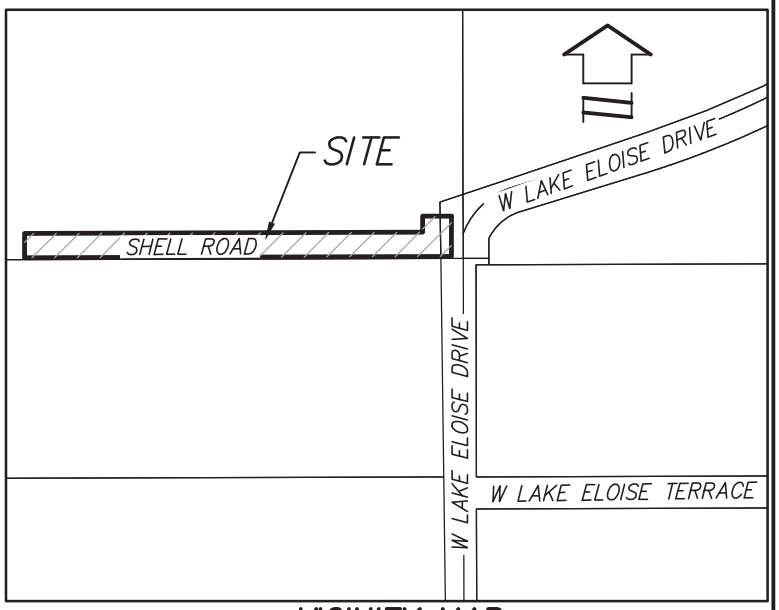
By: _____
W.C. Braswell, Chairman
Board of County Commissioners

(Seal)

ATTACHMENT "A" Sheet 1 of 3

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST, AS BEING S89°49'26"W.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, ADJOINERS OR OTHER INSTRUMENTS OF RECORD.
3. THIS SKETCH MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J17.050-.052, FLORIDA ADMINISTRATIVE CODE.
4. THIS IS NOT A BOUNDARY SURVEY.
5. THE ELECTRONIC SIGNATURE HEREON IS IN COMPLIANCE WITH FLORIDA ADMINISTRATIVE CODE (FAC) 5J-17.062(3)
6. THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY WILLIAM P. HINKLE, PSM 4633, ON 08/11/2023 PER FAC 5J-17.062(2).



VICINITY MAP
(NOT TO SCALE)

WILLIAM P. HINKLE
Licensed Number
4633
STATE OF FLORIDA
Professional Surveyor & Mapper

William P Hinkle
Digitally signed by William P Hinkle
Date: 2023.08.11 11:09:06 -04'00'

WILLIAM P. HINKLE — DATE
FLORIDA LICENSED SURVEYOR & MAPPER
NO. LS 4633
THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 1 OF 3

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

-OF-

SHELL ROAD RIGHT OF WAY SWAP PARCEL

SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 08/11/23
REV DATE:
SCALE: 1" = N/A

PROJ: 50155783
DRAWN BY: SCC
CHECKED BY: MHH

Drawing name: S:\Lake Eloise_ Winter Haven\DWG-Civil 3D\East Shell Rd rw_sursketch.dwg DEW desc. & sketch Sheet 1 Aug 11, 2023 9:42am by: scline

ATTACHMENT "A" Sheet 2 of 3

LEGAL DESCRIPTION:

A PORTION OF LAND LYING IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST, POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4; THENCE RUN S89°49'26"W ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 19.98 FEET TO THE POINT OF BEGINNING. THENCE CONTINUE S89°49'26"W ALONG SAID NORTH LINE, A DISTANCE OF 667.06 FEET; THENCE DEPARTING SAID NORTH LINE RUN N00°06'02"W 38.00 FEET; THENCE RUN N89°49'26"E, A DISTANCE OF 622.23 FEET; THENCE RUN N00°06'02"W, A DISTANCE OF 24.95 FEET; THENCE RUN N89°49'26"E, A DISTANCE OF 44.83 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF WEST LAKE ELOISE DRIVE, (A COUNTY MAINTAINED RIGHT OF WAY) AS RECORDED IN RIGHT OF WAY MAP BOOK 2, PAGES 306 THROUGH 308 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, THENCE RUN S00°06'02"E ALONG THE SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 62.95 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 26,467 SQUARE FEET OR 0.60 ACRES OF LAND, MORE OR LESS.

SHEET 2 OF 3

(SEE SHEET 3 FOR SKETCH OF DESCRIPTION)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION

—OF—

SHELL ROAD RIGHT OF WAY SWAP PARCEL

SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

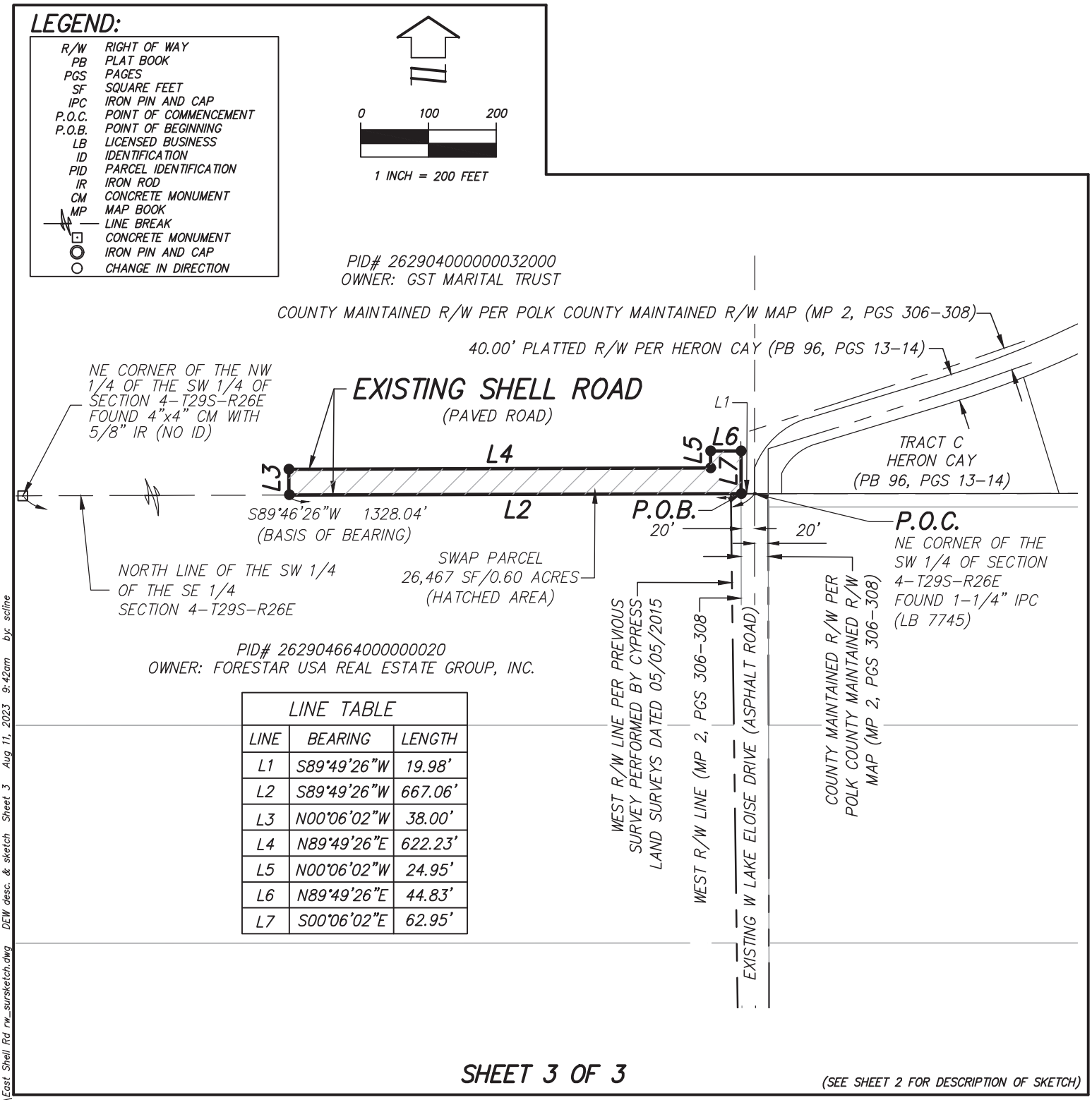
PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 08/11/23 PROJ: 50155783
REV DATE: DRAWN BY: SCC
SCALE: 1" = N/A CHECKED BY: MHF

Drawing name: S:\Lake Eloise_ Winter Haven\DWG-Civil 3D\East Shell Rd rw_sursketch.dwg DEW desc. & sketch Sheet 2 Aug 11, 2023 9:42am by: scline

ATTACHMENT "A" Sheet 3 of 3



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°49'26"W	19.98'
L2	S89°49'26"W	667.06'
L3	N00°06'02"W	38.00'
L4	N89°49'26"E	622.23'
L5	N00°06'02"W	24.95'
L6	N89°49'26"E	44.83'
L7	S00°06'02"E	62.95'

SHEET 3 OF 3

(SEE SHEET 2 FOR DESCRIPTION OF SKETCH)

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SKETCH OF DESCRIPTION
—OF—
SHELL ROAD RIGHT OF WAY SWAP PARCEL

SECTION 4, TOWNSHIP 29 SOUTH, RANGE 26 EAST

POLK COUNTY FLORIDA

Dewberry

131 WEST KALEY STREET
ORLANDO, FLORIDA 32806
PHONE: 321.354.9826 FAX: 407.648.9104
WWW.DEWBERRY.COM
CERTIFICATE OF AUTHORIZATION NO. LB 8011

PREPARED FOR:

FORESTAR REAL ESTATE GROUP

DATE: 08/11/23
REV DATE:
SCALE: 1" = 200'

PROJ: 50155783
DRAWN BY: SCC
CHECKED BY: MHH

Drawing name: S:\Lake Eloise_ Winter Haven\DWG-Civil 3D\East Shell Rd rw_sursketch.dwg DEW desc. & sketch Sheet 3 Aug 11, 2023 9:42am by: scline

DATE: September 16, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Charles E. Bird, Assistant City Manager
J. Sonny Emery, Fire Chief

FROM: Michael Waters, Operations Chief

SUBJECT: Replacement of Fire Station No. 1 Air Conditioning System

---

BACKGROUND

Fire Station No. 1, encompassing both Suppression and Administration Buildings, operates using the original air conditioning (AC) system installed during its construction 14 years ago. Over time, this system has become outdated, resulting in decreased efficiency and reliability, necessitating frequent maintenance and costly repairs. Notably, the air conditioners serving the upstairs bunkrooms are no longer adjustable due to malfunctioning control boards, requiring continuous operation to maintain a comfortable temperature. Additionally, the air conditioning units in the administration building experience weekly malfunctions. Given the age and inefficiency of the current system, replacement is critical to ensure optimal functionality and cost-effectiveness.

The City has a contract for maintenance, repair, and replacement of HVAC systems awarded via Invitation to Bid ITB-23-26 to Engineered Cooling Services, LLC (ECS). Staff contacted ECS for an evaluation of the current systems and was provided a recommendation for replacement with related proposals.

Anticipated cost savings: Increased energy efficiency is supported by improvements in IEER (Integrated Energy Efficiency Ratio), which will enhance system performance, provide better dehumidification, and improve comfort and air quality.

The new systems should significantly improve EER (Energy Efficiency Ratio) by the following estimates:

- Trane 090 (7.5T): 28.18% efficiency increase
- Trane 120 (10.0T): 29.59% efficiency increase
- Trane 036 (3.0T): 19.00% efficiency increase

FINANCIAL IMPACT

The total cost for the replacement and installation of the new AC system is $208,040, broken down as follows:

- Replacement of AC units and addition of a mini-split system: $119,460
- Installation of Trane Controls: $88,580

The FY 2024 budget reflects $33,000 for HVAC repair and maintenance. The remaining funding will be provided by available funds within Fire Department to cover the AC unit replacement, mini-split installation, and installation of Trane Controls. The full system installation will likely be completed in FY25.

RECOMMENDATION

This Purchase is expected to enhance system efficiency, lower maintenance expenses, and reduce energy consumption. This initiative aligns with our City's Strategic Plan: Responsible Government, Goal 6.1.

Staff recommends approving the purchase of AC systems via contract with Engineered Cooling Services for Fire Station No. 1's Suppression and Administration Buildings and authorizing the City Manager or his designee to take any additional action necessary thereto.

ATTACHMENTS

- ECS Supplemental Info - ASHRAE Equipment Life Expectancy Chart
- ECS Proposals:
    - Install Trane Controls
    - Replace AC units, Add mini split

ASHRAE Equipment Life Expectancy chart

ASHRAE is the industry organization that sets the standards and guidelines for most all HVAC-R equipment. For additional info about ASHRAE the website is www.ashrae.org .

Equipment Item	Median Years
Air conditioners	
Window unit	10
Residential single or Split	
Package	15
Commercial through-the wall	15
Water-cooled package	15
Heat Pumps	
Residential air-to-air	15
Commercial air-to-air	15
Commercial water-to-air	19
Roof-top air conditioners	
Single-zone	15
Multi-zone	15
Boilers, hot water (steam)	
Steel water-tube	24 (30)
Steel fire-tube	25 (25)
Cast iron	35 (30)
Electric	15
Burners	21
Furnaces	
Gas- or oil-fired	18
Unit heaters	
Gas or electric	13
Hot water or steam	20
Radiant Heaters	
Electric	10
Hot water or steam	25

Equipment Item	Median Years
Air terminals	
Diffusers, grilles, and registers	27
Induction and fan coil units	20
VAV and double-duct boxes	20
Air washers	17
Ductwork	30
Dampers	20
Fans	
Centrifugal	25
Axial	20
Propeller	15
Ventilating roof-mounted	20
Coils	
DX, water, or steam	20
Electric	15
Heat Exchangers	
Shell-and-tube	24
Reciprocating compressors	20
Packaged chillers	
Reciprocating	20
Centrifugal	23
Absorption	23
Cooling towers	
Galvanized metal	20
Wood	20
Ceramic	34

Equipment Item	Median Years
Air-cooled condensers	20
Evaporative condensers	20
Insulation	
Molded	20
Blanket	24
Pumps	
Base-mounted	20
Pipe-mounted	10
Sump and well	10
Condensate 15	
Reciprocating engines	20
Steam turbines	30
Electric motors	18
Motor starters	17
Electric transformers	30
Controls	
Pneumatic	20
Electric	16
Electronic	15
Valve actuators	
Hydraulic	15
Pneumatic	20
Self-contained	10

Engineered Cooling Services
SERVICE PROPOSAL

BILLING:	**City of Winter Haven** **451 3rd Street** **Winter Haven, FL 33881**	LOCATION:	**Fire Station 1** **301 Ave G SW** **Winter Haven, FL 33880**
DATE:	**9-3-24**	EQUIP TAG:	**Various Unit Replacement (see below)**
ATTN:	**Richard "Tank" Artz**	PROJECT:	**Install Trane Controls**
PHONE:	**863-412-0497**	PROPOSAL:	**Q-09-2024-363853**
EMAIL:	**rartz@mywinterhaven.com**	JOB NO:	

~ Engineered Cooling Services is pleased to propose the following ~

Building Automation Scope of Service:

- Provide and install a new Trane Tracer SC+ Application Building Management System (BMS). This work includes controls material and installation associated with three (3) Trane DX Split System. Controllers shall be inter-connected to the Trane Tracer SC+ System Controller via wired BACnet MS/TP.
- Provide a Trane Tracer SC+ System Controller Building Management System (BMS) complete with custom graphics and SC+ software licenses for control and monitoring of the scope of work below. System interface to be web based with user access via any standard internet browser.
- Engineered control drawings including submittal information and point-by-point as-built documentation.
- Develop and install all new user interface graphics for units and floor plans. Tracer® SC+ Graphics to represent the installed equipment, including control /monitoring points for operator viewing and editing.
- Control wiring installation, supervision, labor, and material (i.e. conduit, wire, cable, etc.) as required to install new controllers, sensors, communication cabling, etc.
- All exposed wiring or wiring in new walls shall be in EMT conduit. Conduits exposed to weather shall be rigid galvanized pipe. Plenum rated wire shall be used in concealed accessible locations neatly tied off.
- Set up alarming, trending, and schedules based off customer recommendations.
- All other existing controllers, sensors, relays, wiring, conduit, enclosures, interlocks, actuators, and end devices not mentioned below will remain as-is.
- Reuse existing conduit between Condensing yard and Mech Room located inf first floor.
- Includes on-site system training for owner personnel.

Systems Included

- **New Three (3) DX SZ Split System (FS-AHU/HP-1,2 &3)**
  - Provide and install the following:
  - Trane BACnet Symbio series & XM controller with enclosure. (Total of 3).
  - Reuse all existing relays, Ebstron OA flow sensor, temperature, and humidity sensors.
  - Reconnect existing EF-11,12,13&14 into new Trane BACnet Controller.
  - BACnet communication link, low voltage, and sensor wiring.

- **Existing VAV Boxes**
  - Integrate Existing VAV controllers via LON communication Link (Total of 15).
  - Reuse existing sensors.
  - Includes LON communication wire between existing LON VAV Box Controller and Trane SC+ System Controller.

Clarifications and Exclusions:

- Floor plan CAD / PDF files to be provided by the owner if required.
- Building LAN drops for the BAS system are necessary and provided by others.
- Excludes LAN wiring, LAN hardware (computers, servers, routers etc.), internet service/access or the static IP address required by the Tracer BAS for communication and/or web access.
- Installation based on plenum rated cable. Conduits were required by code only. Excludes special provisions of any kind to accommodate wiring located in inaccessible locations.
- Existing communication networks and conduit will be reused wherever feasible.
- Provisions for Davis-Bacon Act or prevailing wage scales are not included.
- Trenching or directional boring of any kind.
- Excludes furnishing, installing, controlling, or wiring of smoke dampers, combination fire/smoke dampers, reset stations, duct detectors, smoke detectors, or other fire alarm system devices.
- Excludes hardwired interlocked into safety shut-down circuit (all required wiring provided and installed by others)
- Excludes all wiring at or above 110/120 volts.
- Excludes provision and or programming of computer hardware of any kind. System interface to be achieved through standard internet browser on owner provided equipment.
- Excludes HOA switches and potentiometers w/ LEDs on controllers.
- Excludes Air or Water Test & Balancing.
- Excludes installation of control dampers, valve bodies, flow sensors, flow meters, wells, gauges, or pressure taps.
- Excludes furnishing, installing, or power wiring of VFDs and starters, unless mentioned above.
- Excludes networking or tie into any equipment not mentioned in scope of work.
- Excludes core drilling, fire stopping, patching, and painting.
- Excludes installation of duct or piping specialty devices.
- Issues or repairs needed related to these devices found during the project are not included but will be reported to the customer.
- The existing equipment to be replaced with this proposal will be removed for disposal.
- Trane may invoice customers for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all work performed on-site or off-site.
- Project will be progress billed each month based on the percent complete through that month.
- All work to be performed during normal business hours. Occupant disruptions not expected.
- After Hours or Overtime labor will be coordinate and proposed separate based on-site requirements, unless is mentioned above.
- One-year parts and labor warranty on all new hardware and software.
- Exclude demolition of any kind not specifically listed above, including but not limited to, work related to the existing control system.
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors.
- Does not include any labor or materials not specifically mentioned in this proposal

Total Project Price $ 88,580

Terms:

1. Work is to be performed during normal hours of operation Monday thru Friday; overtime premiums excluded.
2. Proposal is subject to progress billings.
3. Proposal is for specified work only.
4. Proposal is subject to revision if not accepted within 30 days of receipt.
5. Proposal is subject to the attached Terms and Conditions.
6. Payment terms are Net 30.

SUBMITTED BY: BILLY SCHAFER
SIGNATURE: Billy Schafer
TITLE: PROJECT SALES ENGINEER
PHONE: 407-852-9342

ACCEPTED BY: _____
TITLE: _____
SIGNATURE: _____ **DATE:** _____

Terms and Conditions

1. OFFER AND ACCEPTANCE: Company offers to sell the materials, equipment and services indicated in strict accordance with the terms and conditions stated herein. Submittal of a Purchase Order or execution of this offer by Client, or allowing Company to commence work shall be deemed an acceptance of this offer, which offer and acceptance shall constitute a legally enforceable contract between Client and Company. Any additional or differing terms and conditions contained on Client's Purchase Order (whether or not such terms materially alter this offer) are hereby rejected by Company and shall not become part of the contract between Client and Company unless expressly consented to in writing by Company. This offer is subject to acceptance within 30 days after date and is based on all work being performed during regular working hours.
2. TERMS: Terms of Payment for goods shipped and/or services rendered hereunder shall be NET or RECEIPT of INVOICE. Company reserves the right to add to any account outstanding more than thirty (30) days a charge of one and one-half (1-1/2%) percent of the principal amount due at the end of each thirty (30) day period.
3. INVOICING: Company reserves the right to issue partial or complete INVOICES as material is furnished and as services are rendered.
4. PERFORMANCE: Company shall not be liable for failure to ship or delays in delivery of equipment or performance of services hereunder where such failure or delay is due to the disapproval of the Company's Credit Department, or due to strikes, fires, accidents, national emergency, failure to secure materials from the usual sources of supply, or any other circumstance beyond the control of the Company, whether of the class of causes enumerated above or not, which shall prevent Company from making deliveries or performing services in the usual course of business. In the event of the disapproval of the Company's Credit Department or the occurrence of any of the above, Company may, at its sole option, cancel Client's Purchase Order without the liability on the part of the Company. Alternatively, Company may extend the time for its performance by a period equal to the duration of the cause underlying Company's failure or delay. Receipt of the equipment or services by Client upon its delivery shall constitute a waiver of all claims for delay.
5. WARRANTY: Company guarantees service work and all materials of Company manufacture against defects in workmanship and material for 90 days from date of completion of the work and will repair or replace F.O.B. point of manufacture or shipment such products or components as Company finds defective. This warranty does not include the cost of labor to remove or reinstall any defective components, nor does this warranty include cost of handling, shipping or transportation involved in supplying replacements for defective components. This warranty does not include the replacement of refrigerant lost from the system after completion of the work. On machinery and materials furnished by Company, but manufactured by others, Company will extend the same guarantee it receives from the manufacturer.

   THIS WARRANTY AND LIABILITY SET FORTH ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, EXPRESS OR IMPLIED, IN LAW OR IN ACT, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE WARRANTIES CONTAINED HEREIN SET FORTH CLIENT'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF A DEFECT IN WORKMANSHIP OR MATERIALS.
6. PATENTS: If there is bought against the Client any suit or proceeding based on a claim that an apparatus, or any part thereof, furnished under this contract constitutes an infringement of any patent of the United States, Company, if notified promptly in writing and given authority, information and assistance by the Client for the defense of same, will defend same and pay all expenses and costs which may be awarded therein against the Client. In the event that the Client has complied with the conditions just stated and the apparatus, or any part thereof, is held to constitute infringements and its use in enjoined. Company, in lieu of all other liability except as above stated, will, at its own expense, either procure for the Client the right to continue using said apparatus, or replace same with non-infringing apparatus, or modify it so it becomes non-infringing, or remove said apparatus and refund the purchase price thereof, but Company's liability shall in no case exceed the purchase price of said infringing apparatus.
7. LIMITATION OF LIABILITY: All claims, causes of action or legal proceedings against Company arising from Company's performance under this contract must be commenced by Client within the express warranty period specified under Paragraph 6 hereof. Failure to commence any such claim, cause of action or legal proceeding within such period shall constitute a voluntary and knowing waiver thereof by Client. IN NO EVENT SHALL COMPANY'S LIABILITY FOR DIRECT OR COMPENSATORY DAMAGES EXCEED THE PAYMENTS RECEIVED BY COMPANY FROM CLIENT UNDER THE INSTANT CONTRACT, NOR SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. THESE LIMITATIONS ON DAMAGES SHALL APPLY UNDER ALL THEORIES OF LIABILITY OR CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO CONTRACT, WARRANTY, TORT OR STRICT LIABILITY.
8. DELIVERY: Shipping dates are approximate only. No shipping date requested or specified by Client will be binding on Company unless such request or specification is specifically agreed to in writing by an officer of Company. Shipment shall be F.O.B. factory, with title passing to Client upon delivery to the carrier by Company.
9. CANCELLATION: Company reserves the right to collect cancellation charges (including but not limited to all costs and expenses incurred, plus reasonable overhead and profit against any canceled order).
10. DISPUTES AND CHOICES OF LAWS: This contract shall be deemed to have been entered into and shall be governed by the laws of the State of Florida. All claims, disputes and controversies arising out of or relating to this contract, or the breach thereof, shall, in lieu of court action, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and any judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The site of the arbitration shall be Pensacola, FL, unless another site is mutually agreed between the parties. The parties agree that any part of the arbitration shall be entitled to discovery of the other party as provided by the Federal Rule of Civil Procedure; provided, however, that any such discovery shall be completed within four (4) months from the date the Demand for Arbitration is filed with the American Arbitration Association.
11. COST TO COMPANY: In the event it becomes necessary for Company to incur any costs or expenses in the collection of monies due Company from Client, or to enforce any of its rights or privileges hereunder, Client, upon demand shall reimburse Company for all such costs and expenses (including, but not limited to, reasonable attorney's fees).
12. ENTIRE AGREEMENT: These terms and conditions, and the matter set forth on the face of Company's offer to sell, constitute the entire agreement between Company and Client. No course of dealings or performance, or prior, concurrent or subsequent understandings, agreements of representations become part of this contract unless expressly agreed to in writing by an authorized representative of Company.
13. ASSIGNMENT: Client shall not assign this contract or any interest therein without the prior written consent of Company. Any actual or attempted assignment without Company's consent shall entitle Company, at its sole option, to cancel this contract and, in such event; Company shall be entitled to payment for all work performed and materials furnished to the date of cancellation, as well as reasonable compensation for lost income and profits.

By signing this contract, you are confirming that you have read and understand this paragraph and that you agree to the Terms and Conditions listed above.

Engineered Cooling Services
SERVICE PROPOSAL

BILLING:	**City of Winter Haven** **451 3rd Street** **Winter Haven, FL 33881**	LOCATION:	**Fire Station 1** **301 Ave G SW** **Winter Haven, FL 33880**
DATE:	**9-3-24**	EQUIP TAG:	**Various Unit Replacement (see below)**
ATTN:	**Richard "Tank" Artz**	PROJECT:	**Replace AC units, Add mini split**
PHONE:	**863-412-0497**	PROPOSAL:	**Q-08-2024-359830**
EMAIL:	**rartz@mywinterhaven.com**	JOB NO:	

~ Engineered Cooling Services is pleased to propose the following ~

Scope of Service:

- Advise customer upon arrival. Review scope of service
- Remove old AC and AH units and haul away
  - ECS will provide crane to set and remove outdoor condensers
- Recover and dispose of refrigerant per EPA guidelines
- Remove old aux drain pan assembly, and dispose.
- Install new Trane Equipment
  - **Trane Air Handler Models:**
    - TWE09043BAA**BC0
    - TWE12043BAA**BC0
    - TEM6A0C36H31S
    - Mini Split: TPLA0A0181EA80A 3x3
  - **Trane Air Conditioner Models:**
    - TWA09043DAA**BS0
    - TWA09043DAA**BS0
    - 4TWA4036A3
    - Mini Split: TRUZA0181KA70NA
  - **Electric Heat Kit Models:**
    - 18.71/24.92kW (208/230/3/60)
    - 18.71/24.92kW (208/230/3/60)
    - 3.60/4.80 kW Htr w/Ckt Brk 208/240/1



- TWA and TWE Unit Features:
  - Drip panel kits
  - Dual Circuit (staged)
  - Dual Compressors
  - STD Coil w/ Guards
  - Symbio Controllers
- Attach to existing copper refrigerant lines
  - Install new Armaflex where needed
  - Pressure test lines to ensure no leaks present
- Install new condensate drain overflow pan for each AHU

  - Install new SS2 and SS3 overflow switches
- Existing electrical supply and control wires to be reused for 3T, 7.5T, and 10T units.
- New Mini Split:
  - Install A Dedicated 208-Volt 20-Amp Circuit For The New Mini Split System
  - Provide And Install (1) Shut Off Means Of Disconnect Next To The Condenser
  - Install A Surface Mounted Conduit Between The Electrical Panel And Exterior Condenser. Through (3) Concrete Walls
  - ECS to Provide A Scissor Lift for project*
  - Core drill through exterior wall to route new copper lines, electrical, drain line, and control wire through
  - Hang new AHU from ceiling, mount via allthread/anchors into concrete ceiling.
  - Mount Heat pump to exterior wall with bracket
- Evacuate system to 500 microns
- Fully Charge with 410A and Test operation
- Clean up worksite of related trash and debris
- Provide close out documents and walkthrough with client

Total Project Price $ $119,460

Terms:

1. Work is to be performed during normal hours of operation Monday thru Friday; overtime premiums excluded.
2. Proposal is subject to progress billings.
3. Proposal is for specified work only.
4. Proposal is subject to revision if not accepted within 30 days of receipt.
5. Proposal is subject to the attached Terms and Conditions.
6. Payment terms are Net 30.

SUBMITTED BY: BILLY SCHAFER
SIGNATURE: Billy Schafer
TITLE: PROJECT SALES ENGINEER
PHONE: 407-852-9342

ACCEPTED BY: _____
TITLE: _____
SIGNATURE: _____ **DATE:** _____

Terms and Conditions

1. OFFER AND ACCEPTANCE: Company offers to sell the materials, equipment and services indicated in strict accordance with the terms and conditions stated herein. Submittal of a Purchase Order or execution of this offer by Client, or allowing Company to commence work shall be deemed an acceptance of this offer, which offer and acceptance shall constitute a legally enforceable contract between Client and Company. Any additional or differing terms and conditions contained on Client's Purchase Order (whether or not such terms materially alter this offer) are hereby rejected by Company and shall not become part of the contract between Client and Company unless expressly consented to in writing by Company. This offer is subject to acceptance within 30 days after date and is based on all work being performed during regular working hours.
2. TERMS: Terms of Payment for goods shipped and/or services rendered hereunder shall be NET or RECEIPT of INVOICE. Company reserves the right to add to any account outstanding more than thirty (30) days a charge of one and one-half (1-1/2%) percent of the principal amount due at the end of each thirty (30) day period.
3. INVOICING: Company reserves the right to issue partial or complete INVOICES as material is furnished and as services are rendered.
4. PERFORMANCE: Company shall not be liable for failure to ship or delays in delivery of equipment or performance of services hereunder where such failure or delay is due to the disapproval of the Company's Credit Department, or due to strikes, fires, accidents, national emergency, failure to secure materials from the usual sources of supply, or any other circumstance beyond the control of the Company, whether of the class of causes enumerated above or not, which shall prevent Company from making deliveries or performing services in the usual course of business. In the event of the disapproval of the Company's Credit Department or the occurrence of any of the above, Company may, at its sole option, cancel Client's Purchase Order without the liability on the part of the Company. Alternatively, Company may extend the time for its performance by a period equal to the duration of the cause underlying Company's failure or delay. Receipt of the equipment or services by Client upon its delivery shall constitute a waiver of all claims for delay.
5. WARRANTY: Company guarantees service work and all materials of Company manufacture against defects in workmanship and material for 90 days from date of completion of the work and will repair or replace F.O.B. point of manufacture or shipment such products or components as Company finds defective. This warranty does not include the cost of labor to remove or reinstall any defective components, nor does this warranty include cost of handling, shipping or transportation involved in supplying replacements for defective components. This warranty does not include the replacement of refrigerant lost from the system after completion of the work. On machinery and materials furnished by Company, but manufactured by others, Company will extend the same guarantee it receives from the manufacturer.

   THIS WARRANTY AND LIABILITY SET FORTH ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, EXPRESS OR IMPLIED, IN LAW OR IN ACT, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE WARRANTIES CONTAINED HEREIN SET FORTH CLIENT'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF A DEFECT IN WORKMANSHIP OR MATERIALS.
6. PATENTS: If there is bought against the Client any suit or proceeding based on a claim that an apparatus, or any part thereof, furnished under this contract constitutes an infringement of any patent of the United States, Company, if notified promptly in writing and given authority, information and assistance by the Client for the defense of same, will defend same and pay all expenses and costs which may be awarded therein against the Client. In the event that the Client has complied with the conditions just stated and the apparatus, or any part thereof, is held to constitute infringements and its use in enjoined. Company, in lieu of all other liability except as above stated, will, at its own expense, either procure for the Client the right to continue using said apparatus, or replace same with non-infringing apparatus, or modify it so it becomes non-infringing, or remove said apparatus and refund the purchase price thereof, but Company's liability shall in no case exceed the purchase price of said infringing apparatus.
7. LIMITATION OF LIABILITY: All claims, causes of action or legal proceedings against Company arising from Company's performance under this contract must be commenced by Client within the express warranty period specified under Paragraph 6 hereof. Failure to commence any such claim, cause of action or legal proceeding within such period shall constitute a voluntary and knowing waiver thereof by Client. IN NO EVENT SHALL COMPANY'S LIABILITY FOR DIRECT OR COMPENSATORY DAMAGES EXCEED THE PAYMENTS RECEIVED BY COMPANY FROM CLIENT UNDER THE INSTANT CONTRACT, NOR SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. THESE LIMITATIONS ON DAMAGES SHALL APPLY UNDER ALL THEORIES OF LIABILITY OR CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO CONTRACT, WARRANTY, TORT OR STRICT LIABILITY.
8. DELIVERY: Shipping dates are approximate only. No shipping date requested or specified by Client will be binding on Company unless such request or specification is specifically agreed to in writing by an officer of Company. Shipment shall be F.O.B. factory, with title passing to Client upon delivery to the carrier by Company.
9. CANCELLATION: Company reserves the right to collect cancellation charges (including but not limited to all costs and expenses incurred, plus reasonable overhead and profit against any canceled order).
10. DISPUTES AND CHOICES OF LAWS: This contract shall be deemed to have been entered into and shall be governed by the laws of the State of Florida. All claims, disputes and controversies arising out of or relating to this contract, or the breach thereof, shall, in lieu of court action, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and any judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The site of the arbitration shall be Pensacola, FL, unless another site is mutually agreed between the parties. The parties agree that any part of the arbitration shall be entitled to discovery of the other party as provided by the Federal Rule of Civil Procedure; provided, however, that any such discovery shall be completed within four (4) months from the date the Demand for Arbitration is filed with the American Arbitration Association.
11. COST TO COMPANY: In the event it becomes necessary for Company to incur any costs or expenses in the collection of monies due Company from Client, or to enforce any of its rights or privileges hereunder, Client, upon demand shall reimburse Company for all such costs and expenses (including, but not limited to, reasonable attorney's fees).
12. ENTIRE AGREEMENT: These terms and conditions, and the matter set forth on the face of Company's offer to sell, constitute the entire agreement between Company and Client. No course of dealings or performance, or prior, concurrent or subsequent understandings, agreements of representations become part of this contract unless expressly agreed to in writing by an authorized representative of Company.
13. ASSIGNMENT: Client shall not assign this contract or any interest therein without the prior written consent of Company. Any actual or attempted assignment without Company's consent shall entitle Company, at its sole option, to cancel this contract and, in such event; Company shall be entitled to payment for all work performed and materials furnished to the date of cancellation, as well as reasonable compensation for lost income and profits.

By signing this contract, you are confirming that you have read and understand this paragraph and that you agree to the Terms and Conditions listed above.

DATE: September 13, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager

FROM: M.J. Carnevale, Deputy City Manager

SUBJECT: Service Agreement between City of Winter Haven and Lakeland Area Mass Transit District

BACKGROUND

Since 2015, the City of Winter Haven has contracted with Lakeland Area Mass Transit District (LAMTD) for fixed route mass transit services. Prior to this, Winter Haven's mass transit services were provided via a contractual arrangement between the City and Polk County. In 2016, an additional route (Route 30 – LEGOLAND Sunday Service) was specifically contracted for by the City via a separate agreement. In 2021, the City and LAMTD consolidated the Fixed Route Service Agreement and the Route 30 Service Agreement into a single Agreement, with a term of October 1, 2020 through September 30, 2022. A two-year renewal was subsequently executed that covered the period October 1, 2022 through September 30, 2024.

With the term expiration of the most recent Agreement, LAMTD has provided the City with a new two-year Service Agreement for the period covering October 1, 2024 through September 30, 2026. In the event governmental funds relied upon to finance the denoted services are not available, either party may terminate the Agreement with thirty (30) days' notice. Provisions are also included for termination for breach. Six months prior to the end of the term, the parties agree to negotiate in good faith a continuance of the services provided. The Agreement has been reviewed by the City Attorney.

FINANCIAL IMPACT

The annual cost for the services to be provided is $293,824.46 per annum. For Fiscal Year 2024/25, this expense is included in account 001-80-928-8213. This same amount will be requested again in the Fiscal Year 2025/26 Proposed Budget.

RECOMMENDATION

Staff recommends the City Commission approve the Service Agreement between the City and the Lakeland Area Mass Transit District for public transportation services for Fiscal Years 2024/25 and

2025/26 (October 1, 2024 through September 30, 2026), and authorize the City Manager to take any additional actions related thereto.

ATTACHMENT

- Service Agreement between City of Winter Haven and Lakeland Area Mass Transit District

Service Agreement -
City of Winter Haven and
Lakeland Area Mass Transit District

This Service Agreement (hereinafter the "Agreement") is entered into as of the 1st day of October, 2024 (hereinafter the "Effective Date"), by and between the City of Winter Haven, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "Winter Haven"), and the Lakeland Area Mass Transit District, an independent special district (hereinafter referred to as the "District").

WHEREAS, Winter Haven is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act, Chapter 166 of the Florida Statutes, and Article VIII, §2 of the Florida Constitution; and

WHEREAS, Winter Haven is vested with governmental, corporate and proprietary powers to enable it to conduct and perform municipal functions and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, provision of adequate and effective public transit services is a continuing need in Polk County; and

WHEREAS, the District is the legal entity responsible for the operation and management of the public transportation system; and

WHEREAS, the parties acknowledge, represent and agree that Winter Haven and the District are not partners or joint venturers; and

WHEREAS, Winter Haven has agreed to participate in funding a portion of the fixed route services currently being operated through the municipal boundaries of Winter Haven; and

WHEREAS, on or about March 28, 2016, Winter Haven and the District entered into a separate Service Agreement for the provision of LEGOLAND® Route 30 transit service on Sundays from 8:15 a.m. to 3:00 p.m., and

WHEREAS, Winter Haven desires for the District to continue to provide transit service on LEGOLAND® Route 30 on Sundays from 8:15 a.m. to 3:00 p.m., as well as the fixed route services currently being operated through the municipal boundaries of Winter Haven; and

WHEREAS, Winter Haven and the District represent and agree that good and valuable consideration has been received by the parties for entering into this Agreement,

and Winter Haven and the District acknowledge the sufficiency of the consideration received; and

WHEREAS, the City Commission of the City of Winter Haven finds this Agreement between Winter Haven and the District to be in the best interests of the public health, safety, and general welfare of the citizens and residents of the City of Winter Haven,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. The foregoing recitals are incorporated herein by the parties as true and correct statements which form a factual and material basis for entry into this Agreement between Winter Haven and the District.

2. The term of this Agreement shall be for a period of two (2) years commencing on October 1, 2024, through and including September 30, 2026.

3. In the event funds from governmental sources relied upon to finance this Agreement become unavailable, the District or Winter Haven may terminate this Agreement with no less than thirty (30) calendar days written notice to the other party. Notice shall be delivered as set forth in paragraph eleven (11) of this Agreement. Either party may terminate this Agreement based on the other party's breach, by giving the breaching party written notice of the breach in accordance with paragraph eleven (11) of this Agreement. If the breach is not cured within thirty (30) calendar days, the non-breaching party may terminate this Agreement immediately. Waiver by either party of breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach, shall not be construed to be a modification of the terms of this Agreement, and shall not act as a waiver or estoppel to enforcement of any provision of this Agreement.

4. No later than six (6) months before the end of the term of this Agreement, the District and Winter Haven shall meet in good faith to discuss each party's intentions to negotiate an agreement for the continuation of the service.

5. The District shall continue to provide transit services on LEGOLAND® Route 30 on Sundays from 8:15 a.m. to 3:00 p.m. LEGOLAND® Route 30 and transit stops currently on the route are further described in Exhibit A attached hereto and incorporated herein by reference. The District shall continue to provide fixed route transit services currently being operated through the municipal limits of Winter Haven.

6. Hours of operation of bus service are defined as the number of hours each bus

operates plus reasonable travel time each way to and from the District Operations Center located at 1212 George Jenkins Boulevard, Lakeland, Florida, or the County Operations Center located in Bartow or Winter Haven, Florida. Bus service will not be provided on holidays on which the District does not operate and on any other days on which the District does not operate.

7. The fee to be charged by the District for the transit service for the term of the Agreement will be $293,824.46 per year. Winter Haven shall remit payment within thirty (30) business days from receipt of invoice.

8. Revenue derived from the operation of the transit system, including, but not limited to the proceeds from advertising and transit fares paid by passengers, will be the absolute property of the District; and the treatment of such revenue, including the banking and accounting thereof, will be as directed by the District.

9. This Agreement is subject to the terms and conditions contained in any interlocal or other agreement between the District and any other governmental authority, including, without limitation, the City of Lakeland, the Polk Transit Authority, and the County of Polk; provided, however, that by entering into this Agreement, Winter Haven is not agreeing to be bound by or in any manner obligated by any of the District's rights, duties and obligations under such interlocal or other agreements referred to herein to which the District may be a party. Nothing in such agreements prohibits or limits the ability of any of the parties to this Agreement to deliver the various benefits specifically described herein.

10. This Agreement is subject to all federal, state, and local laws, rules, and regulations with which the District is obligated to comply. Nothing in such laws, rules or regulations prohibits or limits the ability of any of the parties to this Agreement to deliver the various benefits specifically described herein.

11. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic telephone line facsimile transmission or other similar electronic or digital transmission method; the day after it is sent, if sent by recognized expedited delivery service; and five (5) days after it is sent, if mailed, first class mail, postage prepaid. In each case, notice shall be sent to:

WINTER HAVEN: City of Winter Haven

ATTN: T. Michael Stavres, City Manager
451 Third Street, N.W.
Winter Haven, FL 33880

With a copy to:
(which shall not constitute notice)
Frederick J. Murphy, Jr.
City Attorney
Boswell & Dunlap LLP
245 South Central Avenue
Bartow, FL 33830
FAX: (863) 533-7412
E-Mail: fjm@bosdun.com

DISTRICT:
Lakeland Area Mass Transit District
ATTN: General Manager
1212 George Jenkins Boulevard
Lakeland, FL 33815

With a copy to:
(which shall not constitute notice)
Ben H. Darby, Jr.
Counsel for District
Darby Law Group, P.A.
P.O. Box 2971
Lakeland, FL 33806
FAX: (863) 683-7445
E-Mail: ben@darbylawgroup.com

12. If any covenant or provision of this Agreement is determined to be invalid, illegal or incapable of being enforced, all other covenants and provisions of this Agreement shall, nevertheless, remain in full force and effect, and no covenant or provision shall be dependent upon any other covenant or provision unless so expressed herein.

13. This Agreement contains all the terms and conditions agreed upon by the parties and is a complete and exclusive statement of the Agreement between the parties regarding the subject matter of this Agreement. Any renewals, alterations, variations, modifications,

amendments or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, and duly signed and approved by all entities to this Agreement, including but not limited to the governing bodies of both the District and Winter Haven. This Agreement supersedes all other agreements and proposals, oral or written, regarding the subject matter herein, and all such other agreements and proposals are hereby deemed void.

14. In the performance of this Agreement, the District will be acting in the capacity of an independent contractor, and not as an agent, employee, partner, joint venturer, or associate of Winter Haven. The District shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by the District in the full performance of this Agreement. Neither the District nor any of its employees, officers, agents or any other individual directed to act on behalf of the District for any act related to this Agreement, shall represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of Winter Haven.

15. This Agreement shall be construed in accordance with the laws of the State of Florida and venue of any legal proceedings shall be in Polk County, Florida, if the action is commenced in state court. If any action is commenced in federal court, then venue shall be in the United States District Court for the Middle District of Florida, Tampa Division. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, each party shall bear their own attorney's fees, courts costs and expenses.

16. Nothing contained herein shall operate or be construed as a waiver of the District's or Winter Haven's limits of liability as set forth in Section 768.28 of the Florida Statutes regardless of whether such claims are based in tort, contract, statute, strict liability, negligence, product liability or otherwise. No waiver of sovereign immunity is deemed to be made by either the District or Winter Haven by entering into this Agreement nor shall any terms of this Agreement confer upon any third person, corporation, or entity other than the parties hereto any right or cause of action for damages claimed against any party to this Agreement.

17. This Agreement is subject to Chapter 119 of the Florida Statutes. To the extent that the District is deemed a "contractor" of Winter Haven under general Florida law, the District, pursuant to Section 119.0701(1)(a) of the Florida Statutes, agrees to:

(a) Keep and maintain Public Records required by Winter Haven to perform the Services specified herein.

(b) Upon request from the Winter Haven's custodian of Public Records, provide Winter Haven with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if District does not transfer the Public Records to Winter Haven.

(d) Upon completion of the contracted work or service, transfer, at no cost, to Winter Haven all Public Records in possession of District or keep and maintain Public Records required by Winter Haven to perform the service. If District transfers all Public Records to Winter Haven upon completion of the contracted work or service, District shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If District keeps and maintains Public Records upon completion of the contracted work or service, District shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Winter Haven upon request from Winter Haven's custodian of Public Records, in a format that is compatible with Winter Haven's information technology systems.

IF DISTRICT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DISTRICT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 N.W. THIRD STREET, WINTER HAVEN, FL 33881.

If District does not comply with a public records request, Winter Haven shall enforce this contract provision, which may include immediate termination.

17. Each party signing this Agreement represents and warrants that he/she/it has read, understands and acknowledges any and all of the terms, covenants, conditions and requirements set forth herein. The parties represent and warrant to one another that all the necessary action(s) to execute this Agreement have occurred and that the parties possess

the legal authority to enter into this Agreement and undertake all the obligations imposed herein.

18. The calculation of the number of days that have passed during any time period prescribed shall be based on calendar days (unless specified otherwise in this Agreement). Unless otherwise specified in this Agreement, the calculation of the number of days that have passed during any time period prescribed in or by this Agreement shall commence on the day immediately following the event triggering such time period. If the tolling of such time period is not contingent on an action or event, the calculation of the number of days that have passed during such time period prescribed in or by this Agreement shall commence on the day immediately following the Effective Date. For purposes of this Agreement, unless otherwise specified herein, the tolling of any such time period(s) shall be in calendar days. In the event any time period or deadline identified in this Agreement expires or falls on a Saturday, Sunday or recognized holiday, said expiration or deadline shall be automatically tolled until 5:00 p.m. on the next available business day on which the District and Winter Haven are open for business to the public.

19. The parties acknowledge and agree that it is in their best interests and the best interests of the public that this Agreement be performed in strict accordance with the terms, covenants and conditions contained herein; and the parties shall, in all instances, cooperate and act in good faith in complying with all of the terms, covenants and conditions contained herein.

LIMITATION OF LIABILITY

IN NO EVENT, SHALL THE DISTRICT BE LIABLE TO WINTER HAVEN FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY THE DISTRICT WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

IN NO EVENT, SHALL WINTER HAVEN BE LIABLE TO DISTRICT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR

PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY WINTER HAVEN WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed for the uses and purposes therein expressed as of the day and year set forth above.

CITY OF WINTER HAVEN

BY:_____
Mayor

ATTEST:

_____
City Clerk

Date: _____

Approved as to Form and Legality:

_____
City Attorney

LAKELAND AREA MASS TRANSIT DISTRICT

ATTEST:

_____
Administrative Assistant

BY:_____
Chairman

Date: _____

DATE: September 16, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Brittany Hart, Public Works Director

SUBJECT: 2024 Roadway Resurfacing and Pavement Markings

BACKGROUND

On April 13, 2020, the City Commission awarded a Pavement Management Toolbox Contract to Hubbard Construction, dba Lakeland Paving and Asphalt Paving Systems.

Public Works staff have identified 31 roadways within the four quadrants of the city that are eligible for resurfacing. These roads have a Pavement Condition Index (PCI) ranging from 30 to 40. Improving these roadways is part of our ongoing infrastructure improvement efforts. The goal of this project is to enhance road safety, improve driving conditions, and ensure the long-term durability of our roadways. This aligns with Strategy 3.2.4 from the City's FY25-FY29 Strategic Plan. Staff worked with Hubbard to develop a Task Order to improve these roadways, which includes the following:

- Project boundaries detailed on the mill & fill list
- Milling & Filling of Asphalt- $1,635,858.96
- Pavement Markings-$70,827.04

If approved, The roadway resurfacing work would begin the week of September 23, 2024 and extend into October, baring any weather delays.

FINANCIAL IMPACT

The total cost for resurfacing and roadway marking is $1,706,686.00. $1,118,578.19, remains in the FY 23/24 Transportation Improvement Fund and would be used for this work. Staff would utilize $588,107.81 from the FY24/25 Transportation Improvement Funds, which is anticipated to become available on October 1, 2024, pending approval of the FY 24/25 Budget by the City Commission.

RECOMMENDATION

Staff recommends that the City Commission authorize the City Manager to approve the issuane of a Task Order for the above referenced work and authorize the issuance of a Purchase Order in the amount of $1,118,578.19, which remains in the FY 23/24 Transportation Improvement Fund. Staff also recommends the City Manager or his

designee authorize a change order in the amount of $588,107.81 on October 1, 2024, when the FY 24/25 Transportation Impovement Funds become available and take all other actions necessary and incidental thereto.

ATTACHMENTS

- 2024 Mill and Fill Roadway List
- Schedule of Values (Resurfacing and Pavement Striping)

City of Winter Haven
Public Works

2024 Proposed Roadway (Mill & Fill)

ID	Street	Cross Street	Rd. Classification
1069	REBECCA DR	the entire circle block	Urban Local
1318	ORANGE CO CIR	Burt Schulz Blvd	Urban Local
1319	Burt Schulz	Lucerne Prk Rd/ Orange Cir	Urban Local
1322	Burt Schulz	Orange Cir / Dead End	Urban Local
1333	LUCERNE LOOP RD	Lucerne Loop / Lucerne Prk	Urban Local
185	AVENUE M SE	5th St. / 6th St. SE	Urban Local
208	AVENUE L SE	5th St. / 6th St. SE	Urban Local
440	BATES AVE SW	1st St. / 2nd St. SW	Urban Local
492	LAKE MARIAM DR N	19th St. SE / 18th St. SE	Urban Local
493	LAKE MARIAM DR N	19th St. SE / Dead End	Urban Local
523	AVENUE A SE	Lk. Elbert Dr. / 1st Street SE	Urban Local
65	KLATT ST SE	CGBlvd / Piedmont Dr. SE	Urban Local
711	AVENUE E NW	3rd St. NW to 1st Street NW	Urban Local
902	LEE AVE NW	US-17 / Dead End	Urban Local
1032	Meadow View Dr.	Buckeye Rd to Dead End	Urban Local
1030	Meadow View Cir	Buckeye Rd to Meadow Dr.	Urdan Local
1011	Avenue P NE	N. First Street / Dead End	Urban Local
1019	Terry Circle NE	Entire Circle	Urban Local
1282	Ware Avenue NE	Avenue Y NE / 9th Street NE	Urban Local
1022	Avenue Q NW	Unity Way / N. 1st Street	Urban Local
1007	Avenue P NW	Unity Way / N. 1st Street	Urban Local
1006	2nd Street NW	Avenue P / Avenue O	Urban Local
1050	3rd Street NW	Quentin Ave. / Avenue O NW	Urban Local
1378	Palmetto Avenue NE	N. First Street / Dead End	Urban Local
1403	19th Street SE	Dundee Rd. / LK Mariam Dr.	Urban Local
1404	18th Street SE	Dundee Rd. / LK Mariam Dr.	Urban Local
637	Lake Howard Dr NW	W. Central Ave. / Ave. G NW	Urban Local
712	Avenue E NW	US/17 to 4th Street NW	Urban Local
164	Avenue N SE	5th Street to 6th Street SE	Urban Local
201	Queens Terr SW	Bishops Gate to Nottingham	Urban Local
225	Nottingham SW	Pavement Joint to Camelot	Urban Local

TAMPA PAVEMENT CONSTRUCTORS

Customer Number: _____

Bill To: City of Winter Haven

Hubbard Construction

Office (863) 665-0457
Fax (863) 665-2624

Item Number	Description	Quantity	UM	CONTRACT Unit Price	Amount
H	**TYPE SP 9.5 ASPHALTIC CONCRETE IN PLACE (TRAFFIC LEVEL B)**				
H.5	500-UP TONS	8,749.00	TN	$ 155.82	$ 1,363,269.18
	SUBTOTAL H				**$ 1,363,269.18**
V	**Milling of Existing Asphalt Pavement:**				
V.1	Mobilization	17.00	EA	$ 408.91	$ 6,951.47
V.2	Milling (Max 8 Hours/Day)	17.00	DY	$ 7,142.03	$ 121,414.51
	SUBTOTAL V				**$ 128,365.98**
X	**Hauling and Disposal of Millings*:**				
X.2	Hauling per truck per day (Max 8 Hours/Day)	161.00	DY	$ 895.80	$ 144,223.80
	SUBTOTAL X				**$ 144,223.80**
A	**Reflective Pavement Markings (FDOT-SRBC: 706)**				
A.1	Reflective Pavement Markers	400.00	EA	$ 5.00	$ 2,000.00
A.2	Reflective Pavement Marker (Remove)	400.00	EA	$ 0.29	$ 116.00
	SUBTOTAL A				$ 2,116.00
B	**Painted Pavement Markings (FDOT-SRBC: 710)**				
B.1	Standard, White, Solid 6"	0.100	GM	$ 1,864.87	$ 186.49
B.3	Standard, White, Solid 12"	1,650.00	LF	$ 0.71	$ 1,171.50
B.5	Standard, White, Solid 24"	1,100.00	LF	$ 1.17	$ 1,287.00
B.8	Standard, White, Message	5.00	EA	$ 41.21	$ 206.05
B.9	Standard, White, Arrows	6.00	EA	$ 35.32	$ 211.92
B.11	Standard, Yellow, Solid 6"	5.650	GM	$ 1,864.87	$ 10,536.52
	SUBTOTAL B				**$ 13,599.47**
C	**Thermo Pavement Markings (FDOT-SRBC: 711)**				

Item Number	Description	CONTRACT Quantity	UM	Unit Price	Amount
C.1	Thermo, Standard, White, Solid 6"	0.100	GM	$ 6,837.86	$ 683.79
C.3	Thermo, Standard, White, Solid 12"	1,650.00	LF	$ 4.71	$ 7,771.50
C.5	Thermo, Standard, White, Solid 24"	1,100.00	LF	$ 7.07	$ 7,777.00
C.8	Thermo, Standard, White, Message	5.00	EA	$ 294.33	$ 1,471.65
C.9	Thermo, Standard, White, Arrows	6.00	EA	$ 88.30	$ 529.80
C.11	Thermo, Standard, Yellow, Solid 6"	5.650	GM	$ 6,527.05	$ 36,877.83
	SUBTOTAL C				**$ 55,111.57**
	TOTAL				**$ 1,706,686.00**
	Fuel & BIT Adjustments				**$ -**
	Change Orders				**$ -**
	GRAND TOTAL				**$ 1,706,686.00**

DATE: September 12, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Director, Water Department
David E. Nicholson, Wastewater Treatment Plant Manager

SUBJECT: Resolution R-24-43 adopting a revised/modified Industrial Wastewater Limitations Table regarding local limits of Industrial Wastewater Discharges into the City's Wastewater Utility System that has received final approval from the Florida Department of Environmental Protection

---

BACKGROUND

Wastewater Treatment Plant No. 3 (WWTP3) uses an advanced waste treatment process regulated by the Florida Department of Environmental Protection (FDEP). Part of the permit issued for this facility establishes industrial pretreatment program requirements. Local industrial pre-treatment limits must be evaluated during each 5-year permit renewal cycle.

Limits to the quality and strength of industrial discharges into the wastewater system are needed to protect the treatment process as well as downstream discharges to surface waters or reuse systems. In 2022, the City submitted its local industrial limit reevaluation study to the FDEP for approval. The study was conducted by City staff and involved seven days of sampling for priority, primary and secondary pollutants and used software provided by FDEP to calculate the local limit parameters.

The analysis demonstrated that local limits for industrial wastewater discharged into the City's wastewater utility system should be increased for six parameters, decreased for five parameters, and remain the same for ten parameters as specified on Exhibit A attached to Resolution R-24-43. It should be noted an increase in the parameters indicates the limit is less stringent that the previous limit for industrial customers. The proposed revised/modified industrial limit changes have received final approval by FDEP and must be adopted by the City.

FINANCIAL IMPACT

The required changes will not affect the City's budget. It is expected that existing industrial customers will not incur any added expense as a result of the local limit changes and that their bills will not be affected by the new limits.

RECOMMENDATION

Staff recommends the City Commission approve Resolution R-24-43 adopting the revised/modified Industrial Wastewater Limitations Table incorporating the recommended changes regarding local limits of industrial wastewater discharges into the City's wastewater utility system and authorizing the City Manager and/or his designee to take all further necessary actions related to implementation of said revised/modified local limits.

ATTACHMENT

- Resolution R-24-43 with Exhibits

RESOLUTION R-24-43

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER HAVEN, FLORIDA, ADOPTING A REVISED/MODIFIED INDUSTRIAL WASTEWATER LIMITATIONS TABLE REGARDING LOCAL LIMITS OF INDUSTRIAL WASTEWATER DISCHARGES INTO THE CITY'S WASTEWATER SYSTEM TO INCORPORATE INDUSTRIAL WASTEWATER LIMIT CHANGES APPROVED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP); PROVIDING FOR CODIFICATION, SEVERABILITY, REPEAL OF CONFLICTING RESOLUTIONS, THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 19-151 b (8) of Article VI of the City of Winter Haven Code of Ordinances (WHC) establishes industrial wastewater discharge limits for industrial wastewater discharged into the City's Wastewater Utility System which are set forth in an Industrial Wastewater Limitations Table on file with the City Clerk's office and is also referred to as local limits and as more particularly defined in Section 19-151 WHC; and

WHEREAS, on January 22, 2018, the City Commission approved Resolution R-18-05 adopting a revised/modified industrial wastewater limitations table regarding local limits of industrial wastewater discharges into the City's wastewater system to incorporate industrial wastewater limit changes preliminarily approved by the Florida Department of Environmental Protection (FDEP); and

WHEREAS, Section 19-151 b (8) WHC provides that established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards. Such modification to established local limits must be reviewed and approved by the FDEP prior to implementation; and

WHEREAS, the FDEP has reviewed the proposed revisions/modifications to the City's established local limits set forth in Exhibit "A" and incorporated herein by reference; and

WHEREAS, based on the aforementioned review, the FDEP has given final approval to the revised/modified Industrial Wastewater Limitations Table attached hereto as Exhibit "A" pursuant to its letter of August 27, 2024. A copy of FDEP's letter of August 27, 2024 is also attached hereto as Exhibit "B" and incorporated herein by reference; and

WHEREAS, the City Commission for the City of Winter Haven, Florida finds and declares that this Resolution adopting a revised/modified Industrial Wastewater Limitations Table attached hereto as Exhibit "A" and incorporated herein by reference and that has been approved by the FDEP is in the best interest of the public health, safety

and welfare of the citizens and residents of the City of Winter Haven, Florida and that it advances a significant and important governmental interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER HAVEN, FLORIDA:

Section 1. Findings of Fact

The aforementioned findings are incorporated herein by reference and made a part of this Resolution.

Section 2. Adoption of a Revised Industrial Wastewater Limitations Table establishing revised local limits

In accordance with Section 19-151 b (8) of the WHC, the City Commission hereby adopts a revised/modified Industrial Wastewater Limitations Table setting forth revised/modified local limits for industrial wastewater discharged into the City's Wastewater Utility System as approved by the FDEP and which is attached hereto as Exhibit "A" and incorporated herein by reference. The revised/modified Industrial Wastewater Limitations Table shall be on file in the City Clerk's office. The City Manager or his designee is hereby authorized to take any further necessary actions that may be required by applicable laws, rules, regulations and/or code provisions in order to achieve compliance with same and in furtherance of the approval and implementation of the revised/modified Industrial Wastewater Limitations Table adopted herein.

Section 3. Severability

It is declared to be the intent of the City Commission of the City of Winter Haven, Florida that, if any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Administrative Correction of Scrivener's Errors

It is the intention of the City Commission that the provisions of this Resolution may be made a part of the City of Winter Haven Code of Ordinances; and that sections of this Resolution may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager or his/her designee without need of further action by the City Commission, by filing a corrected or recodified copy of same with the City Clerk.

Section 5. Repeal of Laws in Conflict

All local laws and resolutions in conflict with any provision of this Resolution are

hereby repealed to the extent of any conflict.

Section 6. Effective Date

This Resolution shall take effect immediately upon passage after adoption by the City Commission, provided however that the revised/modified Industrial Wastewater Limitations Table adopted herein shall not be effective until **September 26, 2024**, which is thirty (30) days from August 27, 2024, the date of the notice of acceptance and final approval of the modified and revised limits by the FDEP.

INTRODUCED and passed by the City Commission on this 23rd day of September, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
CITY ATTORNEY

EXHIBIT “A”
to Resolution R-24-43

Pretreatment Local Limits
City of Winter Haven
FL0036048
City of Winter Haven WWTF #2 and #3

Parameter	Current Local Limit (mg/L)	Proposed Local Limit (mg/L)	Basis
Arsenic	1.248	1.352	Residuals 40 CFR 503.13 Table 1
Cadmium	0.0598	0.0598	Retain existing local limit
Chromium (total)	4.95	4.585	Pass through Surface Water C-III Fresh
Copper	0.237	1.845	Pass through Surface Water C-III Fresh
Cyanide (total)	0.0594	0.0594	Retain existing local limit
Lead	0.245	0.1112	Pass through Surface Water C-III Fresh
Mercury	0.0045	0.001	Pass through Surface Water C-III Fresh
Molybdenum	0.259	0.32475	Residuals 40 CFR 503.13 Table 1
Nickel	3.704	2.23	Pass through Surface Water C-III Fresh
Selenium	0.126	0.0553	Pass through Surface Water C-III Fresh
Silver	0.074	0.074	Retain existing local limit
Zinc	3.162	2.9732	Pass through Surface Water C-III Fresh
Ammonia (WWTF #2)	89	89	Retain existing local limit
Ammonia (WWTF #3)	239	334	WWF Design Capacity
BOD (WWTF #2)	1,447	1,447	Retain existing local limit
BOD (WWTF #3)	7,232	7,263	WWF Design Capacity
TSS (WWTF #2)	358	358	Retain existing local limit
TSS (WWTF #3)	5,889	6,687	WWF Design Capacity
Oil and Grease[a]	100	100	Retain existing local limit
Oil and Grease[b]	50	50	Retain existing local limit
pH	5.5 - 10.5 s.u.	5.5 - 10.5 s.u.	Retain existing local limit
Temperature	150 deg F	150 deg F	Retain existing local limit

[a] Oils and greases of edible and vegetable origin when not in stable emulsion

[b] Oil, greases, tars of mineral and non-edible vegetable origin

BOD = Biological Oxygen Demand

TSS = Total Suspended Solids

EXHIBIT “B”
to Resolution R-24-43

FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

August 27, 2024

Terry Carver
City of Winter Haven
4400 Pollard Road
Winter Haven, Florida 33884
tcarver@mywinterhaven.com

RE: Local Limits (LL) Approval
City of Winter Haven #3
Wastewater Treatment Facility
Permit No: FL0036048

Dear Mr. Carver:

The Florida Department of Environmental Protection is pleased to advise you that we are approving the pretreatment program modification for the City of Winter Haven #3 Wastewater Treatment Facility (WWTF). The Department did not receive any comments regarding the public notice the city published on June 19, 2024. Please implement the changes as provided in the Local Limits submission identified in Attachment A and please proceed with revising all industrial user permits, as necessary.

If you have any questions or comments, please contact Alexander Weeks at 850-245-8664 or via e-mail at Alexander.C.Weeks@FloridaDEP.gov.

Sincerely,

Cindy Mulkey, Deputy Director
Division of Water Resource Management

Enclosure: Attachment A

ec:
Chris Shelton, cshelton@mywinterhaven.com
David Nicholson, dnicholson@mywinterhaven.com
Alex Weeks, DEP, Alexander.C.Weeks@FloridaDEP.gov
Tien-Shuenn Wu, Ph.D., P.E., DEP Tallahassee, TienShuenn.Wu@FloridaDEP.gov
Brianna Cesaroni, DEP Tallahassee, Brianna.Cesaroni@FloridaDEP.gov

Attachment A

Pretreatment Local Limits
City of Winter Haven
FL0036048
City of Winter Haven WWTF #2 and #3

Parameter	Current Local Limit (mg/L)	Proposed Local Limit (mg/L)	Basis
Arsenic	1.248	1.352	Residuals 40 CFR 503.13 Table 1
Cadmium	0.0598	0.0598	Retain existing local limit
Chromium (total)	4.95	4.585	Pass through Surface Water C-III Fresh
Copper	0.237	1.845	Pass through Surface Water C-III Fresh
Cyanide (total)	0.0594	0.0594	Retain existing local limit
Lead	0.245	0.1112	Pass through Surface Water C-III Fresh
Mercury	0.0045	0.001	Pass through Surface Water C-III Fresh
Molybdenum	0.259	0.32475	Residuals 40 CFR 503.13 Table 1
Nickel	3.704	2.23	Pass through Surface Water C-III Fresh
Selenium	0.126	0.0553	Pass through Surface Water C-III Fresh
Silver	0.074	0.074	Retain existing local limit
Zinc	3.162	2.9732	Pass through Surface Water C-III Fresh
Ammonia (WWTF #2)	89	89	Retain existing local limit
Ammonia (WWTF #3)	239	334	WWF Design Capacity
BOD (WWTF #2)	1,447	1,447	Retain existing local limit
BOD (WWTF #3)	7,232	7,263	WWF Design Capacity
TSS (WWTF #2)	358	358	Retain existing local limit
TSS (WWTF #3)	5,889	6,687	WWF Design Capacity
Oil and Grease[a]	100	100	Retain existing local limit
Oil and Grease[b]	50	50	Retain existing local limit
pH	5.5 - 10.5 s.u.	5.5 - 10.5 s.u.	Retain existing local limit
Temperature	150 deg F	150 deg F	Retain existing local limit

[a] Oils and greases of edible and vegetable origin when not in stable emulsion

[b] Oil, greases, tars of mineral and non-edible vegetable origin

BOD = Biological Oxygen Demand

TSS = Total Suspended Solids