



AGENDA  
CITY COMMISSION MEETING  
COMMISSION CHAMBERS, CITY HALL  
MONDAY, OCTOBER 24, 2016 5:30 PM

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS: None

3. MAYOR'S AWARD

4. PRESENTATIONS:

A. Amvets - Huey Project Update (Don VanBeck)

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

A. CITY COMMISSION MEETING MINUTES:

1. Regular meeting held October 10, 2016

B. PURCHASING ITEMS: None

C. RESOLUTIONS:

1. Resolution of the City Commission of the City of Leesburg, Florida, authorizing the Mayor and City Clerk to execute a rental agreement between the City of Leesburg and SunAir Aviation, Inc., for an airport hangar located at 8703 Airport Blvd; and providing an effective date.
2. Resolution of the City Commission of the City of Leesburg, Florida, approving the Leesburg Police Department to donate 19 seized computers to the Leesburg African American Museum's Youth Opportunity Center and the West Leesburg Community Development Corporation; and providing an effective date.

6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:

- A. Discussion - Special Magistrate
- B. Consider Arlington Ridge Development Agreement
- C. Resolution to execute a Design-Build Agreement with Marbek Construction for the Rogers Park Pavilion for an amount not to exceed \$520,000.00.
- D. First reading of an Ordinance Amending the General Employees Retirement Plan, Adopted Pursuant to Ordinance No. 03-57, as Subsequently Amended.
- E. First reading of an Ordinance rezoning approximately thirty (30) acres from C-3 (Highway Commercial) to PUD (Planned Unit Development) for a property generally located northeast of the intersection of Arlington Ridge Boulevard and U.S. Highway 27, on the east side of U.S. Highway 27. (Stonegate)
- F. First reading of an Ordinance rezoning approximately 85 acres from PUD (Planned Unit Development) to PUD (Planned Unit Development) for a property generally located south of the intersection of East Dixie Avenue and South Lake Street and north of Mellathon Circle. (Venetian Isles)

7. INFORMATIONAL REPORTS: None

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

8. CITY ATTORNEY ITEMS:

9. CITY MANAGER ITEMS:

10. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

11. ROLL CALL:

12. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may need to ensure that a verbatim record of the proceedings

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is made, which record includes the testimony and evidence upon which the appeal is to be based." The City of Leesburg does not provide this verbatim record.

**MINUTES OF THE CITY COMMISSION MEETING  
MONDAY, OCTOBER 10, 2016**

The City of Leesburg Commission held a regular meeting Monday, October 10, 2016, in the Commission Chambers at City Hall. Mayor Hurley called the meeting to order at 5:50 p.m. with the following members present:

Commissioner Bob Bone  
Commissioner Elise Dennison  
Commissioner Dan Robuck  
Mayor Jay Hurley

Commissioner John Christian was absent. Also present were City Manager (CM) Al Minner, City Clerk (CC) J. Andi Purvis, City Attorney (CA) Fred Morrison, the news media, and others.

Commissioner Abraham Conner gave the invocation followed by the Pledge of Allegiance to the Flag of the United States of America at the Carver Heights / Montclair Area Community Redevelopment Agency meeting immediately prior to this meeting.

PROCLAMATIONS: None

MAYOR'S AWARD:

Greg Thorpe was awarded the Mayor's Award for his outstanding work in the community.

PRESENTATIONS:

GATEWAY PROJECT – US HIGHWAY 27 AT US HIGHWAY 441

By Frank Bellomo, with GAI Consultants.

This is a FDOT Landscape Project with a \$250,000 DOT grant for landscaping improvements at the intersection of US Highway 27 at US Highway 441 and while the overall plan approach is a landscape project, it will also include some hard scape elements, gateway elements, signage, and a fountain. The fountain feature will be sort of a fountain wall, with Leesburg noted on it, at about 50 feet in length, with fountains in the front. The landscape will be highlight with special plant material, such as specimen palms, flowering trees like crepe myrtles or other species and then some canopy trees around the retention ponds. The second gateway, if turning right to go up US 27, would also have gateway features that flank the roadway on both sides. Part of the wall is about 5 feet tall from the bottom up to what becomes sort of a translucent light feature on top, which is about 12 feet tall. Overall, the entire area will be stripped and then re-soded with St. Augustine grass, which then will require irrigation as well.

The overall budget is about half a million dollars and cost estimates show the city is at about \$750,000. As progression in the design is made, the next step would be to either approve or ask for modifications and once this concept phase is done, progress toward constructions drawings. Right now the overall design approach is over budget and we need to keep that in mind as we move forward.

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Commissioner Robuck stated while the design is great, if we are that far off budget, he does not know that the other two walls, the secondary entrance, are necessary because people do not take a right there to go downtown; they just keep going straight on 27.

Mayor Hurley stated if going down to Canal or Third and cut across, but they would not be making a right there; no.

CM Minner stated if the Commission likes this concept, he does not think this is something we really want to scrimp on and as far as a money source, he has a few ideas. What he would like tonight is for the Commission to say go ahead we like this design and then we start moving into a final design concept and then start moving out to bid. We can change something with alternatives and drop and go moving forward and as far as a funding source he would point to two things; and a couple of them are premature. There is opportunity for: 1) the Marina sell, staff has been working on that and if that goes through there is a revenue source that would bring in an influx of cash that would be significant to cover this; and 2) we are still in the process of the fiber system sell and if that looks beneficial for the city there is another large influx of cash. He thinks in the next 90 days as we finish the design concepts and these kind of things we are going to have some other unforeseen revenues and cash that can easily subsidize the \$250,000.

Commissioner Robuck asked about ongoing maintenance costs.

Public Works Director (PWD) DC Maudlin stated staff has not gotten that far into it, but obviously there is pumps, electricity, and some water usage and the landscaping as well. Sort of the dilemma here is that initially there are two groups who have sort of a say in this; the Commission, in terms of the concept, but also FDOT. Either group has the potential to kill it and send us back to the drawing board. We have had a preliminary meeting with FDOT, they have not approved it, but they have said they think the concept is worth moving forward, so the next step for staff would be to put together what is called a Community Aesthetic Feature Application package. This package takes for the most part where we are now with the concept, talks about the need for the project goals and what we are trying to accomplish, and that has to go through the local field office here then to the district office and then on to Tallahassee to get approval. Staff did not want to begin that process until comfortable that the Commission was going to say yes.

Commissioner Dennison stated she thinks there are going to be more street grants as well that the city could probably go after. She knows the Florida League of Cities usually puts out a list and there is usually a lot on streetscapes.

PWD Maudlin stated one of the reasons we got \$250,000 from DOT is that they recognize the significance of this intersection; they have come down and looked at it, in fact we have that grant application from them. We have a commitment, it is actually in their budget, and we are reviewing right now the JPA for that and will bring that to the Commission fairly soon for the landscaping portion.

Commissioner Bone agrees this is worth the investment to Leesburg to put in the money, do the project right way, and not skimp. He does not necessarily agree on the funding source particularly with the Marina issue, but would like to see this project go forward in this direction and see if other grant funds can be found to be able to do this right.

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PWD Maudlin stated staff will move forward with the application.

Commissioner Bone asked about getting a U-turn sign just past McDonald's. PWD Maudlin stated there is not a U-turn sign, but he will ask about getting one.

Mayor Hurley stated he whole heartedly supports this project and agrees that we do not want to skimp on this one. Right now Leesburg is getting money from the State for the Dixie streetscape, so we are kind of in their sight and in their favor. He thinks it also speaks volumes to the State that we are stepping up to the pump and helps keep that flow because we had some bad history a couple years ago when the Stated was ready to do things for us and we were not ready; or the Commission at that time anyway. He asked if the waterfall would be lit up at night and suggested that Zoysia grass is ten times easier to maintain and takes much less water than St. Augustine.

Commissioner Bone asked if the city owns the cul-de-sac next to McDonalds because McDonald employees use it for a parking lot. If it is the city, can we either get McDonalds to buy that from us if we are going to allow them to use it for their parking lot or is there something we can do to also include that into the design of this project. Not that we need a park there, but it is one of those public places type of thing to make. McDonalds is getting the benefit of the city piece of property and he imagines they are not paying anything for it.

PWD Maudlin stated he believes the city owns it.

Mayor Hurley stated it used to be a thorough street but DOT put in the cul-de-sac.

PWD Maudlin stated when they closed the street, they did put it in. He will have to check and see if there is a turning radius issue and some reason, perhaps an emergency vehicle like a fire truck, that would have to have a certain turning radius down there. We may have an opportunity to do something, he just needs to check into that.

Commission consensus is for staff to move forward with this project.

### **CONSENT AGENDA:**

#### **Items pulled for discussion:**

5.C.1 = Special Warranty Deed from United Southern Bank

5.C.2 = Agreement with the Office of the State Attorney

5.C.3 = Helicopter Memorial Site Plan

Commissioner Robuck moved to adopt the Consent Agenda except for 5.C.1, 5.C.2, and 5.C.3 and Commissioner Dennison seconded the motion.

The roll call vote was:

Commissioner Robuck	Yes
Commissioner Bone	Yes
Commissioner Dennison	Yes
Mayor Hurley	Yes

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Four yeas, no nays, the Commission adopted the Consent Agenda, as follows:

### CITY COMMISSION MEETING MINUTES:

Regular meeting held March 28, 2016

### APPROVED

Purchase request by the Information Technology Department for two (2) new server blades from High Performance Technology for an amount not to exceed \$59,414.00.

### RESOLUTION 9893

Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an End User License Agreement with ESRI for a period of 37 months and a total value of \$77,185.79; and providing an effective date.

### RESOLUTION 9894

Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Fixed Unit Price Agreement with AMROAD, LLC for Traffic Marking & Striping Services; and providing an effective date.

### **ADOPTED RESOLUTION 9895 SPECIAL WARRANTY DEED FROM UNITED SOUTHERN BANK TO THE CITY OF LEESBURG**

Commissioner Bone introduced the resolution to be read by title only. CC Purvis read the resolution by title only, as follows:

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, ACCEPTING AND APPROVING A SPECIAL WARRANTY DEED FROM UNITED SOUTHERN BANK TO THE CITY OF LEESBURG, FLORIDA FOR PROPERTY LOCATED IN SECTION 14, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Bone moved to adopt the resolution and Commissioner Dennison seconded the motion.

Mayor Hurley requested comments from the Commission and the audience.

Commissioner Bone stated he is glad to see that the city acquired this piece of property and what they have done already to do some clearing on it; it is already looking much better. He stated many of the neighbors, he has spoken to, have complemented on what has been done already and they would like to have some input on what is going to happen out there. He understands there is some plan being worked on possibly for something to happen there; some kind of design.

CM Minner stated right now staff is looking at getting that property cleaned up, taking down the old boat areas, and right now we just have it set up as kind of a walking trail perimeter with some swings and slides.

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Commissioner Bone stated he thinks at some point there may be another agenda item to come before the Commission about the one piece of adjacent property. Before that happens, he would just like to make sure that there is a little community meeting there or maybe Parks and Recreation can go there and get input from people who have expressed a desire to have some input in the project; whether it is a picnic table, a basketball hoop or whatever.

The roll call vote was:

Commissioner Bone	Yes
Commissioner Dennison	Yes
Commissioner Robuck	Yes
Mayor Hurley	Yes

Four yeas, no nays, the Commission adopted the resolution.

### **ADOPTED RESOLUTION 9896 AGREEMENT BETWEEN THE CITY OF LEESBURG AND THE OFFICE OF THE STATE ATTORNEY**

Commissioner Robuck introduced the resolution to be read by title only. CC Purvis read the resolution by title only, as follows:

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, ACCEPTING AND APPROVING THE AGREEMENT BETWEEN THE CITY OF LEESBURG AND THE OFFICE OF THE STATE ATTORNEY TO REIMBURSE THE STATE FOR THE COST OF STATE ATTORNEY PROSECUTION ON CERTAIN CRIMINAL VIOLATIONS OF THE CITY OF LEESBURG CODE; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Robuck moved to adopt the resolution and Commissioner Dennison seconded the motion.

Mayor Hurley requested comments from the Commission and the audience.

Commissioner Robuck stated he is okay with this resolution and thinks it is a great idea to save some money, but it did bring up the open container issue. He thinks the Mayor brought up recently the idea of being able to get it downtown, potentially as not having an open container ordinance at least during certain hours or something. So, if we are going to talk about that, he would still like at some point to have that discussion on an ordinance, where we could potentially lift the open container and would also like to see something in Venetian Gardens, at least during daylight hours. If trying to attract boat traffic, he would hate to see someone pull up on a boat, where they are allowed to have a beer as long as someone else is driving, and then step out on the beach and it be an issue and get arrested for open container violation. He asked if we would be able to use this same ordinance for the code enforcement violations that Commissioner Bone brought up or is this only for open containers.

CA Morrison stated this would be for any city ordinance violation. He stated there is an ordinance, under consideration at staff level, right now to revise what he calls the citation

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portion of the city's code enforcement ordinance into a notice to appear before your special magistrate which will give that some more teeth to sort of do what Commissioner Bone was talking about.

Mayor Hurley asked what is needed to have a little bit more in depth with the open containers as far as downtown.

CA Morrison stated as an example of what happens now, he will be sitting in his office, usually in the morning, and his secretary buzzes him to say Judge Miller is on the phone with somebody in open court for an open container violation and wants to know what he wants to do about it. He has not heard about it, does not know who the person is, or what their history is and then has to get in touch with the Chief who sends the information a day or two later and decides do we want to prosecute it, and most of them are being dropped. There was one a few weeks ago where they said he is a frequent flyer and they want to prosecute him, so he put Mark Brionez on it. The frequent flyer was in jail all this time, and finally Mike Graves, the Public Defender, called me, to say what can we do to get this guy out of jail, we looked and he had been there long enough he said we will plea him out to time served and that was done. He got out one-day last week and this morning CA Morrison said he received an email from Major Rockefeller stating he is back and we have to prosecute him again. That is what is happening; it is just a revolving door. We are not set up to do this because we are not wired in with the Clerk's office; however, the State Attorney has people at these hearings all the time and they are just standing there and could handle it while they are there.

Mayor Hurley asked what we have to do as far as to get the open container in a district zone.

CA Morrison replied it would just take an ordinance amendment which is frequently done in places.

Mayor Hurley asked if the Commission would support that downtown and at Venetian Gardens. Commissioner Robuck replied definitely. Commissioner Bone stated he would consider it. Commissioner Dennison stated for certain hours and certain events with a plastic cup or container so no one gets hurt.

Mayor Hurley stated he would just like to see the ability to walk from say Sips to the play house or another facility without having to stand there and slam your drink down before moving go to the next place.

Commissioner Bone asked if the city would have the opportunity to be reimbursed for any expenses we paid.

CA Morrison stated he is sure we would and that would be an investigative taxable cost.

The roll call vote was:

Commissioner Dennison	Yes
Commissioner Robuck	Yes
Commissioner Bone	Yes
Mayor Hurley	Yes

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Four yeas, no nays, the Commission adopted the resolution.

**ADOPTED RESOLUTION 9897 APPROVING THE HELICOPTER MEMORIAL SITE PLAN**

Commissioner Robuck introduced the resolution to be read by title only. CC Purvis read the resolution by title only, as follows:

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA APPROVING THE HELICOPTER MEMORIAL SITE PLAN IN VETERANS MEMORIAL PARK AT FOUNTAIN LAKE; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Dennison moved to adopt the resolution and Commissioner Robuck seconded the motion.

Mayor Hurley requested comments from the Commission and the audience.

Commissioner Robuck asked if this is what it is going to look like when it goes up; are there no more graphics being added?

CM Minner stated no, this is not the finished product; tonight was to get their site plan approved. He spoke with Don Van Beck this evening, who was not able to attend, and he wants to come before the Commission and bring some more finished specs on the finished product of what the helicopter will look like.

Commissioner Robuck stated we are not cutting down any trees to get this and CM Minner replied correct.

Mayor Hurley stated he still has reservations.

Commissioner Bone stated he thinks it is going to make a nice little corner of Leesburg.

The roll call vote was:

Commissioner Robuck	Yes
Commissioner Bone	Yes
Commissioner Dennison	Yes
Mayor Hurley	Yes

Four yeas, no nays, the Commission adopted the resolution.

**DISCUSSION ITEM - DATE FOR ORGANIZATIONAL MEETING IN JANUARY, 2017**

After some discussion and checking of calendars the Commission consensus is to hold its organizational meeting on Tuesday, January 3, 2017 at 5:30 p.m.

**ADOPTED RESOLUTION 9898 AGREEMENTS WITH THE CDC AND JUDITH BECHTEL FOR THE SALE OF SURPLUS CITY PROPERTY**

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Commissioner Robuck introduced the resolution to be read by title only. CC Purvis read the resolution by title only, as follows:

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AGREEMENTS WITH THE CDC AND JUDITH BECHTEL FOR THE SALE OF SURPLUS CITY PROPERTY AT 413 PERKINS STREET, 410 SOUTH 6<sup>TH</sup> STREET, AND 1112 WEST LINE STREET; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Robuck moved to adopt the resolution and Commissioner Dennison seconded the motion.

Mayor Hurley requested comments from the Commission and the audience.

Commissioner Bone stated just to reiterate again, he is not in agreement with doing these and thinks it is a mistake. He thinks one of the bench marks to look at is to see whether things being done in Leesburg are successful or not, whether it is the splash pad, the playground across from 6<sup>th</sup> Street, the money being spent in Venetian Gardens or wherever, one of the bench marks to determine how things are working is what we are doing that would increase property values in some of these downtown neighborhoods. We want people to eat, shop, and spend money downtown, but he thinks taking these three pieces of property is counterproductive to that and we are not doing anything to increase property values; in fact, we are probably hurting the potential to increase property values in these areas. He owns a home on 4<sup>th</sup> Street, so is very familiar with these areas and these are houses that you could probably buy for right now 40, 50, or 60 thousand dollars; they are right next to downtown and Venetian Gardens and so we take these properties and make them low income or subsidized housing. He knows Ms. Bechtel and knows she has good intentions, but from what he understands they are just going to tear down that house and leave it sitting there as a vacant the lot and one of the concerns, one of the reasons that we were going to do these contracts was so we did not just have vacant lots, but that is exactly what she is going to do. He goes back to his position on these that every one of them should be torn down and that we, as a city, wait until the right time that someone will come in and build a house there that is going to move that goal forward to increase property values in these neighborhoods, not to bring them down any further. These contracts being presented have nothing in them that says the person has to construct a house on the property, all it says is that they have to bring it up to code or tear it down, but it does not say what kind of house is going to go on that property. We do not need a stucco house in one of these neighborhoods, they need a house that is going to look like an old 1920, 1930, or 1940 style house; not a cookie cutter house. He is against every one of these and thinks it is counterproductive to Venetian Gardens and to Main Street with all the improvements done there, and thinks it has the potential not only to be counterproductive, but to set back all the efforts that are being made by the City.

Commissioner Dennison stated she scanned the contracts and did not see some of the things the Commission had asked to be added, such as it must be cleaned up by such and such a date, six months or whatever. She thinks Commissioner Bone has the right idea are you are just going to rip it down and leave it or are you going to try to fix up the mess

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that is sitting there and then turn around and sell it. There were issues discussed the last time as far as what they had to do, what was expected, and that was the only way we were going to sell the properties.

Commissioner Bone stated all three houses are in terrible shape and to sell them with the intent that maybe they are going to be rehabbed, they cannot be rehabbed to any condition that is going to do anything to improve those neighborhoods. They all need to come down and the city hold them until the right person comes along, and it could be the CDC or whoever, but until someone is going to come in and build the kind of house that goes with those neighborhoods and improves property values.

Commissioner Robuck stated he does not disagree with what Commissioner Bone is saying in sentiment, and certainly agrees on Line Street. He does not understand why we are selling a house to turn it into a vacant piece of property and if it is going to turn to a vacant lot then he would rather the city control it so we can decide what happens to that house. He does not agree as to the CDC just because he thinks our need for work force housing overrides some of those concerns for him personally, but thinks that is a very reasonable position to have and he trusts that the CDC is going to do the right thing with them given they have a history in Leesburg of doing work force housing and getting owner occupied first time home buyer housing.

Commissioner Bone stated those should not go into these neighborhoods.

Commissioner Robuck questioned first time home buyers should not be there.

Commissioner Bone stated not at the values and asked what a first time home buyer value is going to be.

CM Minner stated the requirements with the LMI for infill is looking at a construction cost of around \$100,000 and they are getting pretty close to where they start getting 105, 110, or 115 thousand and then that starts breaking the loan that they would qualify for to us.

Commissioner Bone stated the CDC is not talking about tearing these two houses down and building new; they are talking about rehabbing.

Commissioner Robuck stated they would have to bring them up to code and he thinks that is questionable whether it can happen or not.

Commissioner Bone questioned why county money was turned down that would have helped young girls coming out of foster care.

Commissioner Robuck stated he did not turn down money for that and asked them to come back with reasonable information on what was going on, and they never did. Staff was told to come back with what the money is going to be used for, but the way that grant was written was that they could do anything they wanted to in Leesburg and we had no control over it. Staff never came back and he was disappointed.

Commissioner Bone stated these are going to be the same way, we are not going to have any control over it, other than it has to be brought up to code.

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Commissioner Robuck stated the CDC said they are going to put in owner occupied homes and not be rental units.

Commissioner Bone stated there is nothing in the contract that does anything to protect or give character to those neighborhoods in a way that you are going to attract what you are trying to attract by doing all the improvements to Venetian Gardens and downtown.

Commissioner Robuck stated he has been consistent in his support for owner occupied housing and will continue to be.

Commissioner Bone asked if there is a possibility that a piece of property could be acquired by the city in Palmora Park with code enforcement issues because someone did not take care of it and so then we sell it to the CDC or to a neighbor for \$5,000.

Commissioner Robuck stated if the CDC, Habitat, Homes in Partnership or anyone who is going to put in owner occupied housing, he thinks is good for the city.

Mayor Hurley stated he thinks Leesburg has its fair share of subsidized, Section 8, low income housing and in his opinion has too much of it. It has hurt the city from getting businesses when they do the three square mile radius and the median income has to be "X" amount of dollars. He agrees on these three properties that all three should be torn down, but the CDC said they will either tear down and rebuild something or bring it up to code and that is on them. If they do not they will be coming back to us for more partnerships and at that time we will have better understanding, but so far the CDC has been true to their word. Then we have a neighbor who is very vested, who has been trying to get something done, and is now spending her own money to try to fix her street and he does not think an empty lot is going lower the value of a home. Who is to say in two or three years she does not sell it to someone who would like to build, but right now her quest is to get it cleaned up. He takes it case by case, does the best he can, but does not think this is going to cause Venetian Gardens to fail or Main Street to go under because we turn three houses in to something else.

Commissioner Dennison stated what she said the last time the Commission discussed this was go with just two houses for the CDC and see how they handle those properties and what they do with them. If they do not do anything to clean them up or bring them up to code or rebuild them, then when they come back for more, we just do not give it to them. We are giving them a chance to prove themselves and if we can develop another partner that is going to do first time home owner houses, then she thinks they should be given the chance.

Commissioner Bone stated he does also, but not here.

Mayor Hurley asked if he knows how that sounds and Commissioner Dennison stated yes, it sounds like only in your own neighborhood.

Commissioner Bone replied no. Having come from out of town and to look at Leesburg, comparing it to how other cities are and what they are doing, which Leesburg is trying to do with the money spent downtown, on Main Street, and doing at Venetian Gardens that the best thing to do with these pieces of property is to tear them down. In the condition

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they are in it, would be the best thing for the surrounding properties to tear these down and the city to hold all those properties as a developer would for a time until someone would build on them in a manner that the city has some control over that would do something to increase the property values. He cannot interpret how anyone takes what he says and stated again he is supportive of low income housing, just not supportive of spot low income housing and whether it be in Palmora Park, on 6<sup>th</sup> Street, Perkins Street or wherever.

Mayor Hurley stated there has to be a balance and a community can only sustain a certain level or certain percentage of low income housing. Leesburg cannot say to Lake County we will take all the low income housing and Mt Dora, Tavares, Eustis you all do not have to worry about it because then we are always sitting here full of thrift stores and dollar generals and they have the high end stores. We have to have a market that people want to come to.

Carolyn VanDyken, resident, said she heard rental and home owner and if the CDC is planning to rent or put a home owner into the homes.

CA Morrison replied the contract says that they are to renovate or tear down within 90 days from closing and utilize thereafter as housing for first time home buyers having low to moderate income. It would not be rental.

Mrs. VanDyken stated just food for thought, she is a Palmora Park resident and an equal opportunity neighborhood person. They could not have volleyball as Ski Beach because that was going to lower their property values, but yet it is okay to sell off property for \$5,000 in that neighborhood which you know, anybody who has ever bought or sold homes personally throughout their lifetime, knows that the first thing you do is pull up the comps and see what all the surrounding houses sold for. How is this really going to help the people in that neighborhood when the city is selling off the property off at 5,000?

Mayor Hurley stated the option would be for the city to either not sell it and then tear it down at that expense and have an empty vacant lot or to invest thousands of dollars to bring it up to code which is what the CDC says they will do by spending another 40 or 50 thousand dollars. The hope, at least from his chair, is that the CDC will bring those houses up, do the renovations required, or tear it down and rebuild another one for a first time home buyer to bring it to the level that would fit the neighborhood and be an enhancement opposed to the dilapidated structures there now.

Mrs. VanDyken stated she understands what Commissioner Bone is saying as she used to live in Atlanta and looked all over the intercity and there depending on what section you went into the city had their own specifications. If you did tear down an old home, it had to go back up in the same historic type specifications that you had to adhere to and also if renovating a home, you had to jump through those same hoops to keep the character of the neighborhood. She thinks the city can control the character of these neighborhoods and put guidelines in place for certain downtown neighborhoods where if they did rebuild it would have to enhance the character of the neighborhood.

The roll call vote was:

## MINUTES OF THE CITY COMMISSION MEETING MONDAY, OCTOBER 10, 2016

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Commissioner Dennison	Yes
Commissioner Robuck	Yes
Commissioner Bone	No
Mayor Hurley	Yes

Four yeas, one nay, the Commission adopted the resolution.

### **DISCUSSION ITEM - CODE ENFORCEMENT SPECIAL MAGISTRATE**

Commissioner Robuck stated every month when he gets the reports and sees what the magistrate is doing, he just really feels that the direction of the Commission is not being followed. He does not think we are being strict enough and thinks the apartment deal with the sewage was all mishandled. It seems that if a property owner is present at the hearing, then we do not follow staff's recommendation, we always give them a break. He wants to give a break to the home owner that maybe had a medical issue or something like that, but not give breaks to the guy who says well I bought this property and did not realize it had all these problems; no, they knew the problems when they bought it. He stated if any commissioner bought a piece of property, knowing it needed renovated we would be expected to renovate it and not go begging before code enforcement well I do not realize it was going to cost this much and need another three months to fix it.

Commissioner Dennison stated she is tired of reviewing these code enforcement reports also.

Commissioner Robuck made motion to fire current magistrate and have staff put this out to bid and Commissioner Dennison seconded the motion.

Commissioner Bone asked how long we have had this magistrate.

CA Morrison stated she was the original, the only code enforcement magistrate, since the board was abolished and that was over 10 years ago. He does not know the exact date, but it has been a long time.

Commissioner Dennison stated the Commission has repeated to her on several occasions that it wants her to be a little stronger with this. We are supporting the code enforcement officers and the police, but the reports still keep coming in that you know, waive, waive, waive.

CM Minner asked CA Morrison if his firm could serve in the interim capacity. CA Morrison replied no, the statute specifically prohibits that, it has to be an outside person.

Commissioner Bone asked if she can continue to serve while this goes out for bid.

CM Minner stated he will speak with her.

Mayor Hurley stated he doubts she would want to if she is getting fired and he does not know that he would feel comfortable with that.

## MINUTES OF THE CITY COMMISSION MEETING MONDAY, OCTOBER 10, 2016

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CM Minner stated staff will figure it out and find someone in the interim.

The roll call vote was:

Commissioner Bone	Yes
Commissioner Dennison	Yes
Commissioner Robuck	Yes
Mayor Hurley	Yes

Four yeas, no nays, the Commission adopted the motion.

**INFORMATIONAL REPORTS: None**

**CITY ATTORNEY ITEMS: None**

**CITY MANAGER ITEMS: None**

**PUBLIC COMMENTS:**

Dr. Person thanked the Commission on behalf of the CDC and Mt. Calvary Baptist Church for its decisions made this evening.

**ROLL CALL:**

**Commissioner Robuck** stated as to a food truck ordinance, he knows staff has been working on this, but would really like to see this soon. He had someone approach him wanting to do a food truck out in front of Romac and he told him to let him review the ordinance before agreeing. The ordinance says you can only be out there for up to like 90 days in one year and there are people all over the city not following that. He is in favor of food trucks which is why he would like to see an ordinance. He knows as soon as he lets someone set up in front of Romac and it violates the ordinance, then he might be the one they complain about, so would like staff to relook at our food truck ordinance. He stated Commissioner Bone brought up county housing this evening, he knows the project and found out about it after it was too late talking to Lake County Commissioner Campione and she asked him why Leesburg turn this down. He replied to her that we did not turn it down, we voted no and told our Housing Director to get with the county's housing director to obtain some clarity and it never happened. That is disappointing and he had to let Commissioner Campione know that if he had been told it was for homeless youths that they were looking at doing a shelter center for then he thinks they would have found real support for that on this Commission; however, it was take our money, we will do what we want and hope it works out okay. This Commission asked for clarity and did not get it. So he just wants to be clear, he would have been very much in favor of that project if they had brought that to us, but he will continue to not support letting the county do whatever they want in Leesburg without our say. That has been tried in Leesburg in the past and it has not worked out for us.

**Commissioner Bone** asked if staff remembers how much the county was going to give to the city. **Housing Director (HD) Ken Thomas** stated their part was half a million dollars and we were going to get half of that. **Commissioner Bone** stated Leesburg was going to get \$250,000 and Commissioner Christian and himself voted to take the money

## MINUTES OF THE CITY COMMISSION MEETING MONDAY, OCTOBER 10, 2016

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no strings attached to be able to have some affordable housing in Leesburg. We turned down \$250,000 and we just made a decision tonight to take \$20,000 no strings attached except that the buildings have to be brought up to code or torn down. He asked if that money is still available and **Commissioner Robuck** replied it is not; he asked and that is because our staff did not come back to us. **Commissioner Dennison** agreed. **Commissioner Bone** stated we could have voted yes that night and thinks there was discussion that we did not know if the money would still be available if we did not take it that night. **HD Thomas** stated he did meet with county staff within two weeks of that meeting and they were willing to come back and explain the process; they did meet with them. The county will make application next year in 2017, but this year decided not to make application. They are willing to come here to explain how the process works because it is money that they receive from the federal government, so there are strings attached to how the money can be used or at least what can be written in the contract. **Commissioner Bone** stated just to be clear, he is supportive of Leesburg as a whole and the direction Leesburg is going; a lot of good things are happening. He thinks the plan presented tonight for the 441/27 intersection and the resource center that is moving forward, hopefully will have a kitchen facility to train people, both look good. As he mentioned, some people have approached him about some different projects that would offer affordable housing in Leesburg, and he does look at Leesburg as a whole and so a decision on three particular houses to him are reflective of his overall vision of trying to help everyone in Leesburg and to improve our city. He likes the direction the city is heading in, there is a lot of potential, and he thinks we are making a lot of strides and there are more good things to come. He looks forward to seeing those and hopefully these three properties, he would encourage the CDC if they do tear them down and build, that they do something that is conducive to the old look of the neighborhood.

**Commissioner Dennison** thanked the Emergency Operation Center and the City of Leesburg for getting right on the ball and being ready in case we really got hit with Hurricane Matthew. We started a trial last year to get that EOC up and running just in case and this was a really good exercise this time; we were ready for anything that could happen. Also, the City declared a State of Emergency not knowing which way the storm was going to fluctuate and just so everyone realizes a State of Emergency allows us to file for FEMA money without having to wait and go through a long process; that is also a very important step in what happened this past week. One of our past Commissioners, Mr. Polk, put a letter to the editor in the Daily Commercial, now she did not read the article he was referring to back in August, but he mentions what the past Commissions did and if it was not for them, we would still be in trouble. To an extent, she totally agrees with Mr. Polk. They had gotten into the biggest recession seen in the country for a long time, so they were stuck for money and paying bills and doing projects. This is absolutely right and if it was not for their foresight we would not have come out of that recession as strong as we did ready to move. He ended his article with the City Manager, Mr. Minner, and we all know what a good job he is doing, so he brought up the fact that we have such an excellent City Manager. She wants everybody to realize that if you have a problem with the city, if you think something is going on, or not moving fast enough, do not always attack; come to these meetings. As to Venetian Gardens, we had community meetings for months; come to the meetings. For the park that was just built, we had meetings about the park equipment and the ones that are complaining we did not see them at the meetings. It is too easy for these keyboard cowards to go home after the meetings and start attacking everything, but where were they or where are they when

## MINUTES OF THE CITY COMMISSION MEETING MONDAY, OCTOBER 10, 2016

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something is going on in this city. She just wants to say that she saw the article written by Mr. Polk and agrees with him. She stated she served with him for two years and thinks he did an excellent job.

**Mayor Hurley** stated he also thinks we have a great City Manager, a great Assistant City Manager, a great Clerk, a great City Attorney, and a great Commission. He also will applaud the Chief and all the Department Heads who showed up at the EOC and wow how impressive. If there would have been something, thank God we were spared, but had there been some shift to the west Leesburg definitely was ready and prepared on all fronts. He gives credit to CM Minner and staff for making sure they were prepared on any level no matter what happened and fortunately, we only had a few little tree incidents. He likes Commissioner Dennison's phrase Keyboard Cowards and is going to write that one down. He said he was not implying that there is any kind of discrimination implied in what he said earlier and where he was going is he really thinks if someone has the ability to purchase a home, to go through the steps to acquire a home, that they should be able to purchase that home anywhere they can afford to. He does not want to tell somebody you are a first time home buyer but you have to live here or there, you cannot buy here; he had a real issue with how that sounded. He also does not know how much Section 8 or affordable housing one city can have and we have got to pull away from affordable housing to an extent because as long as we are out of balance, we cannot get the companies and the businesses to come here because our medium incomes are just plummeted compared to other cities and it kills us. He does not think it is as recognized how much of it we have and what a taxation it is on our services. **Commissioner Bone** stated not to argue, because he feels what the Mayor is saying, but if there is a need for affordable housing and he understands the median income issue, but if we can address the need for affordable housing then to balance that we have to increase our property values in other places. **Mayor Hurley** stated he thinks there should be some responsibility for us to push other cities to take their share and they have not done that; they have pushed affordable housing to Leesburg and have kind of blocked it off where there are not a lot of options. Clermont, Mt. Dora, Tavares, Lady Lake they are not overrun so you come here because it is overwhelming here. Everywhere you look there are huge apartment complexes, we have five major apartment complexes now, and there is just a ton of it here. It is like the homeless issue, Leesburg has the largest population of homelessness, but we also have the biggest support system for homelessness in place. His whole point was just that he thinks we should push other cities to take their responsibility, they need to partner up with Lake County, take that \$250,000 and invest it into trying to bring up some affordable housing in their communities. He agrees this is something we need to work on and appreciates the fact that Commissioner Bone is trying to get the house values raised.

### **ADJOURN:**

The meeting adjourned at 7:14 p.m.

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Mayor

ATTEST:

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J. Andi Purvis, City Clerk & Recorder



Proposed Gateway Concept  
 Commission Meeting  
 10.10.16



Proposed Gateway Concept

Commission Meeting  
10-10-16



Proposed Gateway Concept

Commission Meeting  
10-10-16



# AGENDA MEMORANDUM

**Item No:** 5.C.1.

**Meeting Date:** October 24, 2016

**From:** Tracey Dean, Airport Manager  
Michael Rankin, Deputy City Manager

**Subject:** Rental Agreement, between the City of Leesburg and SunAir Aviation, Inc., for an airport hangar located at 8703 Airport Blvd, commonly known as the Bunker Hangar.

**Staff Recommendation:**

Staff recommends approval of the rental agreement to SunAir Aviation, Inc.

**Analysis:**

The property located at 8703 Airport Blvd, commonly referred to as the Bunker Hangar, reverted back to City possession on September 30, 2016. Previously, the hangar and surrounding grounds, approximately 24,000 sq. ft., were leased on a long term basis. Staff would now like to lease the hangar in a similar fashion to corporate hangar arrangements; as they are alike in size and function. The rental agreement with SunAir Aviation, Inc. will be for an initial period of one year, then continuing on a month to month basis. The grounds, previously included in the lease, will be maintained by the City and possibly leased at a later date.

The Airport Advisory Board will review this agreement on October 13, 2016.

**Options:**

1. Approve the rental agreement with SunAir Aviation, Inc.; or,
2. Such alternative action as the Commission may deem appropriate

**Fiscal Impact:**

If approved the annual revenue will be \$13,200.00. This is an increase from the previous rent of \$10.00/year.

**Submission Date and Time:** 10/19/2016 2:31 PM

Department: <u>Airport</u> Prepared by: <u>Tracey Dean</u> Attachments: <u>Yes x</u> <u>No</u> Advertised: <u>Not Required x</u> Dates: _____ Attorney Review: <u>Yes x</u> <u>No</u> _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ <u>MWR</u> Submitted by: _____ City Manager _____	Account No. <u>048-0000-362-02-00</u> Project No. _____ WF No. _____ Budget _____ Available _____
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RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A RENTAL AGREEMENT BETWEEN THE CITY OF LEESBURG AND SUNAIR AVIATION, INC., FOR AN AIRPORT HANGAR LOCATED AT 8703 AIRPORT BLVD; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

**THAT** the Mayor and City Clerk are hereby authorized to execute a rental agreement with SunAir Aviation, Inc. whose address is 8806 Airport Blvd, Leesburg, FL 34788.

**THAT** this resolution shall become effective immediately.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 24th day of October 2016.

\_\_\_\_\_  
JAY HURLEY, Mayor

ATTEST:

\_\_\_\_\_  
J. ANDI PURVIS, City Clerk

**8703 AIRPORT BLVD. (BUNKER) HANGAR  
RENTAL AGREEMENT**

**THIS AGREEMENT** made the \_\_\_\_\_ day of November, 2016, between THE CITY OF LEESBURG, as Landlord, and SUNAIR AVIATION, INC. as Tenant,

**WITNESSETH:**

That Landlord owns and operates the Leesburg International Airport ("Airport"). Tenant desires to rent a hangar made available by Landlord for those uses that are described in Section 2 and Section 6 which follow, or as may be discussed elsewhere within this document. Landlord has agreed to rent to Tenant, and Tenant has agreed to rent from Landlord one of Landlord's hangars, subject to the terms, conditions and covenants of this Agreement.

**NOW THEREFORE**, the parties agree as set forth below:

**1. SPACE DESIGNATED.** The space rented to Tenant by this Agreement is designated as 8703 Airport Blvd by Landlord, and all references herein to the "Hangar" shall refer to that designated hangar.

**2. PURPOSE.** Hangar is to be rented to Tenant for the purpose of maintaining and storing aircraft. No other use of the Hangar is permitted without prior approval of Landlord or its designated agent.

**3. TERM.** This Agreement shall commence at 12:01 AM on November 1, 2016, and shall run for an initial period of one (1) year from that date. Following the expiration of that one year, this Agreement shall continue on a month to month basis. Once this Agreement begins to run on a month to month basis, either party may terminate this Agreement by giving written notice to the other party which is received not later than 15 days prior to the end of the current calendar month.

**4. RENTAL AMOUNT/UTILITIES.** For the use and occupancy of the designated Hanger, Tenant shall pay monthly rent of \$1,100.00, plus applicable sales tax. Rent shall be due on the first day of each calendar month. If rent is not paid by the 5<sup>th</sup> day of the month, a late charge of 5% of the monthly rental amount will be payable in addition to the amount of rent due. At such time, Rent shall be considered delinquent and Landlord will be entitled to terminate this Agreement for nonpayment of rent in the manner specified in paragraph 14 below. Once this Agreement begins to run on a month to month basis, Landlord may adjust the monthly rental amount at any time by giving written notice to Tenant no later than 15 days prior to the end of the calendar month preceding the effective date of the adjustment in rent. Landlord will pay all utilities; however, if Tenant is determined to be using an excessive amount of electricity, water or other utility service, compared to other tenants in similar hangars, Landlord may impose a utility surcharge on Tenant until such time as Tenant's usage of utilities declines to a level commensurate with usage by others in similar hangars.

**5. DEPOSIT.** At the time this Agreement is executed by Tenant, a security deposit has been placed by Tenant with Landlord in the amount of \$1,100.00. This deposit will be held in a non-interest bearing account. The security deposit is NOT considered rent and will not relieve Tenant of paying any rent due hereunder. The deposit is to insure that the Hangar is maintained properly by Tenant and upon termination of this Agreement, the deposit will be returned to Tenant,

if Tenant has complied fully with all terms of this Agreement and the Hangar is returned to Landlord in good and clean condition, without damage, ordinary wear and tear excepted. Landlord may retain such portion of the deposit as is necessary, first to pay the cost to clean or repair the Hangar once it is vacated by Tenant, and second, to reimburse Landlord for any rent or other amounts owed to it by Tenant which have not been paid, and third, to pay or offset any unpaid utility charges or other charges left unpaid by Tenant, and if the deposit is not sufficient to pay all such amounts then Landlord shall have recourse against Tenant for the balance remaining due.

**6. USE.** Hangar shall be used for maintenance, repair and storage of aircraft, and for such other purposes as are specifically authorized by this Agreement, and no other use whatsoever shall be made of Hangar by Tenant. Should Tenant cease the operations and activities described herein for a period exceeding 60 continuous days, this Agreement shall stand canceled and the Tenant's designated space within the Hangar shall be considered available immediately to Landlord for rental to another occupant. In addition to aircraft storage, Tenant may perform those operations and activities described herein, but only if Tenant and its employees hold all appropriate certifications required by the FAA and other agencies having jurisdiction over such operations and activities.

No motor or aviation fuel, or other toxic, flammable or hazardous substances, shall be stored in or around the Hangar except within the fuel tanks provided for that purpose on the Aircraft itself, and all such substances shall be stored, handled, transported and disposed of in full and strict compliance with all applicable laws, rules and regulations. No fuels shall be dispensed and no aircraft or other vehicle shall be refueled within the Hangar. Tenant may, however, in connection with aircraft fuel system maintenance operations, drain and fill aircraft fuel tanks using equipment properly designed and manufactured for such use. Tenant will take all necessary precautions to prevent fuel spillage or other incidents which would support combustion of flammable substances from occurring. Tenant shall not store or keep within the Hangar any unused boxes or crates, rubbish, paper or other trash or litter which could cause or support combustion. Tenant shall not place or erect any exterior structures of any kind on or around the Hangar, nor shall any signs or other advertising displays be affixed to Hangar except as permitted by City sign codes and previously approved by Landlord. No trailers, fuel tanks, vehicles or other items shall be stored outside the Hangar except where authorized by Landlord. Tenant is responsible for ensuring that no pollutants, including solvents, paint stripping residues, paints, greases and oils, other hydrocarbons, etc., are discharged to the ground, the storm water system or any sanitary sewer connections in connection with its activities. Repair or maintenance work that involves grease, oils or other pollutants must be performed in an area designed to capture such materials, and not in an area that would allow runoff off of such materials to occur. Aircraft washing is permitted only in areas designated for that purpose by the City. Such areas may include hangar ramps or grassed areas capable of handling water runoff. All products used to wash aircraft must be biodegradable, and there may be no discharge of grease, oils or other similar pollutants in connection with aircraft washing activities.

Under no circumstances shall motor vehicles used by the Tenant, its employees or others utilizing Tenant's services be parked on any public right-of-ways, landscaped areas, taxiways or on public roadways unless otherwise authorized by Landlord.

Tenant is responsible for ensuring that any aircraft or motor vehicles that are placed in or around Hangar are maneuvered safely and carefully so as to avoid damaging the Hangar itself or any other aircraft or motor vehicles located in the vicinity. Tenant shall indemnify Landlord, and hold Landlord harmless, from and against all claims, debts, demands, or obligations which may be made against Landlord or Landlord's interest in the Hangar, arising out of or in any way

connected with Tenant's use and occupation of the Hangar, excepting only those matters which are the sole, direct and proximate result of the gross negligence or deliberate acts of Landlord, its agents, servants or employees. Further, Tenant shall indemnify Landlord, and hold Landlord harmless, from and against any and all loss or damage to the Hangar or other property owned by Landlord, or any claim or cause of action, arising out of, relating to, or involving any aircraft, whether those of the Tenant or others, which is caused by Tenant's own actions or the actions of other aircraft operators/owners, airport tenants or members of the general public, and such indemnification and responsibility to hold harmless shall also extend to any court costs and attorneys' fees incurred by Landlord in responding to or defending any such claim or cause of action.

**7. MAINTENANCE.** Tenant shall maintain Hangar in a clean and orderly condition. The Hangar floor shall be kept clean and free of grease, oil and toxic chemicals or substances. Tenant shall be responsible for all damage to the Hangar or the property of any other occupant stored in or around the Hangar, caused by Tenant, its agents, servants, employees, invitees, and licensees, and anyone else in or around the Hangar at the invitation of, or with the express or implied consent of, Tenant. At all times Tenant will maintain one or more fire extinguishers, properly charged, so as to comply fully with applicable fire and life safety codes and the requirements of the local fire marshal. Tenant shall maintain the interior of the Hangar, including without limitation all plumbing, electrical and other systems. Landlord shall be responsible only for repair of roof leaks, and the exterior of the Hangar, excluding any damage caused by Tenant, its agents, servants, employees, invitees, and licensees, and anyone else in or around the Hangar at the invitation of, or with the express or implied consent of, Tenant.

**8. ALTERATIONS.** Tenant shall not make any alterations or improvements of any kind to the Hangar, or install any equipment in, around, about, or on the Hangar, without prior, written approval of Landlord.

**9. INSPECTIONS.** At any time during normal business hours, Landlord and the local fire marshal shall have full right and access to inspect the Hangar to determine compliance with applicable codes and the terms of this Agreement.

**10. INSURANCE; LOSS OR DAMAGE.** Tenant shall indemnify Landlord and hold it harmless against any claim or cause of action, loss or damage, caused by Tenant's negligence and asserted against or suffered by Landlord, due to any death, personal injury, theft or damage to property, in the Hangar or its curtilage, together with all court costs and attorneys' fees incurred in connection therewith. Up to but not in excess of the limitation on the waiver of sovereign immunity set forth in §768.28, Fla. Stat. (2012), Landlord shall indemnify Tenant and hold it harmless against any claim or cause of action, loss or damage, caused by Landlord's negligence and asserted against or suffered by Tenant, due to any death, personal injury, theft or damage to property, in the Hangar or its curtilage, together with all court costs and attorneys' fees incurred in connection therewith.

In addition to the foregoing, Lessee shall indemnify Lessor against all claims for damages or other relief, plus attorney's fees and costs, due to any production, use, handling, storage, or disposal of any fuel or other petroleum products, hazardous or toxic wastes or substances whatsoever at the premises by Lessee, as such may be defined from time to time by any local, State or Federal agency, and for the cost of remediating any environmental contamination resulting therefrom, excepting only that Lessee would not be responsible for any contamination that may have been present prior to the start of Lessee's tenancy.

Tenant shall procure and keep in force throughout the term of this Agreement, of the following insurance types:

- A. Public liability insurance with limits of not less than \$1,000,000.00 CSL, covering claims for death, personal injury or damage to property, with Landlord named as an additional insured, and with a waiver of subrogation in favor of Landlord. The original of each such policy of insurance, or a complete duplicate, shall be delivered to Landlord by Tenant prior to occupancy of the premises by Tenant, together with evidence that the premiums have been paid. Each policy shall contain a provision that it may not be canceled for any reason without thirty (30) days prior, written notice being given to Landlord by the insurer. All policies shall be issued by insurers of recognized responsibility, which are licensed to do business in Florida, with at least an "A" rating by A.M. Best.
- B. Such insurance as Tenant deems adequate to protect Tenant against damage to or theft of Tenant's property at the Hangar, either due to fire, windstorm or other casualty, or such other causes as Tenant deems appropriate to insure against. Tenant shall bear sole responsibility for the protection of its own property and any other personal property stored in or around the Hangar or elsewhere on the Airport, and Landlord shall bear no responsibility for loss of, damage to or theft of such property.
- C. Completed operations coverage with Landlord listed as an additional insured party.

Landlord will insure the structure of the Hangar against fire and other casualties but such insurance will be for the benefit of Landlord only and Tenant shall not be entitled to share in any proceeds of that insurance for any reason.

**11. ASSIGNMENT OR SUBLETTING.** Tenant may not assign this Agreement without the prior written consent of Landlord; however, Tenant may sublet any portion of the Hangar as routine activity of a Fixed Based Operator (FBO). Tenant may not assign, hypothecate or pledge Tenant's interests under this Agreement as security for any loan or debt. If Tenant is not a natural person, any transfer of a legal or beneficial interest in Tenant shall constitute an assignment for purposes of this Agreement, including but not limited to any consensual transfer and any transfer by devise, intestacy, or otherwise by operation of law.

**12. ACCESS.** Tenant, on a nonexclusive basis, in common with the public and other tenants and users of the Leesburg International Airport, and in compliance with applicable laws, rules and regulations, shall have the right to pass over and across all roadways, runways, taxiways, and other such facilities and improvements at the Airport, to obtain vehicular and aircraft access to the Hangar.

**13. COMPLIANCE WITH LAWS.** In all aspects of the use and occupancy of the Hangar, Tenant shall comply in full with all applicable laws, rules and regulations. Tenant shall indemnify Landlord and hold Landlord harmless against all loss or damage, claims or causes of action arising out of, or resulting in any way from, any violation by Tenant or anyone at the Hangar with the express or implied permission of Tenant, of any applicable laws, rules or regulations now in effect or hereafter promulgated or amended.

**14. DEFAULT.** If Tenant fails to pay any rent or other charges due Landlord hereunder, and such failure continues for more than three days after written notice to Tenant of the default,

Landlord shall have the right to terminate this Agreement. If Tenant fails to observe or comply with any term, condition or covenant of this Agreement other than those pertaining to payment of rent, and such failure continues for more than seven days after written notice to Tenant of the default, Landlord shall have the right to terminate this Agreement. It shall not constitute a defense to termination of this Agreement that the written notice of default is not in any particular form, that it demands payment of amounts due hereunder other than pure rent, or that it demands compliance with both monetary and nonmonetary obligations of Tenant within a single notice.

If this Agreement is terminated due to the default of Tenant, and Tenant fails to surrender possession of the Hangar to Landlord within the time specified in the written notice of default, Landlord shall have the right to file an action to recover possession of the Hangar, and at the same time seek recovery of damages for any amounts due Landlord hereunder. Any amounts not paid when due hereunder shall bear interest at the rate of 18% per year until paid in full. In the event of a default by Tenant, Landlord shall have the right to recover its reasonable attorneys' fees incurred due to the default whether or not a legal action is filed, and if a legal action is filed, Landlord shall also be entitled to recover its court costs. Landlord shall be entitled to recover double the amount of normal rent for any period during which Tenant holds over after the lawful termination of this Agreement.

Notwithstanding the notice provisions set forth above, if Tenant has been given notice of any breach or default hereunder, and cures that breach or default within the time allowed so as to avoid termination of this Agreement, and the same type of breach or default occurs again within one year of the first notice, Landlord may terminate this Agreement without further notice based on the recurrence of the same type of default, and in that event Tenant shall not be entitled to an opportunity to cure. Landlord may in its discretion give notice and an opportunity to cure for such repeat defaults, and shall not thereby waive its right to terminate without notice for any other repeat default or the recurrence of the same default again.

**15. NATURE OF AGREEMENT; VENUE.** This Agreement sets forth the entire understanding of the parties with regard to its subject matter. It supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have been extinguished except to the extent specifically set forth herein. This Agreement may not be amended orally, by implication, by course of conduct, or in any other manner whatsoever than by way of a written instrument signed by both parties hereto or their lawful successors. This Agreement shall be construed in accordance with the laws of Florida and venue for any action or proceeding arising out of this Agreement shall be in Lake County, Florida. This Agreement shall be binding on the parties hereto, as well as on their lawful successors and assigns. Each party represents for the benefit of the other that it has not entered into this Agreement in reliance on, or on the basis of, any promise, negotiation, representation, undertaking or agreement of the other party, oral or written, which is not specifically set forth within this Agreement. Landlord shall not be deemed to have waived any right or remedy hereunder by virtue of failure to insist on strict performance of this Agreement by Tenant or failure to exercise any right or remedy at each time it becomes possible to do so.

**16. NOTICE.** Notices hereunder shall be given in writing and shall be hand delivered, sent by U.S. Mail, certified with return receipt requested, properly addressed with all postage prepaid, or sent by UPS, Federal Express or other overnight courier service. Notice delivered by hand shall be effective upon delivery. Notice sent by certified mail shall be effective on the third business day after it is posted, regardless of whether it is actually received. Notice sent by overnight courier service shall be effective on the next business day after it is placed in the hands

of the courier service, properly addressed, regardless of whether it is actually received. Notices shall be given to the following addresses, or in such other manner as either party may direct the other in writing hereafter:

TO THE LANDLORD:  
City of Leesburg  
Attention: City Manager  
P. O. Box 490630 Leesburg, FL 34749-0630

WITH COPY TO:  
City Attorney  
Post Office Box 491357  
Leesburg, Florida 34749-1357

TO THE TENANT:  
SunAir Aviation, Inc.  
8860 Airport Blvd  
Leesburg, FL 34788  
Attn: Brian Sapp, Owner

**17. RULES AND REGULATIONS.** Landlord has certain rules and regulations applicable to the operation of the Leesburg International Airport. Tenant agrees to abide by those rules and regulations now in effect or as hereafter promulgated or amended.

**18. TAXES.** Tenant shall pay all sales taxes due on the rent paid under this Lease, and all personal property taxes assessed against the property of Tenant kept at the Hangar or the other spaces Tenant is authorized to use. Landlord shall be responsible only for payment of any real property taxes and special assessments levied against the Hangar.

**IN WITNESS WHEREOF,** the parties have executed this Agreement.

THE CITY OF LEESBURG, FLORIDA

BY: \_\_\_\_\_  
JAY HURLEY, Mayor

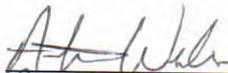
ATTEST: \_\_\_\_\_  
J. ANDI PURVIS, City Clerk

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
CITY ATTORNEY

WITNESSES:

TENANT: SUNAIR AVIATION, INC.

  
\_\_\_\_\_  
Austin Windham

  
BY: \_\_\_\_\_  
BRIAN R. SAPP - President

(Type or print name of witness)

Type or print name and corporate title

Melinda Simmons

(Type or print name of witness)

Melinda Simmons



# AGENDA MEMORANDUM

**Item No:** 5.C.2.  
**Meeting Date:** October 24, 2016  
**From:** Robert W. Hicks, Chief of Police  
**Subject:** Resolution for the Leesburg Police Department to donate 19 seized computers to two City of Leesburg Organizations

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**Staff Recommendation:**

Staff recommends the Commission to approve the request to donate 19 seized computers to two 501c (3) organizations within the City of Leesburg.

**Analysis:**

During a multi-jurisdictional criminal investigation in 2015/16 the Leesburg Police Department received several desktop and all-in-one computers through forfeiture. While they are not brand new, they are new enough to support current software requirements and are getting a second life to support student achievement. In this age of information technology, access to the internet and computer programs is vital to a student's academic success. Donating these computers are a wonderful way to benefit our youth through collaboration and education.

Donations were requested by the Leesburg African American Museum and West Leesburg CDC.

The CDC has a 501c (3) Youth Opportunity Center within the Leesburg African American Museum. They have advised that they would need seven of the 19 computers. It would be a great asset in their efforts to reach the young people of our community for after-school activities. The West Leesburg Community Development Corporation would receive the remaining 12 computers for the same reason and would also be a valuable resource to the citizens of Leesburg to use as well.

**Options:**

1. Approve the request to donate 19 seized computers to the Youth Opportunity Center and the West Leesburg Community Development Corporation;
2. Approve the donation of a lesser designated quantity of computers to either organization;
3. Disapprove of the donation; or
4. Such alternative action as the Commission may deem appropriate.

**Fiscal Impact:** No material fiscal impact is anticipated.



RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, APPROVING THE LEESBURG POLICE DEPARTMENT TO DONATE 19 SEIZED COMPUTERS TO THE LEESBURG AFRICAN AMERICAN MUSEUM'S YOUTH OPPORTUNITY CENTER AND TO THE WEST LEESBURG COMMUNITY DEVELOPMENT CORPORATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

**THAT** the Leesburg Police Department is hereby authorized to donate 19 seized computers to the following organizations:

Leesburg African American Museum – Seven computers  
West Leesburg Community Development Corporation – Twelve computers.

**THAT** this resolution shall become effective immediately.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 24th day of October 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



# AGENDA MEMORANDUM

**Item No:** 6A.  
**Meeting Date:** October 24, 2016  
**From:** Al Minner, City Manager  
**Subject:** Discussion – Special Magistrate

## Analysis:

In order to follow-up on the Commission discussion from the October 10 Regular Meeting, this item has been placed again on your agenda to further discuss performance and expectations of the Special Magistrate. I have contacted Ms. Kim Schulte's office and anticipate that she will be present for your discussion. Attached to this transmittal is her current service agreement.

**Submission Date and Time:** 10/19/2016 2:31 PM

Department: _____ Prepared by: _____ Attachments: Yes___ No ___ Advertised: ___Not Required ___ Dates: _____ Attorney Review : Yes___ No ___ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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RESOLUTION NO. 9264

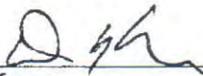
RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEEsburg, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH KIMBERLY A. SCHULTE TO PROVIDE SERVICES AS THE CITY'S SPECIAL MAGISTRATE FOR CODE ENFORCEMENT CASES; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEEsburg, FLORIDA:

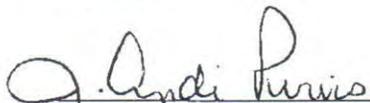
THAT the Mayor and City Clerk are hereby authorized to execute an agreement with KIMBERLY A. SCHULTE whose address is 127 North 7<sup>th</sup> Street, Leesburg, Florida 34748 for services acting as the City's Special Magistrate for Code Enforcement cases.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 9th day of September 2013.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk - Deputy

## AGREEMENT FOR PROFESSIONAL SERVICES

**THIS AGREEMENT** is made as of the 9<sup>th</sup> day of September in the year 2013, between **THE CITY OF LEESBURG**, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **KIMBERLY A. SCHULTE**, whose address is 127 7<sup>th</sup> Street, Leesburg Florida 34748 (hereinafter referred to as the "PROFESSIONAL").

**NOW, THEREFORE**, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the receipt of which is hereby acknowledged, the parties agree as follows:

1. **Services.** The PROFESSIONAL shall perform the following services described in which is attached and incorporated by reference herein. Nothing herein shall limit the CITY'S right to obtain proposals or services from other contractors for similar projects. The PROFESSIONAL will serve as the Special Magistrate to address code enforcement issues in the City. The Special Magistrate will be responsible for attending all code enforcement hearings per City Ordinance. These meetings are currently held on the third Tuesday after the first Monday of each month. Approximately 10 to 20 cases are addressed at each meeting. The PROFESSIONAL will be reimbursed for actual time spent conducting Code Enforcement meetings, reviewing Orders of Enforcement, minutes, answering questions, and other code enforcement related services as requested or directed by the City representative. All services will be provided in accordance with City Ordinance 04-27, II, Division 2. This City of Leesburg Ordinance is incorporated by reference and made a part thereof. The current version of this ordinance is attached as ATTACHMENT "A" for reference.

2. **Compensation.** The PROFESSIONAL will be compensated for services provided at a rate of \$125.00 per hour.

3. **Payment.** CITY shall compensate PROFESSIONAL for their services in the following manner: No other costs or services shall be billed to the CITY.

4. **Authorized Expenses.** The CITY will not be liable for any expenses incurred by the PROFESSIONAL prior to the issuance of a Notice to Proceed except as authorized by the CITY in writing.

5. **Term.** This Agreement shall commence immediately upon execution by both parties. The term shall end on September 30<sup>th</sup> of each year and automatically renew annually on October 1<sup>st</sup> at the end of the initial term of this Agreement and any subsequent renewal term. This Agreement may be terminated with or without cause by either party providing written notice to the other no less than 30 days in advance of the automatic renewal.

6. **Termination.** All or part of this Agreement may be terminated under the following conditions;

- a. **For Convenience.** All or part of this Agreement may be terminated by the CITY for its convenience on thirty (30) days written notice to the PROFESSIONAL. In such event, the PROFESSIONAL will be entitled to compensation for services competently performed up to the date of termination.
- b. **For Cause.** CITY may terminate the Agreement for cause if PROFESSIONAL;
  - i. becomes Insolvent/Bankrupt, or

ii. commits a material breach of the Agreement which does not otherwise have a specified contractual remedy, provided that:

1. CITY shall first provide PROFESSIONAL with detailed written notice of the breach and of CITY's intention to terminate the Agreement, and
2. PROFESSIONAL shall have failed, within the number of days indicated in the written notice, to commence and diligently pursue cure of the breach.

c. **Non-Appropriation of Funds.** The PROFESSIONAL understands and agrees any and every Agreement is subject to the availability of funds to the CITY to purchase the specified services. As used herein, a "non-appropriation" shall be defined as an occurrence wherein the CITY, in any fiscal period, does not allocate funds in its budget for the purchase of the specified services or other amounts owed pursuant to any Agreement, from the Source of funding which the CITY anticipates using to pay its obligations hereunder, and the CITY has no other funds, from sources other than ad valorem taxes, which it deems to be available to pay its obligations under Contract. The CITY may terminate an Agreement, with no further liability to the vendor other than compensation for services competently performed up to the date of termination, effective the first day of a fiscal period provided that:

- i. a non-appropriation has occurred, and
- ii. The CITY has provided the vendor with written notice of termination not less than fifteen (15) days before the proposed termination date.
- iii. Upon the occurrence of such non-appropriation the City shall not be obligated for payment for any fiscal period for which funds have not been appropriated.

7. **Insurance.** The PROFESSIONAL will maintain throughout this Agreement the following insurance: SEE EXHIBIT "A."

- A. The original of each such policy of insurance, or a complete duplicate, shall be delivered to CITY by PROFESSIONAL prior to starting work, together with evidence that the premiums have been paid.
- B. All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least "A."
- C. The PROFESSIONAL shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractors work.
- D. The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.
- E. The required insurance shall not limit the liability of the PROFESSIONAL. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the PROFESSIONAL'S interests or liabilities, but are merely required minimums.
- F. All liability insurance, except professional liability, shall be written on an occurrence basis.
- G. The PROFESSIONAL waives its right of recovery against the CITY to the extent permitted by its insurance policies.
- H. Insurance required of the PROFESSIONAL, or any other insurance of the PROFESSIONAL shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims, which arise out of the agreement, contract or lease.

- I. Except for workers' compensation and professional liability, the PROFESSIONAL'S insurance policies shall be endorsed to name the CITY OF LEESBURG as additional insured to the extent of the agreement, contract or lease.
- J. The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows:

**City of Leesburg**  
**Attention: Mike Thornton, Purchasing Manager**  
**P.O. Box 490630**  
**Leesburg, Florida 34749-0630**

- K. The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.
- L. The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.
- M. The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.
- N. The PROFESSIONAL, at the discretion of the Risk Manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the PROFESSIONAL'S liability coverage(s).

**8. Codes, Laws, and Regulations.** PROFESSIONAL will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

**9. Permits, Licenses, and Fees.** PROFESSIONAL will obtain and pay for all permits and licenses required by law that are associated with the PROFESSIONAL'S performance of the Scope of Services.

**10. Access to Records.** PROFESSIONAL will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CITY during PROFESSIONAL'S normal business hours. Said records will be maintained for a period of five (5) years after the date of the invoice.

**11. Contingent Fees Prohibited.** The PROFESSIONAL warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the PROFESSIONAL, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the PROFESSIONAL any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability, and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

**12. Ownership of Documents.** All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the PROFESSIONAL (or by such subconsultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the PROFESSIONAL shall in no way be liable or legally responsible to anyone for the CITY'S use of any such materials for another PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the PROFESSIONAL.

**13. Independent Contractor.** The PROFESSIONAL agrees that it is an independent contractor and not an agent, joint venturer, or employee of the CITY, and nothing in this Agreement shall

be construed to be inconsistent with this relationship or status. None of the benefits provided by the CITY to its employees, including but not limited to, workers' compensation insurance, unemployment insurance, or retirement benefits, are available from the CITY to the PROFESSIONAL. PROFESSIONAL will be responsible for paying its own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this Agreement. The PROFESSIONAL shall be solely and entirely responsible for his or her acts during the performance of this Agreement.

**14. Assignment.** Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

**15. No Third Party Beneficiaries.** This Agreement gives no rights or benefits to anyone other than the PROFESSIONAL and the CITY.

**16. Jurisdiction.** The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

**17. Contact Person.** The primary contact person under this Agreement for the PROFESSIONAL shall be **Kimberly A. Schulte**. The primary contact person under this Agreement for the CITY shall be **Police Chief Bill Chrisman**

**18. Notice to Owner.** All Notice to Owners (NTO) issued by sub-contractors and material suppliers must be mailed or delivered to:

**CITY OF LEESBURG  
ATTN: PURCHASING MANAGER  
RE: RFQ -130023  
501 W. MEADOW ST  
LEESBURG, FL 34748**

**19. Disclosure of Conflict.** The PROFESSIONAL has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the PROFESSIONAL and his duties under this Agreement.

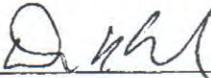
**20. Counterparts.** Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. The CITY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

**21. Authority to Obligate.** Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

*[Signature page follows.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated in the preamble to the Agreement.

**THE CITY OF LEESBURG, FLORIDA**

By:   
Mayor

ATTEST:  
  
City Clerk - Deputy

Approved as to form and content:

  
City Attorney

**KIMBERLY A. SCHULTE**

By:   
Printed: Kimberly A. Schulte

Its: attorney/special negotiator  
Title

ORDINANCE NO. 02-69

AN ORDINANCE AMENDING SECTIONS 2-66 THROUGH 2-75, INCLUSIVE, OF CHAPTER 2, ARTICLE IV, DIVISION 2 OF THE CODE OF ORDINANCES OF THE CITY OF LEESBURG, FLORIDA, PERTAINING TO MUNICIPAL CODE ENFORCEMENT; ABOLISHING THE CURRENTLY EXISTING CODE ENFORCEMENT BOARD; PROVIDING FOR THE APPOINTMENT OF ONE OR MORE SPECIAL MASTERS TO HEAR AND DECIDE CASES INVOLVING THE ENFORCEMENT OF THE MUNICIPAL CODES AND ORDINANCES; SETTING A TIME LIMIT FOR APPOINTMENT OF ONE OR MORE SPECIAL MASTERS; PROVIDING FOR RECOVERY OF COSTS TO ENFORCE MUNICIPAL ORDINANCES; AUTHORIZING THE CITY OF LEESBURG TO MAKE REPAIRS IF AN ORDER OF THE CODE ENFORCEMENT BOARD IS NOT COMPLIED WITH; PROVIDING FOR ASSESSMENT OF THE COST OF REPAIRS; PROVIDING THAT NO FINE SHALL BE REDUCED TO LESS THAN \$125.00 PLUS THE ACTUAL COST TO THE CITY OF THE ENFORCEMENT PROCEEDING; CONFORMING THE CODE OF ORDINANCES TO STATUTORY CHANGES IN MUNICIPAL CODE ENFORCEMENT PROCEDURES; PROVIDING TRANSITIONAL DETAILS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA:

SECTION I.

The Code Enforcement Board created by and existing under §2-66 of the Code of Ordinances of the City of Leesburg, as constituted prior to enactment of this Ordinance, is hereby abolished, effective as of the date on which the City Commission appoints a Special Master to hear and decide code enforcement cases under the provisions of this Ordinance. This Ordinance shall not, however, negate any action taken by the Code Enforcement Board so long as it remains in operation, nor shall this Ordinance be construed to invalidate any action taken by the Code Enforcement Board, or any lien or order of enforcement entered by it prior to the effective date of its abolition, all of which shall remain in full force and effect. This Ordinance shall not be construed to prohibit the enforcement of the City's codes and ordinances by any other means available under the law, including but not limited to citation directing a violator to appear in County Court, and the procedures established hereby are deemed supplemental to and not exclusive of any and all other enforcement methods.

SECTION II.

Sections 2-66 through 2-75, inclusive, contained in Chapter 2, Article IV, Division 2 of the Code of Ordinances of the City of Leesburg, Florida, pertaining to enforcement of municipal codes, are hereby amended in their entirety to read as follows:

DIVISION 2. ENFORCEMENT OF MUNICIPAL CODES.

Sec. 2-66. Special Master.

One or more Special Masters designated by the City Commission shall have the authority to hold hearings and assess fines against violators of the codes and ordinances of the City of Leesburg.

Sec. 2-67. Appointments; compensation.

(a) A committee composed of the City Manager or his designee, the Chief of Police, and the Community Development Director, shall solicit applications from persons willing to serve as Special Masters, shall interview and evaluate applicants, and shall make recommendations to the City Commission regarding appointment of one or more Special Masters under this Division.

(b) Every Special Master appointed hereunder shall be a member of the Florida Bar in good standing, for at least 5 years prior to appointment, shall demonstrate satisfactory knowledge of municipal law and the general procedures for enforcement of municipal codes, and shall demonstrate a temperament suitable for the exercise of the quasi-judicial powers vested in each Special Master.

(c) Each Special Master shall be appointed for a term of three years, and shall be compensated in accordance with a written contract approved by the City Commission, based on recommendations from the committee referenced above.

Sec. 2-68. Rules and regulations.

The Special Master(s) may adopt rules and regulations to govern code enforcement proceedings so long as such rules are not in conflict with any state law, or any ordinance or charter provision of the City of Leesburg, and do not deny any participant in the code enforcement proceedings due process of law. All such rules and regulations shall be in written form and shall be provided to parties to the proceedings upon request.

Sec. 2-69. Personnel.

The City Attorney shall serve as counsel to the Code Enforcement Officer, to assist in the preparation and prosecution of cases to the extent desired by the Code Enforcement Officer and as approved by the City Manager. The City Manager shall provide adequate clerical assistance to the Special Master, including a notary public to serve as clerk during code enforcement proceedings.

Sec. 2-70. Enforcement procedures.

(a) Proceedings before the Special Master shall be initiated by the code enforcement officers, who shall consist of all Leesburg police officers, all animal control officers, the Building Official, the fire Inspector, the Community Development Director, and such other persons who may be designated from time to time as code enforcement officers by the City Manager. The Special Master shall not have the power to initiate proceedings.

(b) Except as provided in subsections (c) and (d) below, if a violation is found, the code enforcement officer shall notify the violator and specify a reasonable time to correct the

violation. If the violation continues beyond the time specified for correction, a hearing shall be scheduled before the Special Master and written notice of this hearing shall be served on the violator in the manner provided below. The Special Master may hear and decide the case even if the violation is corrected prior to its meeting, if the violation is not corrected within the time specified by the code enforcement officer in the initial notice to the violator, or if the violation recurs after having been corrected, and the notice informing the violator of the hearing shall so state.

(c) If the code enforcement officer has reason to believe that the violation or the condition causing the violation presents a serious threat to the public health, safety and welfare, or if the violation is transitory in nature, such that it is unlikely to recur, or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator, and may immediately set a hearing on the violation before the Special Master.

(d) "Repeat violation" shall mean a violation of a provision of a code or ordinance by a person whom the Special Master, or the Code Enforcement Board prior to its abolition, has previously found to have violated the same provision of the Code within 5 years prior to the current violation. If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, shall notify the Special Master and request a hearing. The Special Master, through clerical staff, shall schedule a hearing and notice of the hearing shall be provided to the violator as specified elsewhere in this Code. The case may be presented to the Special Master even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

(e) If the owner of property which is subject to an enforcement proceeding transfers ownership of such property between the time the initial notice to appear was served and the time of the hearing, such owner shall disclose, in writing, the existence and the nature of the proceeding to the prospective transferee; deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor; disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding; file a notice with the Code Enforcement Officer of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer. Failure to make the disclosures required by this subsection, before the transfer, creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

#### Sec. 2-71. Conduct of Hearings.

(a) Upon request of the Code Enforcement Officer, or at such other times as may be necessary, the Special Master may convene a hearing on one or more pending code enforcement cases. Minutes shall be kept of all hearings and all hearings and proceedings shall be open to the public. The City Manager shall provide clerical and administrative personnel as may be reasonably required by the Special Master for the proper performance of his duties.

(b) Each case heard by the Special Master shall be presented by the Code Enforcement Officer or the City Attorney. If the City prevails in prosecuting a case before

the Special Master, it shall be entitled to recover all costs incurred in prosecuting the case, and the Order of Enforcement shall assess those costs upon presentation of proper proof thereof.

(c) The Special Master shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(d) At the conclusion of the hearing, the Special Master shall issue findings of fact, based on evidence of record, and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted by this Ordinance and State law. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in §162.09(1), Fla. Stat., the cost of repairs may be included along with the fine if the order is not complied with by the date set. A certified copy of the order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the Special Master shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

#### Sec. 2-72. Powers of Special Master.

The Special Master shall have the power to:

(a) Adopt rules for the conduct of hearings, including rules and policies relating to the reduction of fines, all of which shall be published in writing and shall be available to any party to the proceedings upon request.

(b) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or any officer of the Leesburg Police Department.

(c) Subpoena evidence to hearings.

(d) Take testimony under oath.

(e) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

#### Sec. 2-73. Fines and Liens.

(a) The Special Master, upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or, upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the Special Master for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. The Special Master shall, whenever it is practical to do so, set the amount of the fine to be imposed as part of the initial order of enforcement, and if this is done the fine shall be self-executing upon failure of the violator to achieve compliance within the

set time. In addition, if the violation is found to present a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the Special Master may notify the local governing body, which may make all reasonable repairs which are required to bring the property into compliance, and charge the violator with the reasonable cost of the repairs, along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for issuance of an order imposing a fine, or for a fine set in the initial Order of Enforcement to begin to accrue on the date scheduled for compliance if the violations have not been remedied fully by that date.

(b) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a) above. If the Special Master finds that the violation is irreparable or irreversible in nature, the Special Master may impose a fine not to exceed \$5,000.00 per violation.

(c) In determining the amount of the fine, if any, the Special Master shall consider the following factors, among other evidence:

1. The nature, extent and gravity of the violation;
2. Any actions taken by the violator to correct the violation;
3. Any previous violations committed by the violator; and
4. The harm or potential harm to the public as a result of the existence or continuance of the violation.

(d) The Special Master may reduce a fine imposed pursuant to this section upon written request by the violator, if the violation which led to the imposition of the fine has been fully corrected and the property is in compliance. The Special Master is authorized to adopt rules and guidelines governing the reduction of fines. If the violator fails to pay the reduced fine within 60 days from the date on which the order reducing the fine is entered, or within such other time as may be set by the Special Master, which shall not be less than 60 days nor more than 120 days, then the original fine shall be reinstated. No fine shall be reduced below the sum of \$125.00 plus the actual cost to the City of prosecuting the violation and perfecting its lien against the property. Furthermore, absent a showing of extraordinary extenuating circumstances by the violator, no fine shall be reduced to less than 10% of the amount of the fine prior to reduction, plus the actual cost to the City of prosecuting the violation and perfecting its lien against the property.

(e) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. The duration of the lien shall be for a period of twenty years after it is first recorded in the Public Records of Lake County, Florida. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this ordinance shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, or reduce the lien to money judgment whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the

City Commission and the Special Master is hereby authorized to execute a satisfaction or release of any lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the Special Master may request the City Commission to authorize the city attorney to foreclose on the lien, or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Art. X, §4 of the Florida Constitution.

(f) In an action to foreclose on a lien or to recover a money judgment based on an order of enforcement, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The City of Leesburg shall be entitled to collect all costs incurred in recording and satisfying a code enforcement lien.

Sec. 2-74. Appeal and rehearing.

(a) An aggrieved party, including the City Commission, may appeal a final order of the Special Master to the Circuit Court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. The appellant shall be responsible for providing a verbatim transcript of the proceedings as part of the record on appeal. An appeal shall be filed within 30 days of rendition of the order to be appealed.

(b) An aggrieved party, including the City Commission, may move for rehearing of an order entered by the Special Master. A motion for rehearing must be filed within 10 days of entry of the order as to which rehearing is sought. The Special Master may also rehear a case on his own initiative by providing written notice to the parties within this 10 day period. A motion for rehearing shall toll the time to appeal the order until 30 days after the decision of the Special Master on the motion for rehearing. If an appeal is filed while a motion for rehearing is pending, the motion for rehearing shall be considered to have been waived. The motion for rehearing shall include a concise statement of the legal and factual grounds for rehearing. Once a motion for rehearing is filed, the Special Master shall consider it at the next meeting, without hearing any testimony or argument from the movant, to determine whether the motion is facially valid and sets forth grounds which, under this subsection, would justify rehearing. If the Special Master determines that the motion is facially defective, he may deny the motion without hearing testimony or conducting further proceedings. If the Special Master determines that the motion is facially valid, then either at that meeting or at its next meeting, he may hear legal argument, and if the basis for the motion is factual, may also hear testimony, in favor of and in opposition to the motion. The grounds for rehearing an order of the Special Master are limited to the following only:

1. Errors on the face of the record.
2. Misconduct of the Code Enforcement Officer or the Special Master.
3. Misconduct of a witness or other third party who participated materially in the original hearing.
4. Newly discovered evidence which could not have been discovered prior to, or at the time of, the initial hearing, through the exercise of due diligence.

5. The decision of the Special Master is contrary to the law or there is absolutely no factual support for the decision in the record.

Sec. 2-75. Notices.

(a) All notices required by this ordinance shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the Code Enforcement Officer or other law enforcement officer, code inspector, or other person designated by the City Manager; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice. Absent actual knowledge on the part of the Code Enforcement Officer that an accused violator resides in some particular location other than the address shown on the Lake County Tax Roll for the accused violator, notice sent to the address shown for the accused violator on the Lake County Tax Roll shall be presumed valid whether or not actually received, provided that notice is also published or posted in accordance with this Section.

(b) In addition to providing notice as set forth in subsection (a), notice may also be served by publication or posting, as follows:

1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the Special Master is located. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements.
2. Proof of publication shall be made as provided in §§ 50.041 and 50.051, Florida Statutes.

(c) In lieu of publication as described above, notice may be posted for at least 10 days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at City Hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(d) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail. Evidence that an attempt has been made to hand deliver or mail notice, together with proof of publication or posting, shall be sufficient to show that the notice requirements of this ordinance have been met, without regard to whether or not the alleged violator actually received such notice.

### SECTION III.

The following rules shall govern the transition of the code enforcement process from the existing Code Enforcement Board to a Special Master:

1. The initial Special Master(s) chosen under this Ordinance shall be appointed no later than the first regularly scheduled City Commission meeting held following expiration of a period of 60 days from the Effective Date of this Ordinance.

2. Once a Special Master has been appointed under this Ordinance, all pending code enforcement cases shall be dealt with by the Special Master and the Code Enforcement Board shall cease performing its duties. This shall apply to all cases, at any stage of the proceedings, including but not limited to the following:
  - A. Cases as to which the alleged code violator has been given an initial or subsequent warning notice by a Code Enforcement Officer but not a notice to appear before the Code Enforcement Board;
  - B. Cases where an alleged code violator has been given a notice to appear before the Code Enforcement Board. All such cases shall be heard before the Special Master at the date and time specified in the notice to the alleged code violator for the Code Enforcement Board meeting, and the Special Master shall have full power and authority to hear and decide those cases.
  - C. Cases which have been heard one or more times by the Code Enforcement Board but which remain open for any reason, such as but not limited to the need to assess a fine if compliance is not achieved, postponement at the request of any participant, or postponement or delay to allow time for the alleged code violator to take actions directed by the Code Enforcement Board. Regardless of the reason the cases were not disposed of fully by the Code Enforcement Board, the Special Master shall have the authority to take jurisdiction of the cases, to conduct all necessary proceedings, and to exercise all powers delegated to the Special Master by this Ordinance, just as if the cases had been initiated before a Special Master rather than the Code Enforcement Board.
  - D. Cases in which an Order of Enforcement was issued by the Code Enforcement Board but which require additional proceedings for any reason, including but not limited to requests for rehearing, petitions for reduction of fines, or proceedings subsequent to conclusion of an appellate proceeding related to the Initial Order of Enforcement.

In the process of acting on any case which was commenced before the Code Enforcement Board, the Special Master is authorized to review all written records of prior proceedings, to listen to audio tapes or review any video tapes of prior proceedings, and to take into account any evidence introduced in prior proceedings before the Code Enforcement Board.

#### SECTION IV.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

#### SECTION V.

If any portion of this ordinance is declared invalid then that portion shall be severed herefrom and the remainder of this ordinance shall continue in full force and effect as if enacted without the invalidated portion, to the extent it is possible to do so without destroying the basic intent and purpose of the ordinance.

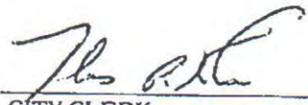
SECTION VI.

This ordinance shall become effective upon its passage and adoption according to law, provided however that the abolition of the Code Enforcement Board shall not take effect until appointment of a Special Master to hear and decide code enforcement cases has been accomplished, as set forth more particularly above.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida at its meeting held on the 28th day of October, 2002.

THE CITY OF LEESBURG, FLORIDA

BY:   
MAYOR

Attest:   
CITY CLERK



## AGENDA MEMORANDUM

**Item No:** 4.C5.  
**Meeting Date:** September 9, 2013  
**From:** Mike Thornton, Purchasing Manager, for  
William Chrisman, Chief of Police  
**Subject:** Appointment of Special Magistrate and Resolution authorizing execution of  
Agreement for providing professional services

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### **Staff Recommendation:**

Staff recommends re-appointing Kimberly A. Schulte to serve as Special Magistrate and authorizing execution of the professional services agreement to compensate for these services as required by City Ordinance.

### **Analysis:**

The Police Department would like to renew the agreement with Kimberly A. Schulte. Ms. Schulte has done an outstanding service for the Police Department for the past five years. Provided below are the expenditures for three fiscal years.

Amount spent in the last three fiscal years:

- Fiscal Year 2011 \$2,141.70
- Fiscal Year 2012 \$2,241.67
- Fiscal Year 2013 \$4,097.92 (through July)

The Police Department has been very satisfied with the level of service and professionalism provided by Ms. Schulte as Special Magistrate. The proposed fee of \$125.00 per hour is less than the prevailing hourly rate for legal counsel and has been deemed as fair and reasonable for this type of service. Magistrate Schulte's years of quality service more than qualifies her to serve as the Special Magistrate at the proposed rate.

Ms. Schulte was selected as the Special Magistrate through an Request for Proposal (RFP) process in December 2007. Ms. Schulte was the sole respondent to the RFP.

This agreement will automatically renew each year. The City has the option to terminate the agreement at any time with 30 days written notice.

### **Options:**

1. Appoint Kimberly A. Schulte as Special Magistrate and execute the professional services agreement; or
2. Such alternative action as the Commission may deem appropriate

**Fiscal Impact:**

Funds are budgeted each year for these services. Actual expenditures are dependent on the number of code enforcement cases that will require a hearing.

Submission Date and Time: 9/4/2013 2:53 PM

Department: <u>Police Department</u> Prepared by: <u>Stephanie Lay</u> Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Advertised: <input type="checkbox"/> Not Required <input checked="" type="checkbox"/> Dates: _____ Attorney Review: Yes <input type="checkbox"/> No <input type="checkbox"/> _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. <u>BLM</u> Deputy C.M. _____ Submitted by: City Manager _____	Account No. <u>001-1241-514-3410</u> Project No. _____ WF No. _____ Budget _____ Available _____
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# AGENDA MEMORANDUM

Item No: 6B.  
Meeting Date: October 24, 2016  
From: Al Minner, City Manager  
Subject: Arlington Ridge Development Agreement

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## Staff Recommendation:

Approve attached agreement.

## Analysis:

Representatives from Arlington Ridge have asked for a development agreement whereby they can commence construction of new houses prior to the final plat. This request speeds their process to build new inventory. The agreement protects the City from any construction or platting error and does not allow issuance of a CO until the final plat is approved. As a result, this is a reasonable modification and will assist the construction of new development.

Submission Date and Time: 10/19/2016 2:31 PM

Department: _____ Prepared by: _____ Attachments: Yes___ No ___ Advertised: _____ Not Required _____ Dates: _____ Attorney Review : Yes___ No ___ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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## DEVELOPMENT AGREEMENT

**THIS AGREEMENT** is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016, between **THE CITY OF LEESBURG, FLORIDA** (the "City"), and \_\_\_\_\_ (the "Developer").

### WITNESSETH:

**THAT** the Developer is developing a residential subdivision known as \_\_\_\_\_ (the "Development"), and desires to proceed with construction of a certain number of homes within the Development prior to recording of the final subdivision plat. The City has jurisdiction over the Development, and is willing to allow such construction to proceed prior to the recording of the plat, but only based on the representations of the Developer in this Agreement, and only under the terms and conditions of this Agreement.

**NOW THEREFORE**, for and in consideration of the mutual covenants and promises contained in this Agreement, the assent by the City to commencement of construction in the Development prior to the recording of the final plat, and other good and valuable considerations, the receipt and sufficiency of which are acknowledged by each party for the benefit and reliance of the other, City and Developer agree as set forth below:

**1.** Developer represents and warrants the following to the City, in order to induce the City to enter into this Agreement, and acknowledges that the City is entitled to rely on these representations and warranties:

- A. The preliminary plat of the Development has been approved;
- B. Developer has secured all permits required for the Development, from the City, and all State and Federal governments and agencies having permitting jurisdiction over the Development, including but not limited to the St. Johns River Water Management District;
- C. The construction and improvement plans for roads, water, wastewater and other utilities in the Development, and for stormwater management, have all been approved by the agencies with authority to issue such permits;
- D. Construction of all roads, water and wastewater lines, stormwater drainage and retention facilities, and other utilities such as but not limited to telephone and cable television, has been completed subject to final inspection and approval;
- E. A complete final subdivision plat has been prepared and submitted to the City for final approval, and recording;
- F. The Development is served by central water and wastewater systems which have sufficient free capacity to serve all planned homes within the Development, without expansion or new construction of additional water and wastewater facilities.

**2.** Based on these representations and warranties, and compliance by Developer with all other terms and conditions of this Agreement, the City will issue up to \_\_\_\_\_ permits for construction of single family residences in the Development, prior to the recording of the final subdivision plat. For each permit issued, Developer must submit a metes and bounds

survey of the lot on which the home is to be built, certified to the City, and containing a certification by the surveyor that the metes and bounds description corresponds exactly with the location of a specific, numbered lot on the proposed final subdivision plat. Developer shall bear sole responsibility for assuring the home built on the lot, prior to recording of the plat, is actually located within the boundaries of the lot as it is platted ultimately, and that all improvements on the lot meet the required setbacks from the actual lot line as platted.

**3.** If, after the final plat is recorded, it is determined that a home permitted prior to platting was located improperly on any lot, such that it encroaches on an adjacent lot or a platted utility easement, or it fails to meet the required setbacks, or if it turns out the metes and bounds description used to obtain the building permit does not correspond exactly with the lot as platted, the Developer shall take all actions necessary to correct the deficiencies, at its sole expense, so as to render the home and lot in full compliance with the final subdivision plat and all applicable laws, rules and regulations.

**4.** No lot in the Development may be sold or conveyed prior to the recording of the final subdivision plat. No certificate of occupancy will be issued on any home until the final plat is recorded, and all infrastructure described in Paragraph 1(D) above has received final approval.

**5.** Developer releases the City, its officers, agents, servants and employees, from any and all claims and causes of action, now existing or hereafter arising, related in any way to City's issuance of building permits prior to platting, or to the City allowing Developer to proceed with construction of single family residences prior to platting.

**6.** Developer shall indemnify the City, its officers, agents, servants and employees, against all liability, claims, and causes of action whatsoever, regardless of by whom they are filed, and against all costs and attorneys' fees incurred by the City in defense of such claims, arising out of or in any way related to City's issuance of building permits prior to recording of the final subdivision plat, or City allowing Developer to proceed with construction of single family residences prior to platting.

**7.** Developer shall indemnify the purchasers of all lots on which building permits were issued prior to recording of the final subdivision plat, their mortgagees and successors in title, and the owners of adjacent lots and their mortgagees, against any liability or damages they may incur, and for their reasonable attorneys' fees and court costs, resulting from any inconsistency between the metes and bounds description used to obtain building permits, and the boundaries of the lots as shown on the final subdivision plat, or as a result of any home permitted prior to final platting being located on a lot in such a way that it encroaches on a neighboring lot, a platted easement, or a required setback. Any parties entitled to indemnity under this Paragraph 7 shall be deemed intended third party beneficiaries as to Paragraph 7, and shall be entitled to enforce Paragraph 7 (but no other portions of this Agreement) directly against Developer, without the joinder or participation of the City.

**8.** This Agreement sets forth the entire understanding of the parties with regard to its subject matter. It supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have been extinguished, except to the extent they are specifically set forth herein. This Agreement may not be amended orally, by implication, by course of conduct, or in any other manner whatsoever than by way of a written instrument signed by both parties hereto or their lawful successors. This Agreement shall be construed in accordance with the laws of Florida and venue for any action or proceeding arising out of this Agreement shall be in Lake County, Florida, and the prevailing party shall be entitled to recover its reasonable attorneys' fees

and court costs in addition to any other relief obtained. This Agreement shall be binding on the parties hereto, as well as on their lawful successors and assigns. Each party represents for the benefit of the other that it has not entered into this Agreement in reliance on, or on the basis of, any promise, negotiation, representation, undertaking or agreement of the other party, oral or written, which is not specifically set forth within this Agreement. This Agreement shall be construed liberally in favor of the City, for the protection of the public health, safety and welfare, regardless of which party had the preeminent role in drafting it.

9. Any provision of this Agreement providing for recovery of attorneys' fees or court costs shall be enforceable at trial, on appeal, in any proceedings in bankruptcy or insolvency, and in any proceedings to collect or enforce any judgment obtained.

**IN WITNESS WHEREOF**, the parties have caused their duly authorized representatives to enter into this Agreement.

THE CITY OF LEESBURG, FLORIDA

BY: \_\_\_\_\_  
JAY HURLEY, Mayor

Attest: \_\_\_\_\_  
ANDI PURVIS, City Clerk

DATE: \_\_\_\_\_, 2016

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
CITY ATTORNEY

{DEVELOPER NAME}

\_\_\_\_\_  
\_\_\_\_\_  
(Type or print name of witness)

BY: \_\_\_\_\_  
\_\_\_\_\_  
Type or print name and corporate title

\_\_\_\_\_  
\_\_\_\_\_  
(Type or print name of witness)

DATE: \_\_\_\_\_, 2016



# AGENDA MEMORANDUM

**Item No:** 6C.

**Meeting Date:** October 24, 2016

**From:** Mike Thornton, Purchasing Manager for  
DC Maudlin, Public Works Director

**Subject:** Award of Request for Proposal 160412 and approval of a resolution authorizing execution of a Design-Build Services Agreement

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## **Staff Recommendation:**

Staff recommends approval of the final ranking and award of Request for Proposal (RFP) 160412 and approval of the resolution authorizing execution of the Design-Build Services Agreement with Marbek Construction Co. for an amount not to exceed \$520,000.00.

## **Analysis:**

At the September 26, 2016 City Commission meeting staff presented a recommendation to award a design-build contract to Marbek Construction Company which included a conceptual design and cost estimate of \$489,000 for the Rogers Park pavilion. The Commission rejected the conceptual design and tabled the item. The original staff report is attached for reference and will not be restated here. Commission comments regarding the design were:

- a. Design needs more glass in the meeting room area,
- b. Brick/stucco façade is too traditional, needs more of a "water front" feel,
- c. Parking lot side of the building is too plain, needs sprucing up,
- d. Rectangular foot print is too boxy, create some relief.

Staff held several meetings with the Contractor and presents the attached revised conceptual design for consideration.

## **Options:**

1. Approve award of the RFP, approve the revised conceptual design and approve execution of the Agreement with Marbek Construction for an amount not to exceed \$520,000.00, or
2. Such alternative action as the Commission may deem appropriate

## **Fiscal Impact:**

This project was funded in Fiscal Year 2016 the amount available is \$430,000.00, these funds will be requested to roll into the current budget. This contract and additional re-design services of \$4,000 will require an additional \$94,000.00. These funds are available in the General Fund by utilizing remaining restricted FDOT Pond maintenance funds that were given to the City in 2005. These funds are available to be used on other projects as the maintenance is incorporated into the City's operating budget.

Submission Date and Time: 10/19/2016 2:31 PM

Department: <u>Public Works</u> Prepared by: <u>Mike Thornton</u> Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Advertised: <input checked="" type="checkbox"/> Not Required <input type="checkbox"/> Dates: <u>June 26, 2016</u> Attorney Review : Yes <input type="checkbox"/> No <input type="checkbox"/>  <u>Revised 6/10/04</u>	Reviewed by: Dept. Head <u>DCM</u>  Finance Dept. _____  Deputy C.M. _____ Submitted by: City Manager _____	Account No. <u>031-5193-519.62-10</u>  Project No. <u>310051</u>  WF No. <u>WF0997814 / 001</u>  Req. No. <u>48461</u>  Budget <u>\$451,000.00</u>  Available <u>\$430,275.26</u>
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RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DESIGN-BUILD AGREEMENT WITH MARBEK CONSTRUCTION FOR THE ROGERS PARK PAVILION FOR AN AMOUNT NOT TO EXCEED \$520,000.00; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

**THAT** the Mayor and City Clerk are hereby authorized to execute a Design-Build Services Agreement with MARBEK CONSTRUCTION CO. whose address is 614 E. Hwy 50, Suite 324, Clermont, Florida 34711 (email: rick@marbeckconstruction.com) for the Rogers Park Pavilion Design-Build pursuant to Request for Proposal 160412.

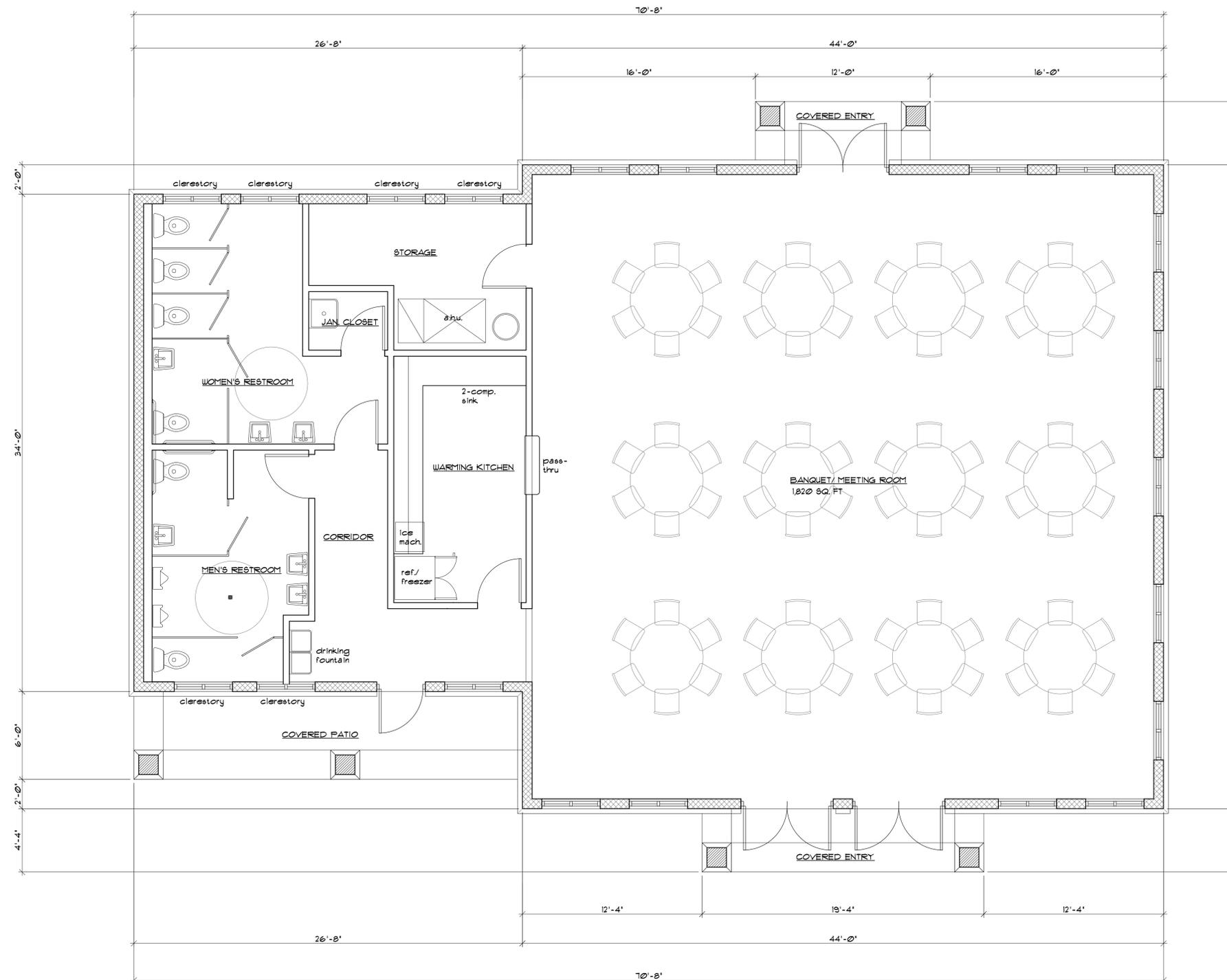
**THAT** this resolution shall become effective immediately.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 24th day of October 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**AREA CALCULATIONS**

CONDITIONED AREA	=	2,843 SQ. FT.
COVERED PATIO	=	160 SQ. FT.
COVERED ENTRIES	=	134 SQ. FT.
<b>TOTAL AREA UNDER ROOF</b>	<b>=</b>	<b>3,137 SQ. FT.</b>

**FLOOR PLAN**  
 SCALE: 1/4"=1'-0"



REVISIONS	NO.	DATE
	1	10-12-2016
	2	
	3	
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	5	
	6	
	7	
	8	

PROJECT NO. 172CE600-01	DATE 9-19-2016
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**PRELIMINARY FLOOR PLAN**

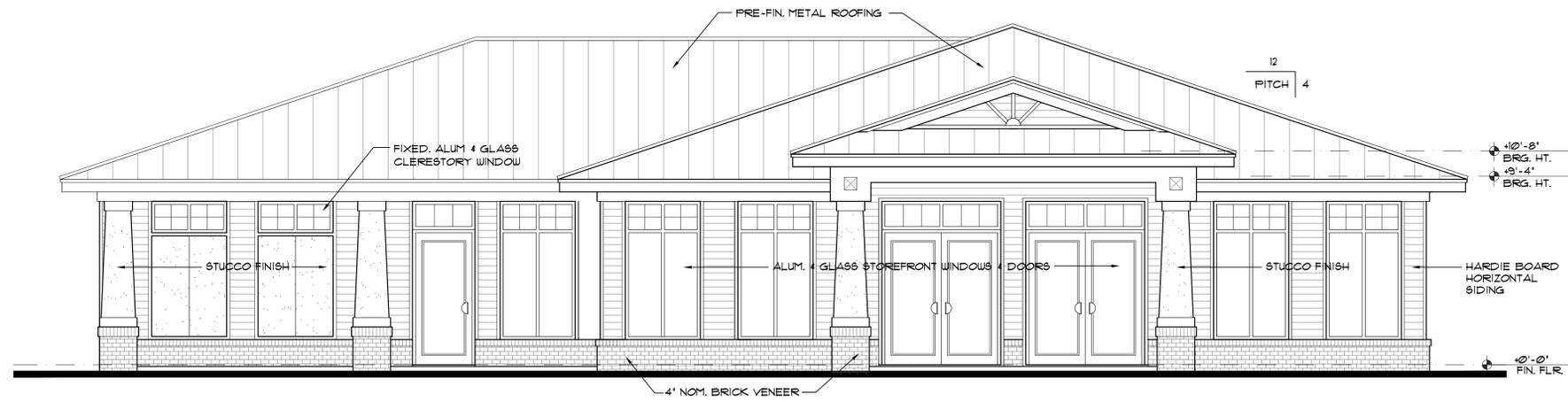
**ROGERS PAVILION**  
 DEVELOPMENT CONCEPT  
 FOR:  
**CITY OF LEESBURG**  
 LEESBURG, FLORIDA

**RABITS & ROMANO ARCHITECTURE**  
 PLANNING AND DESIGN  
 5127 SOUTH ORANGE AVE., SUITE 110 ORLANDO, FL 32809  
 TEL: 407-490-0350  
 FAX: 407-232-6000  
 info@rabits-architect.com  
 www.rabits-architect.com  
 AA26002490

SIGN/SEAL

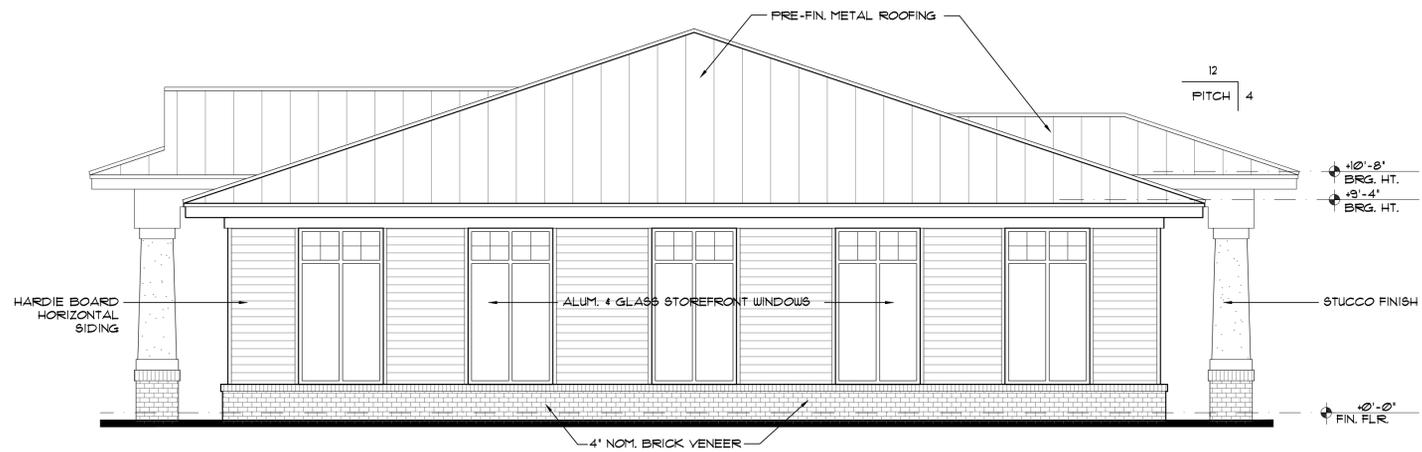
DATE

SHEET  
 A01  
 OF  
 3



FRONT (EAST) ELEVATION

SCALE: 1/4"=1'-0"



RIGHT SIDE (NORTH) ELEVATION

SCALE: 1/4"=1'-0"

REVISIONS	NO.	DATE
1	10-12-2016	
2		
3		
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8		

PROJECT NO.	DATE
172CE600-01	9-19-2016

ELEVATIONS

ROGERS PAVILION  
DEVELOPMENT CONCEPT  
FOR:  
CITY OF LEESBURG  
LEEBSBURG, FLORIDA

AA26002490

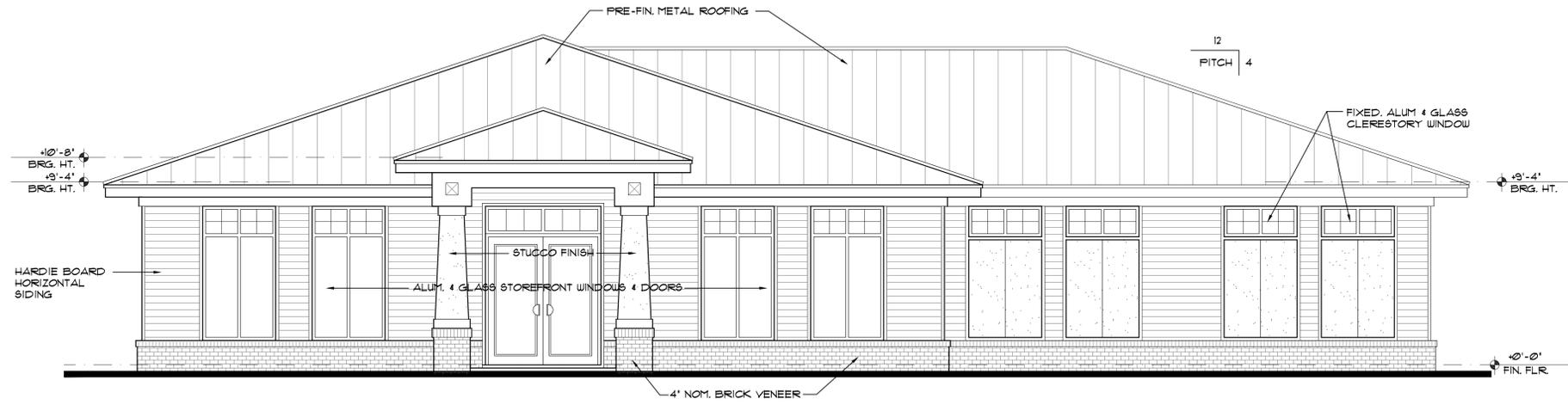
**RABITS & ROMANO**  
ARCHITECTURE  
PLANNING  
AND  
DESIGN

5127 SOUTH ORANGE AVE.  
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TEL: 407-490-0350  
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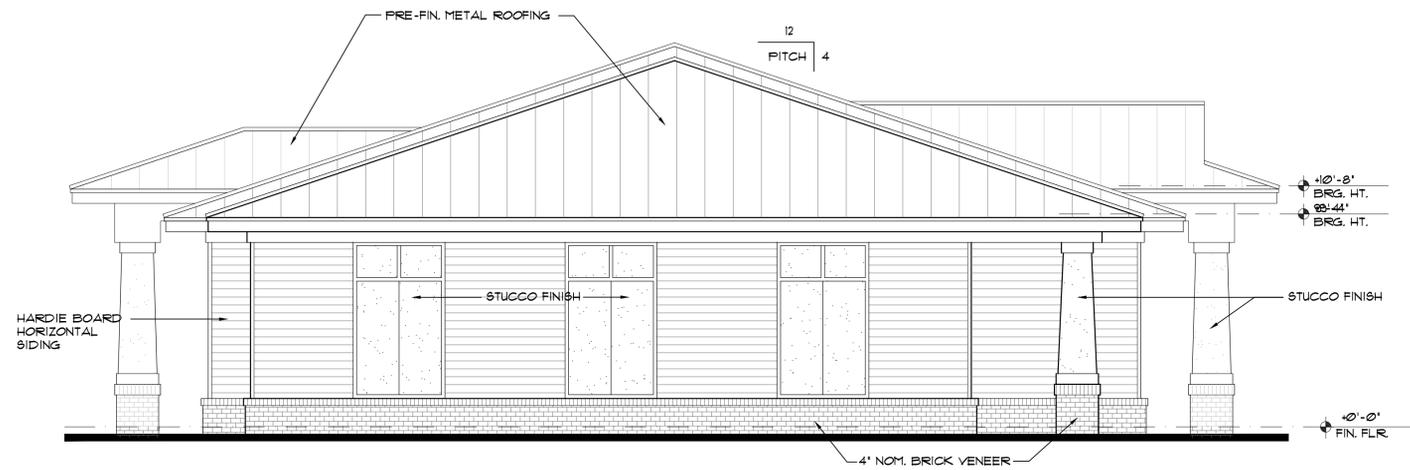
SIGN/SEAL

DATE

SHEET  
A02  
OF  
3



**REAR (WEST) ELEVATION**  
SCALE: 1/4"=1'-0"



**LEFT SIDE (SOUTH) ELEVATION**  
SCALE: 1/4"=1'-0"

REVISIONS	NO.	DATE
1	10-12-2016	
2		
3		
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5		
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8		

PROJECT NO.	DATE
172CE609-01	9-19-2016

ELEVATIONS

**ROGERS PAVILION**  
DEVELOPMENT CONCEPT  
FOR:  
**CITY OF LEESBURG**  
LEESEBURG, FLORIDA

AA26002490

**RABITS & ROMANO**  
**ARCHITECTURE**  
PLANNING  
AND  
DESIGN

5127 SOUTH ORANGE AVE.  
SUITE 110 ORLANDO, FL 32809  
TEL: 407-490-0350  
FAX: 407-232-6000  
info@rabits-architect.com  
www.rabits-architect.com

SIGN/SEAL
DATE
SHEET A02.1 OF 3



## AGENDA MEMORANDUM

**Item No:** 6F.

**Meeting Date:** September 26, 2016

**From:** Mike Thornton, Purchasing Manager  
DC Maudlin, Public Works Director

**Subject:** Award of Request for Proposal 160412 and approval of a resolution authorizing execution of a Design-Build Services Agreement.

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**Staff Recommendation:**

Staff recommends approval of the final ranking and award of Request for Proposal (RFP) 160412 and approval of the resolution authorizing execution of the Design-Build Services Agreement with Marbek Construction for an amount not to exceed \$489,000.00.

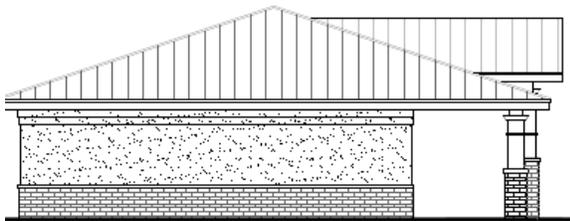
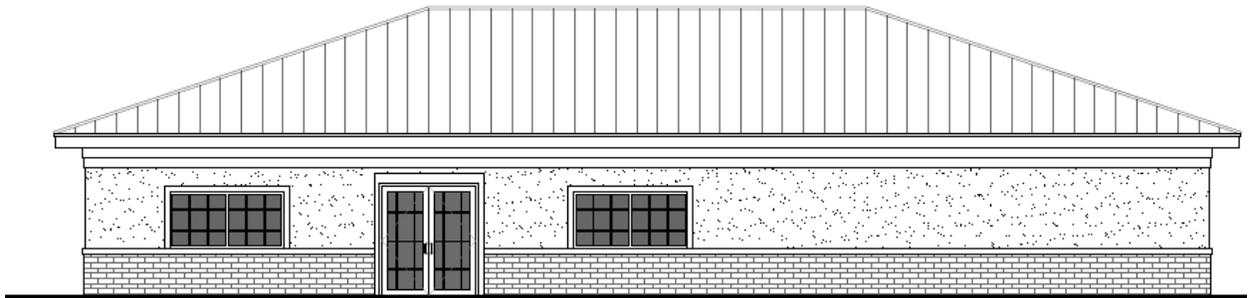
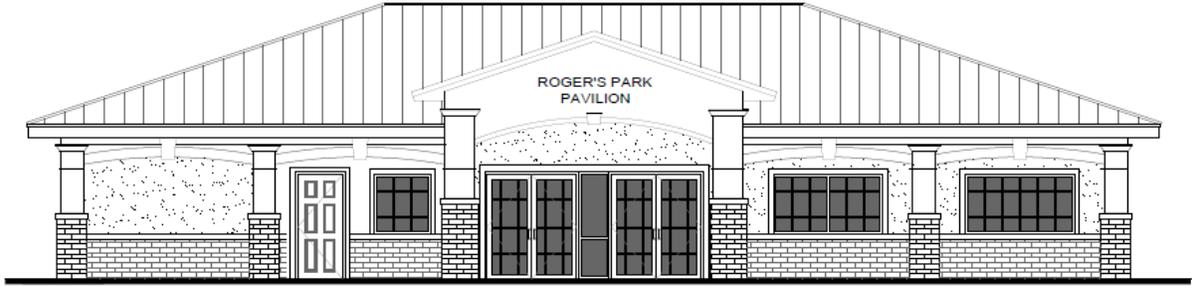
**Analysis:**

The purpose of this project is to design and build a pavilion and restroom facility at Rogers Park. This facility will replace the restroom and pavilion removed during the Rogers Park demolition project. The Pavilion will provide an indoor, air conditioned space for meetings, parties, and other uses. The pavilion will include a small kitchen area. The restroom portion of the facility will serve both the pavilion and the splash pad.

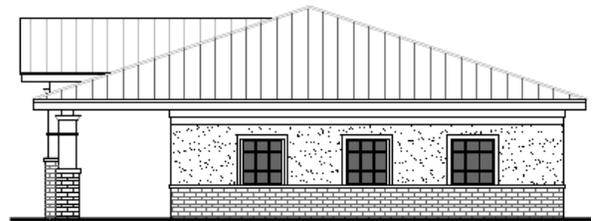
The City issued a Minimum Design Criteria Package (Package) as required by Florida Statute for design-build projects/solicitations. The Package provided the City's desirable features, simple schematic architectural drawings, and elevations. The purpose of the Package is to provide a 'starting point' for the responding companies.

Following the final ranking of respondents, Public Works had several meetings with the top ranked company, Marbek Construction. The meetings were used to discuss the design as well as features and materials to be used in the building. The goal was to arrive at a final design and a guaranteed maximum price. The elevation and floor plans are shown below.

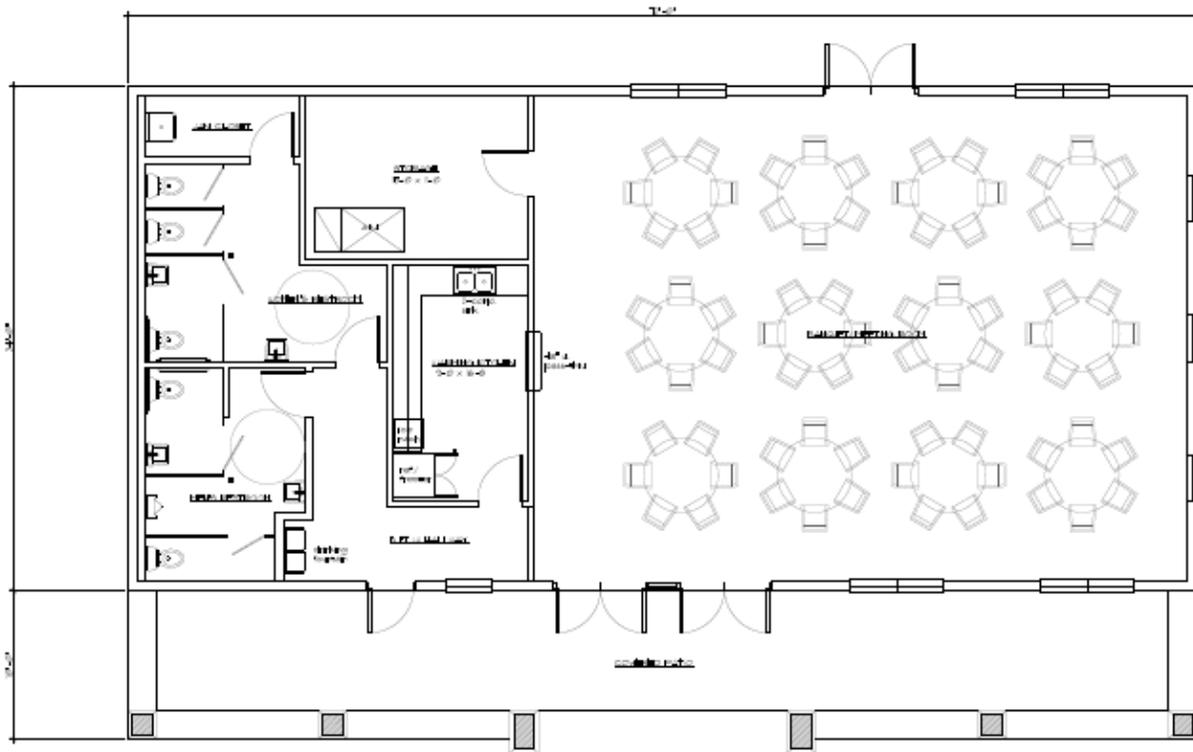
Revisions to the Package included: increase the depth of the porch by 2-feet providing more covered outdoor space overlooking the splash pad; reduce the size of the restrooms; reduce the overall size of the facility. The warming kitchen was moved from the north end to the center of the building to consolidate plumbing connections.



LEFT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



RIGHT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



**Procurement Analysis:**

On June 27, 2016 the Purchasing Division issued Request for Proposal 160412 requesting proposals from interested and qualified design-build companies for the City's Rogers Park Pavilion Project. Purchasing advertised the opportunity in the Orlando Sentinel, posted to Public Purchase, and directly notified by e-mail 28 companies, 8 are local companies.

On July 28, 2016 the City received 4 responses. One of the responses was not submitted in the correct format or with the required information. That submittal was deemed non-responsive and eliminated from consideration.

The evaluation committee reviewed the 3 responsive proposals in accordance with the solicitation document. The results of the evaluation and final ranking are stated here. The detailed evaluation scoring is attached for your review.

**Rank Company Name**

- 1 Marbek Construction Co. – Clermont, Florida
- 2 Charles Perry Partners, Inc. (CPPI) – Gainesville, Florida
- 3 S.A. Casey Construction – Orlando, Florida

**Options:**

- 1. Approve award of the RFP and approve execution of the Agreement with Marbek Const. Co.; or
- 2. Such alternative action as the Commission may deem appropriate.

**Fiscal Impact:**

The FY 2016 CIP includes \$430,000 for construction of the Pavilion. Additional funding, in the amount of \$59,000 is required.

**Submission Date and Time:** 10/18/2016 4:12 PM

Department: <u>Public Works</u> Prepared by: <u>Mike Thornton</u> Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Advertised: <input type="checkbox"/> Not Required <input checked="" type="checkbox"/> Dates: <u>June 26, 2016</u> Attorney Review : Yes <input type="checkbox"/> No <input type="checkbox"/>  <u>Revised 6/10/04</u>	Reviewed by: Dept. Head <u>dcm</u>  Finance Dept. _____  Deputy C.M. _____ Submitted by: City Manager _____	Account No. <u>031-5193-519.62-10</u>  Project No. <u>310051</u>  WF No. <u>WF0997814 / 001</u>  Req. No. <u>48461</u>  Budget <u>\$420,000.00</u>  Available <u>\$430,275.26</u>
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## Purchasing Division

204 N. 5<sup>th</sup> Street | P.O. Box 490630 | Leesburg, FL 34749-0630  
Ofc (352) 728-9880 | e-mail [purch@leesburgflorida.gov](mailto:purch@leesburgflorida.gov)

### **\*\* NOTIFICATION OF FINAL RANKING \*\***

Date: **August 10, 2016**  
Solicitation No. & Title: **160412 – Rogers Park Pavilion**  
Buyer: **Mike Thornton Purchasing Manager**

The City of Leesburg Evaluation Committee for the above subject Request for Proposal (RFP) has completed their evaluation of the submissions and have arrived at a consensus on the final ranking of firms responding to RFP 160412. The final ranking is as follows:

<b>Ranking</b>	<b>Firm Name</b>
1	Marbek Construction, Inc. – Clermont, Florida
2	Charles Perry Partners, Inc. (CPPI) – Gainesville, Florida
2	S.A. Casey Construction, Inc. – Orlando, Florida

The evaluation committee evaluated the submissions in accordance with the evaluation elements (criteria) detailed in the RFP. The results of the evaluations are reflected above. The detailed evaluation sheets are attached for your review.

The committee has directed the Purchasing Division to initiate negotiations with the top ranked firm for establishing a contract for the subject services.

All information and documentation related to this Request for Proposal will be available in accordance with Florida Statue 119.071(1)(b)2.

Should you have any questions regarding this notice, please contact me at (352)728-9880. The City appreciates the time and effort of all parties responding to this solicitation.

Respectfully,

Mike Thornton, CPPPO  
Purchasing Manager

attachments

**"Consensus" Summary of Rankings**  
**RFP 160412 - Rogers Park Pavilion Design-Build**

Vendor Name	OVERALL TOTALS			Evaluator 1		Evaluator 2		Evaluator 3	
	Rank	Total Ord.	Points	Score	Rank	Score	Rank	Score	Rank
CHARLES PERRY PARTNERS, INC. (CPPI)	2	6	1672	600	3	492	1	580	2
<b>MARBK CONSTRUCTION</b>	1	5	1722	675	1	447	3	600	1
S.A. CASEY CONSTRUCTION, INC.	3	7	1576	605	2	481	2	490	3

**DETAILED EVALUATOR SCORING**  
**RFP 160412 - Rogers Park Pavilion Design-Build**

	Weight	Evaluator 1		Evaluator 2		Evaluator 3	
		Score	Points	Score	Points	Score	Points
<b>CHARLES PERRY PARTNERS, INC. (CPPI)</b>		<b>600</b>		<b>492</b>		<b>580</b>	
Project Discussion/Construction Method/Design	40	2.00	80	4.00	160	4.00	160
Qualifications & Experience	35	5.00	175	2.90	102	4.00	140
Project Schedule	35	5.00	175	1.90	67	2.00	70
City Forms/Detailed Pricing - <b>\$449,999.00</b>	40	3.00	120	3.10	124	4.00	160
Overall Impression of the Respondent/Proposal	10	5.00	50	4.00	40	5.00	50
Local Vendor Preference (5, 2 or 0 points)			0		0		0
<b>MARBEC CONSTRUCTION</b>		<b>675</b>		<b>447</b>		<b>600</b>	
Project Discussion/Construction Method/Design	40	5.00	200	3.00	120	3.00	120
Qualifications & Experience	35	4.00	140	2.90	102	3.00	105
Project Schedule	35	5.00	175	2.50	88	5.00	175
City Forms/Detailed Pricing - <b>\$532,800.00</b>	40	3.00	120	2.70	108	4.00	160
Overall Impression of the Respondent/Proposal	10	4.00	40	3.00	30	4.00	40
Local Vendor Preference (5, 2 or 0 points)			0		0		0
<b>S.A. CASEY CONSTRUCTION, INC.</b>		<b>605</b>		<b>481</b>		<b>490</b>	
Project Discussion/Construction Method/Design	40	3.00	120	3.50	140	3.00	120
Qualifications & Experience	35	3.00	105	3.10	109	3.00	105
Project Schedule	35	4.00	140	2.20	77	3.00	105
City Forms/Detailed Pricing - <b>\$456,457.58</b>	40	5.00	200	3.00	120	3.00	120
Overall Impression of the Respondent/Proposal	10	4.00	40	3.50	35	4.00	40
Local Vendor Preference (5, 2 or 0 points)			0		0		0

**AGREEMENT FOR DESIGN-BUILD  
CONSTRUCTION SERVICES**

**THIS AGREEMENT** is made as of the 24th day of October in the year 2016, between The City of Leesburg, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **MARBECK CONSTRUCTION CO.** whose address is 614 E. Hwy 50, Ste. 324, Clermont, Florida 34711 (hereinafter referred to as the "CONTRACTOR").

**WHEREAS**, the CITY issued Request for Proposal (RFP) 160412 soliciting interested and qualified parties to submit a design-build proposal to provide design-build services for the Rogers Park Pavilion project (hereinafter referred to as the "Project").

**WHEREAS**, the CITY received three (3) responses to the RFP. Each of the responses were evaluated in accordance with evaluation method detailed in the RFO document.

**WHEREAS**, the CITY and CONTRACTOR have met and negotiated the final design and CONTRACTOR has provided a not to exceed amount of **\$520,000.00** for the design and construction of the Project.

**WHEREAS**, costs savings may be identified and realized by the CITY once the CONTRACTOR has completed the design and provided Construction Plans.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the parties agree as follows:

1. **Contract Documents.** The Contract Documents consist of:
  - a. This Agreement,
  - b. Request for Proposal 160412 in its entirety,
  - c. The CONTRACTOR's response to RFP 160412,
  - d. The CONTRACTOR's Final Design as approved by the Leesburg City Commission on October 18, 2016, and
  - e. Project Schedule – To be mutually agreed to no later than fifteen (15) days following approval of this Agreement.
  
2. **Design-Build Services and Responsibilities.** The CONTRACTOR shall furnish Design-Build Construction Services for the City's Rogers Park Pavilion as described in the Contract Documents. Nothing herein shall limit the CITY'S right to obtain bids or proposals for services from other contractors for same or similar work.

- a. **General Services.**
- i. CONTRACTOR's Representative shall be reasonably available to CITY and shall have the necessary expertise and experience required to supervise the Work. CONTRACTOR's Representative shall communicate regularly with CITY and shall be vested with the authority to act on behalf of CONTRACTOR. CONTRACTOR's Representative may be replaced only with the mutual agreement of CITY and CONTRACTOR.
  - ii. CONTRACTOR shall provide CITY with a monthly status report detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) health and safety issues exist in connection with the Work, and (iv) other items require resolution so as not to jeopardize CONTRACTOR's ability to complete the Work for the Contract Price and within the Contract Time(s).
  - iii. CONTRACTOR shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for CITY's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when CITY information and approvals are required to enable CONTRACTOR to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve CONTRACTOR of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. CITY's review of and response to the schedule shall not be construed as relieving CONTRACTOR of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.
  - iv. The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.
- b. **Design Professional Services.** CONTRACTOR shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by CONTRACTOR, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit CONTRACTOR to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between CITY and any Design Consultant.
- c. **Standard of Care for Design Professional Services.** The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the parties agree upon specific performance standards for any aspect of the Work, which standards are to be set forth in an exhibit to the Agreement entitled "Performance Standard Requirements," the design professional services shall be performed to achieve such standards.
- d. **Design Development Services.** CONTRACTOR and CITY shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that CITY may wish to review, which interim design

submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. On or about the time of the scheduled submissions, CONTRACTOR and CITY shall meet and confer about the submissions, with CONTRACTOR identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or, if applicable, previously submitted design submissions. Minutes of the meetings will be maintained by CONTRACTOR and provided to all attendees for review. Following the design review meeting, CITY shall review and approve the interim design submissions in a time that is consistent with the turnaround times set forth in CONTRACTOR's schedule.

- i. CONTRACTOR shall submit to CITY Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting. The parties shall have a design review meeting to discuss, and CITY shall review and approve, the Construction Documents in accordance with the procedures set forth Section 2.4.1 above. CONTRACTOR shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to CITY prior to commencement of construction.
- ii. CITY's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither CITY's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability from CONTRACTOR to CITY.
- iii. To the extent not prohibited by the Contract Documents or Legal Requirements, CONTRACTOR may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

e. **Legal Requirements.**

- i. CONTRACTOR shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.
- ii. The Contract Price and/or Contract Time(s) may be adjusted to compensate CONTRACTOR for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include revisions CONTRACTOR is required to make to the Construction Documents because of changes in Legal Requirements.

f. **Government Approvals and Permits.** CONTRACTOR shall provide reasonable assistance to CITY in obtaining those permits, approvals and licenses that are CITY's responsibility.

g. **Construction Phase Services**

- i. Unless otherwise provided in the Contract Documents to be the responsibility of CITY C or a separate contractor, CONTRACTOR shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary

utilities and other temporary facilities to permit CONTRACTOR to complete construction of the Project consistent with the Contract Documents.

- ii. CONTRACTOR shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. CONTRACTOR shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.
- iii. CONTRACTOR shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. CITY may reasonably object to CONTRACTOR's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that CITY's decision impacts CONTRACTOR's cost and/or time of performance.
- iv. CONTRACTOR assumes responsibility to CITY for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between CITY and any Subcontractor or Sub-Subcontractor including but not limited to any third-party beneficiary rights.
- v. CONTRACTOR shall coordinate the activities of all Subcontractors. If CITY performs other work on the Project or at the Site with separate contractors under CITY's control, CONTRACTOR agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.
- vi. CONTRACTOR shall keep the Site reasonably free from debris, trash and construction wastes to permit CONTRACTOR to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, CONTRACTOR shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit CITY to occupy the Project or a portion of the Project for its intended use.

**h. Responsibility for Project Safety**

- i. CONTRACTOR recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. CONTRACTOR assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. CONTRACTOR shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, CONTRACTOR's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with CONTRACTOR's personnel, Subcontractors and others as applicable.
- ii. CONTRACTOR and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any CITY-specific safety requirements set forth in the Contract Documents, provided that such CITY-

specific requirements do not violate any applicable Legal Requirement. CONTRACTOR will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to CITY's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

iii. CONTRACTOR's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work

i. **Contractors Warranty**

i. CONTRACTOR warrants to CITY that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. CONTRACTOR's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than CONTRACTOR or anyone for whose acts CONTRACTOR may be liable. Nothing in this warranty is intended to limit any manufacturer's warranty which provides CITY with greater warranty rights than set forth in the Contract Documents. CONTRACTOR will provide CITY with all manufacturers' warranties upon Final Completion.

3. **Total Construction Cost.** The CONTRACTOR shall perform the Scope of Services for a total price not to exceed **\$520,000.00**. The cost of these services shall not exceed this amount unless the CITY has executed a written change order approving any increase in price.

a. **Schedule of Values.** Following completion of design and permitting but prior to start of construction the CONTRACTOR shall provide a schedule of values to facilitate determination of work completed and approval of payment applications.

4. **Labor and Materials.** The CONTRACTOR shall furnish all labor, material and equipment necessary for satisfactory contract performance. When not specifically identified in the technical specifications, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval of the CITY's representative.

5. **Time for Completion.** Time is of the essence on this Project. CONTRACTOR and CITY shall work diligently to complete the design and permitting process. No later than fifteen (15) calendar days following execution of this Agreement the CITY and CONTRACTOR shall develop a mutually agreeable Project Schedule. Said schedule shall be set in writing and upon acknowledgement by both parties shall become part of the Contract Documents.

6. **Term of Agreement.** This Agreement shall commence upon the date of execution and shall remain in effect until such time as the contracted services have been completed, and accepted by the CITY's authorized representative, unless earlier terminated in accordance with its provisions.

7. **Commencement and Completion.** The CITY and the CONTRACTOR mutually agree time is of the essence with respect to the dates and times set forth in the Agreement Documents. To that end, the CONTRACTOR will commence work not later than **Thirty (30)** continuous calendar days after CITY issues a Notice to Proceed, and will diligently and continuously prosecute the work at such a rate, and with sufficient forces as will allow the CONTRACTOR to achieve Final Completion no later **One Hundred-Eighty (180)** continuous calendar days after CITY issues a Notice to Proceed, subject only to any adjustments in the contract time that may be authorized by change orders properly issued in accordance with the Agreement Documents. In executing this Agreement, CONTRACTOR affirms the time set for completion is reasonable.

8. **Termination for Default.** If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Agreement, other than for the instances listed below due to "Force Majeure," the CITY shall thereupon have the right to terminate this Agreement by providing a written notice (show cause notice) to the CONTRACTOR requiring a written response due within FIVE (5) calendar days from receipt of the written notice as to why the Agreement should not be terminated for default. The CITY's show cause notice shall include an Agreement termination date at least SEVEN (7) calendar days subsequent to the due date for the CONTRACTOR's response. Should the CONTRACTOR fail to respond to such show cause notice, or if the CITY determines that the reasons provided by the CONTRACTOR for failure of the CONTRACTOR to fulfill its contractual obligations do not justify continuation of the contractual relationship, the Agreement shall be considered to have been terminated for default on the date indicated in the show cause notice. Should the CITY determine that the CONTRACTOR provided adequate justification that a termination for default is not appropriate under the circumstances; the CITY shall have a unilateral option to either continue the Agreement according to the original contract provisions or to terminate the contract for convenience. In the event that the CITY terminates the contract for default, all finished or unfinished deliverable items under this contract prepared by the CONTRACTOR shall, at the option of the CITY, become CITY property, and the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding this compensation, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this Agreement, and the CITY may withhold any payment due the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the CITY from such breach can be determined.

In case of default by the CONTRACTOR, the CITY may procure the services from other sources and hold the CONTRACTOR responsible for any excess cost occasioned thereby. The CITY reserves the right to require a performance bond or other acceptable alternative performance guarantees from the successor CONTRACTOR without expense to the CITY.

In addition, in the event of default by the CONTRACTOR under this Agreement, the CITY may immediately cease doing business with the CONTRACTOR, immediately terminate for cause all existing Agreements the CITY has with the CONTRACTOR, and debar the CONTRACTOR from doing future business with the CITY.

Upon the CONTRACTOR filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the CONTRACTOR, the CITY may immediately terminate, for cause,

this Agreement and all other existing agreements the CONTRACTOR has with the CITY, and debar the CONTRACTOR from doing future business with the CITY.

The CITY may terminate this Agreement for cause without penalty or further obligation at any time following Agreement execution, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the CITY is at any time while the Agreement or any extension thereof is in effect, an employee or agent of any other party to the Agreement in any capacity or consultant to any other party of the Agreement with respect to the subject matter of the Agreement. Additionally, the CITY may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the CITY from any other party to the Agreement.

9. **Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Should there be such an occurrence that impacts the ability of either party to perform their responsibilities under this contract, the nonperforming party shall give immediate written notice to the other party to explain the cause and probable duration of any such nonperformance.

10. **Termination for Convenience.** The CITY may terminate this Agreement at any time without cause by providing the CONTRACTOR with FIFTEEN (15) calendar days advance notice in writing. In the event of termination for convenience, all finished or unfinished deliverable items prepared by the CONTRACTOR under this Agreement shall, at the option of the CITY, become the CITY's property. If the Agreement is terminated for convenience by the CITY as provided herein, the CONTRACTOR shall be paid for services satisfactorily completed, less payment or compensation previously made. The CONTRACTOR shall not incur any additional expenses after receiving the written termination notice.

11. **Guaranty of Faithful Performance and Payment - Performance and Payment Bonds,** written by a Surety firm satisfactory to the City of Leesburg on forms acceptable to the CITY which comply with Section 255.05(1), Florida Statutes, will be required of the successful Bidder to guarantee that he will deliver a complete project under task orders issued under this Agreement in strict accordance with the Agreement Documents and that he will pay promptly all persons supplying him with labor or materials for the work.

The Performance and Payment Bonds will be equal to 110% of the Agreement amount for Services. The cost of the bonds shall be borne by the CONTRACTOR.

The bonds shall be written by a qualified Surety firm and through a reputable and responsible surety bond agency licensed to do business in the State of Florida and Lake County and meet the following requirements:

The Surety must be rated as "A" or better as to strength by Best's Insurance Guide, published by Alfred M. Best Company, Inc., 75 Fulton Street, New York, New York.

Bonding Limit - Any One Risk: The Bonding Limit of the Surety shall not exceed ten (10) percent of the policy-holders surplus (capital and surplus) as listed by the aforementioned Best's Insurance Guide. The completed Bonds shall be executed in four (4) counterparts and delivered to the City of Leesburg with the required Power-of-Authority and executed Agreement.

12. **Insurance.** The CONTRACTOR will maintain throughout this Agreement the following insurance: **SEE ATTACHMENT "A"**.

- a. The original of each such policy of insurance, or a complete duplicate, shall be delivered to the CITY by CONTRACTOR prior to starting work, together with evidence that the premiums have been paid.
- b. All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least "A."
- c. The CONTRACTOR shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractors' work.
- d. The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.
- e. The required insurance shall not limit the liability of the CONTRACTOR. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the CONTRACTOR'S interests or liabilities, but are merely required minimums.
- f. All liability insurance, except professional liability, shall be written on an occurrence basis.
- g. The CONTRACTOR waives its right of recovery against the CITY to the extent permitted by its insurance policies.
- h. Insurance required of the CONTRACTOR, or any other insurance of the CONTRACTOR shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims, which arise out of the agreement, contract or lease.
- i. Except for works' compensation and professional liability, the CONTRACTOR'S insurance policies shall be endorsed to name the CITY OF LEESBURG as additional insured to the extent of the agreement, contract or lease.
- j. The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows:  
**City of Leesburg**  
**Attention: Mike Thornton, Purchasing Manager**  
**P.O. Box 490630**  
**Leesburg, Florida 34749-0630**
- k. The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.
- l. The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.

- m. The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.
- n. The CONTRACTOR, at the discretion of the Risk Manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the CONTRACTOR'S liability coverage(s).

13. **Indemnification.** The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and CONTRACTOR shall indemnify CITY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONTRACTOR under this Agreement; or the negligence of the CONTRACTOR in the performance of its duties under this Agreement, or any act or omission on the part of the CONTRACTOR, his agents, employees, or servants. CONTRACTOR shall defend, indemnify, and save harmless the CITY or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR'S duties under this Agreement, or through the negligence of the CONTRACTOR in the performance of its duties under this Agreement, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants.

If however, this Agreement is a "construction contract" as defined in and encompassed by the provision of Florida Statutes § 725.06, then the following shall apply in place of the aforementioned indemnification provision:

The CONTRACTOR shall indemnify the CITY and hold it, its officers, and its employees harmless from liabilities, losses, and costs, including, but not limited to, reasonable attorney's fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The liability of the CONTRACTOR shall, however, be limited to one million and 00/100 dollars (\$1,000,000.00) per occurrence, and the obligation of the CONTRACTOR to indemnify the CITY shall be limited to acts, omissions, or defaults of the CONTRACTOR; any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services or materials in connection with the project; and the CITY, its officers, agents and employees, provided however that the CONTRACTOR shall not be obligated to indemnify the CITY against losses arising from the gross negligence, or willful, wanton, or intentional misconduct of the CITY, its officers, agents and employees, or against statutory violations or punitive damages except to the extent caused by or resulting from the acts or omissions of the CONTRACTOR, or any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services, or materials in connection with this Agreement.

14. **Codes, Laws, and Regulations.** CONTRACTOR will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

15. **Permits, Licenses, and Fees.** CONTRACTOR will obtain and pay for all permits and licenses required by law that are associated with the CONTRACTOR'S performance of the Scope of Services. All permits and licenses required by law or requirements of the Request for Proposal will remain in force for the full duration of this Agreement and any extensions.

16. **Public Records Retention.** CONTRACTOR shall keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the services being provided by CONTRACTOR herein. CONTRACTOR shall 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. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law. CONTRACTOR shall meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR upon termination of this Agreement 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 by CONTRACTOR in a format that is compatible with the information technology systems of the CITY.

17. **Access to Records.** The services provided under this Agreement may be funded in part by a grant from a government agency other than the CITY. As a requirement of grant funding CONTRACTOR shall make records related to this project available for examination to any local, state or federal government agency, or department, during CONTRACTOR'S normal business hours. Said records will be maintained for a period of five (5) years after the date of the invoice.

18. **Contingent Fees Prohibited.** The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

19. **Acceptance of Goods or Services.** The goods delivered as a result of an award from this solicitation shall remain the property of the CONTRACTOR, and services rendered under the Agreement will not be deemed complete, until a physical inspection and actual usage of the product(s) and/or service(s) is (are) accepted by the CITY and shall be in compliance with the terms herein, fully in accord with the specifications and of the highest quality.

Any goods and/or services purchased as a result of this solicitation and/or Agreement may be tested and/or inspected for compliance with specifications. In the event that any aspect of the goods or services provided is found to be defective or does not conform to the specifications, the CITY reserves the right to terminate the solicitation or initiate corrective action on the part of the CONTRACTOR, to include return of any non-compliant goods to the CONTRACTOR at the

CONTRACTOR's expense, requiring the CONTRACTOR to either provide a direct replacement for the item, or a full credit for the returned item. The CONTRACTOR shall not assess any additional charge(s) for any conforming action taken by the CITY under this clause. The CITY will not be responsible to pay for any product or service that does not conform to the contract specifications.

In addition, any defective product or service or any product or service not delivered or performed by the date specified in the purchase order or contract, may be procured by the CITY on the open market, and any increase in cost may be charged against the awarded contractor. Any cost incurred by the CITY in any re-procurement plus any increased product or service cost shall be withheld from any monies owed to the CONTRACTOR by the CITY for any contract or financial obligation.

This project will be inspected by an authorized representative of the CITY. This inspection shall be performed to determine acceptance of work, appropriate invoicing, and warranty conditions.

20. **Ownership of Documents.** All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the CONTRACTOR (or by such sub-consultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the CONTRACTOR shall in no way be liable or legally responsible to anyone for the CITY'S use of any such materials for another PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the CONTRACTOR.

21. **Independent Contractor.** The CONTRACTOR agrees that he or she is an independent contractor and not an agent, joint venture, or employee of the CITY, and nothing in this Agreement shall be construed to be inconsistent with this relationship or status. None of the benefits provided by the CITY to its employees, including but not limited to, workers' compensation insurance, unemployment insurance, or retirement benefits, are available from the CITY to the CONTRACTOR. CONTRACTOR will be responsible for paying his own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this Agreement. The CONTRACTOR shall be solely and primarily responsible for his and her acts during the performance of this Agreement.

22. **Assignment.** Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

23. **No Third Party Beneficiaries.** This Agreement gives no rights or benefits to anyone other than the CONTRACTOR and the CITY.

24. **Jurisdiction.** The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

25. **Contact Person.** The primary contact person under this Agreement for the CONTRACTOR shall be **RICK A. MARCHAND, President**. The primary contact person under this Agreement for the CITY shall be **DC MAUDLIN, Director – Public Works**.

26. **Approval of Personnel.** The CITY reserves the right to approve the contact person and the persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement. If CITY, in its sole discretion, is dissatisfied with the contact person or the person or persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement, CITY may require CONTRACTOR assign a different person or persons be designated to be the contact person or to perform the CONTRACTOR services hereunder.

27. **Disclosure of Conflict.** The CONTRACTOR has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the CONTRACTOR and his duties under this Agreement.

28. **Warranty.** The CONTRACTOR agrees that, unless expressly stated otherwise in the bid or proposal, the product and/or service furnished as a result of an award from this solicitation shall be covered by the most favorable commercial warranty the CONTRACTOR gives to any customer for comparable quantities of products and/or services and the rights and remedies provided herein are in addition to said warranty and do not limit any right afforded to the CITY by any other provision of this solicitation.

The CONTRACTOR hereby acknowledges and agrees that all materials, except where recycled content is specifically requested, supplied by the CONTRACTOR in conjunction with this Agreement shall be new, warranted for their merchantability, and fit for a particular purpose.

29. **Risk of Loss.** The CONTRACTOR assumes the risk of loss of damage to the CITY's property during possession of such property by the CONTRACTOR, and until delivery to, and acceptance of, that property to the CITY. The CONTRACTOR shall immediately repair, replace or make good on the loss or damage without cost to the CITY, whether the loss or damage results from acts or omissions (negligent or not) of the CONTRACTOR or a third party.

The CONTRACTOR shall indemnify and hold the CITY harmless from any and all claims, liability, losses and causes of action which may arise out of the fulfillment of this Agreement. The CONTRACTOR shall pay all claims and losses of any nature whatsoever in connection therewith, and shall defend all suits, in the name of the CITY when applicable, and shall pay all costs and judgments which may issue thereon.

30. **Illegal Alien Labor** - CONTRACTOR shall comply with all provisions of the Federal Immigration and Control Act of 1986 (8 U.S. Code § 1324 a) and any successor federal laws, as well as all provisions of Section 448.09, Florida Statutes, prohibiting the hiring and continued employment of aliens not authorized to work in the United States. CONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into an Agreement with a subcontractor that fails to certify to the CONTRACTOR that the subcontractor is in compliance with the terms stated within. The CONTRACTOR nor any subcontractor employed by him shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. CONTRACTOR agrees that it shall confirm the employment

eligibility of all employees through participation in E-Verify or an employment eligibility program approved by the Social Security Administration and will require same requirement to confirm employment eligibility of all subcontractors.

All cost incurred to initiate and sustain the aforementioned programs shall be the responsibility of the CONTRACTOR. Failure to meet this requirement may result in termination of the Agreement by the CITY.

31. **Counterparts.** Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. The CITY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

32. **Authority to Obligate.** Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

*[Signature page follows.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated in the preamble to the Agreement.

**THE CITY OF LEESBURG, FLORIDA**

By: \_\_\_\_\_  
Jay Hurley, Mayor

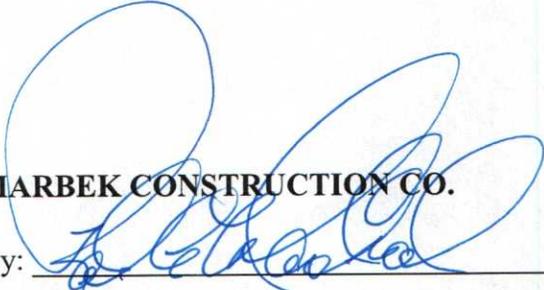
ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**MARBEC CONSTRUCTION CO.**

By:  \_\_\_\_\_

Printed: Rick A Marchand

Its: President  
(Title)



# AGENDA MEMORANDUM

**Item No:** 6D.  
**Meeting Date:** October 24, 2016  
**From:** Bill Spinelli, Finance Director  
**Subject:** Amend the General Employees Retirement Plan, Adopted Pursuant to Ordinance No. 03-57, as subsequently amended

**Staff Recommendation:**

Approve the City Ordinance, which amends the General Employees Retirement Plan, Adopted Pursuant to Ordinance No. 03-57.

**Analysis:**

Please review the attached letter from the Law Firm of Christiansen & Dehner, P.A., dated September 21, 2016. As per the letter, these changes are required because of the changes to the Internal Revenue Code (IRC) and its associated Regulations, as well as guidance from the IRS.

Foster & Foster Actuaries and Consultants, issued an "No Impact Letter" dated September 23, 2016. The actuaries reviewed the Ordinance amending the Plan to comply with recent changes to the IRS and have determined that its adoption will have no impact on the assumptions used in determining the funding requirements of the program.

**Options:**

1. Approve amending the Ordinance, or
2. Such alternative action as the Commission may deem appropriate.

**Fiscal Impact:**

None

**Submission Date and Time:** 10/19/2016 2:31 PM

Department: _____ Prepared by: _____ Attachments: Yes___ No___ Advertised: ___Not Required___ Dates: _____ Attorney Review : Yes___ No___ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: _____ City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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**ORDINANCE NO. 16-**

**AN ORDINANCE OF THE CITY OF LEESBURG, FURTHER AMENDING THE CITY OF LEESBURG RETIREMENT PLAN FOR GENERAL EMPLOYEES, ADOPTED PURSUANT TO ORDINANCE NO. 03-57, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 1, DEFINITIONS; AMENDING SECTION 2, MEMBERSHIP; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 14, MAXIMUM PENSION; AMENDING SECTION 15, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 25, PRIOR GOVERNMENT SERVICE; AMENDING SECTION 26, REEMPLOYMENT AFTER RETIREMENT; AMENDING SECTION 27, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA;**

**SECTION 1:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 1, Definitions, to amend the definitions of “Actuarial Equivalent”, “Credited Service”, “Retirement”, and “Spouse”, to read as follows:

\* \* \* \* \*

Actuarial Equivalent means a benefit or amount of equal value ~~determined on the basis of actuarial equivalency using assumptions adopted by the Board such that benefit calculations are not subject to City discretion~~ based upon the RP 2000 Combined Healthy Unisex Mortality Table and an interest rate equal to the investment return assumption set forth in the last actuarial valuation approved by the Board. This definition may only be amended by the City pursuant to the recommendation of the Board using assumptions adopted by the Board with the advice of the plan's actuary, such that actuarial assumptions are not subject to City discretion.

\* \* \* \* \*

Credited Service means the total number of years and fractional parts of years as a General Employee with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a General Employee. A Member may voluntarily leave his Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the City pending the possibility of being reemployed as a General Employee, without losing credit for the time that he was a Member of the System. If a Member who is not vested is not reemployed as a General Employee within five (5) years, his Accumulated Contributions, if one-thousand dollars (\$1,000.00) or less, will be returned. If a vested Member leaves the employ of the City, his Accumulated Contributions will be returned only upon his written request. If a Member who is not vested is not reemployed within five (5) years, his Accumulated Contributions, if more than one-thousand dollars (\$1,000.00), will be returned only upon the written request of the Member and upon completion of a written election to receive a cash lump sum or to

rollover the lump sum amount on forms designated by the Board. Upon return of a Member's Accumulated Contributions, all of his rights and benefits under the System are forfeited and terminated.

For any Member who retires on or after October 1, 1993 with at least fifteen (15) years of Credited Service under this System, the term "Credited Service" shall also include up to a maximum of four (4) years of active military service in the Armed Forces of the United States prior to his employment with the City. However, any Member who previously retired from the Armed Forces of the United States on a continuing military service pension shall not be eligible to receive this additional Credited Services hereunder.

The period of any absence of thirty-one (31) days or more shall be excluded from a Member's Credited Service unless he receives regular compensation from the City during such absence. Any absence of thirty (30) days or less shall be included in such Member's Credited Service.

In the event that a Member of this System has also accumulated Credited Service in another pension system maintained by the City, then such other Credited Service shall be used in determining vesting as provided for in Section 9, and for determining eligibility for early or normal retirement. Such other Credited Service will not be considered in determining benefits under this System. Only his Credited Service and Salary under this System on or after his date of membership in this System will be considered for benefit calculation. In addition, any benefit calculation for a Member of this System who is or becomes eligible for a benefit from this System after he has become a member of another pension system maintained by the City, shall be based upon the Members's Average Final Compensation, Credited Service and the benefit accrual rate as of the date the Member ceases to be a General Employee.

The years or parts of a year that a member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a General Employee to perform training or service, shall be added to his years of Credited Service for all purposes, including vesting, provided that:

- A. The Member is entitled to reemployment under the provisions of USERRA.
- B. The Member returns to his employment as a General Employee within one (1) year following the earlier of the date of his military discharge or his release from service, unless otherwise required by USERRA.
- C. No contribution shall be required by the Member for the first two (2) years of absence described in this Section. For absences in excess of two (2) years (i.e. years 3, 4 and 5), the Member must deposit into the Fund the same sum that the Member would have contributed, if any, if he had remained a General Employee during years 3, 4 and 5. The maximum credit for military service pursuant to this subdivision shall be five (5) years. The Member must deposit all missed contributions within a period equal to three times the period of military service, but not more than five (5) years, following re-employment or he will forfeit the right to receive credited service for his military service pursuant to this paragraph.
- D. This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a Member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the Member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the Member had resumed employment and then died while employed.

Notwithstanding anything herein to the contrary, for purposes of determining a Member's Normal Retirement Benefit, Credited Service shall not include service with the City after September 30, 2008. Credited Service after September 30, 2008 shall, however, be taken into consideration for vesting and benefit entitlement purposes.

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of Credited Service either during each Plan Year of a Member's employment with the City or in the Plan Year in which the Member terminates employment.

\* \* \* \* \*

Retirement means a Member's separation from City employment with eligibility for immediate receipt of benefits under the System, or entry into the Deferred Retirement Option Plan.

\* \* \* \* \*

Spouse means the ~~lawful wife or husband of a Member or Retiree~~ Member's or Retiree's spouse under applicable law at the time benefits become payable.

\* \* \* \* \*

**SECTION 2:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 2, Membership, to remove subsection 3., to read as follows:

\* \* \* \* \*

~~3. Opt Out Option.~~

~~A. The City has determined that it will provide an alternative pension plan for the following department heads and administrative management employees ("designated positions"):~~

- ~~(1) City Manager~~
- ~~(2) Deputy City Manager~~
- ~~(3) Assistant City Manager~~
- ~~(4) City Engineer~~
- ~~(5) Finance Director/City Clerk~~
- ~~(6) City Clerk~~
- ~~(7) Finance Director~~
- ~~(8) Human Resources Director~~

- ~~(9) MIS Director~~
- ~~(10) Housing Director~~
- ~~(11) Economic Development Director~~
- ~~(12) Electric Director~~
- ~~(13) Gas Director~~
- ~~(14) Director of Gas and Electric~~
- ~~(15) Water Director~~
- ~~(16) Wastewater Director~~
- ~~(17) Director of Water and Wastewater~~
- ~~(18) Director of Environmental Services~~
- ~~(19) Public Works Director~~
- ~~(20) Community Development Director~~
- ~~(21) Parks & Recreation Director~~
- ~~(22) Library Director~~
- ~~(23) Police Chief~~

~~B. In the event that any person, employed by the City in a designated position elects to participate in an alternative pension plan provided by the City, that person may elect to opt out of the System.~~

~~(1) Current Members employed by the City in designated positions may, within thirty (30) days after the adoption of the ordinance adopting this provision, notify the Board and the City, in writing, of his irrevocable election to opt out of the System. In the event of such election, such Member shall, for purposes of determining benefits from the System only, be treated as if he had terminated employment on the date of his election and shall receive a future benefit, if vested, as provided in Section 9, Vesting. Persons currently employed in designated positions who have contractually agreed to participate in another pension plan provided by the City will be deemed to have elected out of the System~~

~~(2) Future persons employed in a designated position may, within thirty (30) days of their employment, notify the Board and the City, in writing, of their irrevocable election not to be a Member of the System. In the event of such election, they shall be barred from participation in the System.~~

\* \* \* \* \*

**SECTION 3:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 4, Finances and Fund Management, subsection 6.B,(3), to read as follows:

\* \* \* \* \*

- (3) In addition, the Board may, upon recommendation by the Board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, ~~and Revenue Ruling 2011-1~~, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or a separate tax favored account maintained by an insurance company that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the Fund are invested in such a group trust, such group trust is itself adopted as a part of the System or plan.
- (a) Any collective or common group trust to which assets of the Fund are transferred pursuant to subsection (3) shall be adopted by the Board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.
- (b) The separate account maintained by the group trust for the plan pursuant to subsection (3) shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the Members and beneficiaries of the plan.
- (c) For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.

\* \* \* \* \*

**SECTION 4:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 6, Benefit Amounts and Eligibility, subsection 1., Normal Retirement Date, to read as follows:

\* \* \* \* \*

1. Normal Retirement Age and Date.

~~A Member's normal retirement date shall be the first day of the month coincident with or next following the attainment of age sixty-five (65) and the completion of five (5) years of Credited Service. A Member may retire on his normal retirement date or on the first day of any~~

month thereafter, and each Member shall become one hundred percent (100%) vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is Retirement from employment with the City on or after the normal retirement date. A Member's normal retirement age is the earlier of the attainment of age sixty-five (65) and the completion of five (5) years of Credited Service. Each Member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A Member's normal retirement date shall be the first day of the month coincident with or next following the date the Member retires from the City after attaining normal retirement age.

\* \* \* \* \*

**SECTION 5:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 8, Disability, subsection 1., Disability Retirement, to read as follows:

\* \* \* \* \*

1. Disability Retirement.

Any Member with ten (10) or more years of Credited Service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to perform the regular duties of his usual course of employment as a General Employee or the duties of any other position or job the City makes available to him for which he may be qualified through training, education or experience, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension benefit as provided for in subsection 2. ~~Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the City for medical reasons may apply for a disability within thirty (30) days after termination.~~ Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.

\* \* \* \* \*

**SECTION 6:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 10, Optional Forms of Benefits, subsection 1.D., to read as follows:

\* \* \* \* \*

- D. For Members who do not participate in the DROP pursuant to Section 27, the Member may elect a percentage of benefit in a lump sum as follows:
- (1) Ten percent (10%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining ninety percent (90%) paid under the normal form or as per A, B or C above.
  - (2) Fifteen percent (15%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining eighty-five percent (85%) paid under the normal form or as per A, B or C above.

- (3) Twenty percent (20%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining eighty percent (80%) paid under the normal form or as per A, B or C above.
- (4) Twenty-five percent (25%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining seventy-five percent (75%) paid under the normal form or as per A, B or C above.

\* \* \* \* \*

**SECTION 7:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 14, Maximum Pension, subsections 6., 8., 12.B., and by adding subsection 13., to read as follows:

\* \* \* \* \*

6. Less than Ten (10) Years of Participation ~~or Service~~.

The maximum retirement benefits payable under this Section to any Member who has completed less than ten (10) years of ~~Credited Service with the City~~ participation shall be the amount determined under subsection 1 of this Section multiplied by a fraction, the numerator of which is the number of the Member's years of ~~Credited Service~~ participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Section 8, or pre-retirement death benefits paid pursuant to Section 7.

\* \* \* \* \*

8. Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service.

Notwithstanding anything in this Section 14, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limit set forth in this subsection 8. of Section 14 if the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year ~~and or~~ for any prior limitation year, and the City has not at any time maintained a qualified defined contribution plan in which the Member participated; provided, however, that if the Member has completed less than ten (10) years of Credited Service with the City, the limit under this subsection 8. of Section 14 shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the Member's years of Credited Service and the denominator of which is ten (10).

\* \* \* \* \*

- 12. B. No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~67~~ 1223, Title 10, U.S. Code.

13. Effect of Direct Rollover on 415(b) Limit.

If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

**SECTION 8:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 15, Minimum Distribution of Benefits, subsection 2.B.(4), to read as follows:

\* \* \* \* \*

2. B. (4) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this subsection 2.B., other than subsection 2.B.(1), will apply as if the surviving spouse were the Member.

For purposes of this subsection 2.B. ~~and subsection 5.~~, distributions are considered to begin on the Member's required beginning date or, if subsection 2.B.(4) applies, the date of distributions are required to begin to the surviving spouse under subsection 2.B.(1). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection 2.B.(1)), the date distributions are considered to begin is the date distributions actually commence.

\* \* \* \* \*

**SECTION 9:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 25, Prior Government Service, subsection 5., to read as follows:

\* \* \* \* \*

5. In no event, however, may Credited Service be purchased pursuant to this Section for prior service with any other governmental agency, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in Section 14, subsection ~~8.B~~ 12.B.

\* \* \* \* \*

**SECTION 10:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 26, Reemployment After Retirement, to read as follows:

**SECTION 26. REEMPLOYMENT AFTER RETIREMENT.**

1. Any Member who is retired under this System, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the City of Leesburg, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this System. Reemployment by the City of Leesburg

shall be subject to the limitations set forth in this Section. This System shall not allow or enroll any new Members effective September 30, 2008.

2. After Normal Retirement. ~~Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed as a General Employee after that Retirement and, by virtue of that reemployment, is eligible to participate in this System, shall upon being reemployed select one of the following options:~~

~~A. The Retiree may elect to discontinue receipt of benefits. Upon reemployment, the Retiree shall be deemed to be fully vested and the additional Credited Service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final Retirement. Calculations of benefits upon initial Retirement shall be based upon the benefit accrual rate, Average Final Compensation, and Credited Service as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, Average Final Compensation (based only on the subsequent employment period and not including any period of DROP participation), and Credited Service as of the date of the subsequent retirement. The amount of any death or disability benefit received as a result of a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the Member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit; or~~

~~B. The Retiree may continue to receive retirement benefits previously earned and not be an active Member of the System. If this option is selected, the subsequent employment period shall have no effect upon Average Final Compensation, years of Credited Service or retirement benefits. Regardless of any other provision of this System, any retired and reemployed Retiree electing to continue to receive retirement benefits shall not be required to be an active Member of the System.~~

~~3. Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed by the City after that Retirement and, by virtue of that reemployment is ineligible to participate in this System, shall, during the period of such reemployment, continue to receive retirement benefits previously earned. Former Drop participants shall begin receipt of benefits under these circumstances.~~

~~4. After Early Retirement. Any Retiree who is retired under early retirement pursuant to this System and who subsequently becomes an employee of the City in any capacity shall discontinue receipt of benefits from the System until the earlier of termination of employment or such time as the reemployed Retiree reaches age sixty-five (65). If by virtue of that reemployment, the Retiree is eligible to participate in this System, the Retiree shall be deemed to be fully vested and the additional Credited Service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final Retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, Average Final Compensation, Credited Service and early retirement reduction factor as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, Average Final Compensation (based only on the subsequent employment period), and Credited Service as of the date of subsequent retirement. The amount of any death or disability benefit received as a result of a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but~~

the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this Section if the Member was permitted to retire prior to the customary retirement date provided for in the System at the time of retirement.

~~5. Reemployment of Terminated Vested Persons. Reemployed terminated vested persons shall not be subject to the provisions of this Section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early Retirees for purposes of applying the provisions of this Section and their status as an early or normal Retiree shall be determined by the date they elect to begin to receive their benefit.~~

64. DROP participants. Members or Retirees who are or were in the Deferred Retirement Option Plan shall have the options provided for in this Section for reemployment upon termination of his employment.

**SECTION 11:** That Ordinance No. 03-57, adopting the amended and restated City of Leesburg Retirement Plan for General Employees, as subsequently amended, is further amended to amend Section 27, Deferred Retirement Option Plan, to read as follows:

**SECTION 27. DEFERRED RETIREMENT OPTION PLAN.**

1. Definitions.

As used in this Section 27, the following definitions apply:"

- A. "DROP" -- The Retirement Plan for the General Employees' Deferred Retirement Option Plan.
- B. "DROP Account" -- The account established for each DROP participant under subsection 3.
- C. "Total return of the assets" -- For purposes of calculating earnings on a Member's DROP Account pursuant to subsection 3.B.(2)(b), for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total plan assets.

2. Participation.

A. Eligibility to Participate.

In lieu of terminating his employment as a general employee, any Member who is eligible for normal retirement under the System may elect to defer receipt of such service retirement pension and to participate in the DROP.

B. Election to Participate.

A Member's election to participate in the DROP must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month which is at least fifteen (15) business days after it is received by the Board.

C. Period of Participation.

A Member who elects to participate in the DROP under subsection 2.B., shall participate in the DROP for a period not to exceed 60 months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the City not later than the date provided for in the previous sentence. A Member may participate only once.

D. Termination of Participation.

- (1) A Member's participation in the DROP shall cease at the earlier of:
  - (a) the end of his permissible period of participation in the DROP as determined under subsection 2.C.; or
  - (b) termination of his employment as a general employee.
- (2) Upon the Member's termination of participation in the DROP, pursuant to subsection (a) above, all amounts provided for in subsection 3.B., including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the System to his DROP Account. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of subsection 4. when he terminates his employment as a general employee.
- (3) A Member who terminates his participation in the DROP under this subsection 2.D. shall not be permitted to again become a participant in the DROP.

E. Effect of DROP Participation on the System.

- (1) A Member's Credited Service and his accrued benefit under the System shall be determined on the date his election to participate in the DROP first becomes effective. The Member shall not accrue any additional Credited Service or any additional benefits under the System (except for any additional benefits provided under any cost-of-living adjustment for Retirees in the System) while he is a participant in the DROP. After a Member commences participation, he shall not be permitted to again contribute to the System nor shall he be eligible for disability or pre-retirement death benefits, except as provide for in Section 26, Reemployment after Retirement.
- (2) No amounts shall be paid to a Member from the System while the Member is a participant in the DROP. Unless otherwise specified in the System, if a Member's participation in the DROP is terminated other than by terminating his employment as a general employee, no amounts shall be paid to him from the System until he terminates his employment as a General Employee. Unless otherwise specified in the System, amounts transferred from the System to the Member's DROP Account shall be paid directly to the Member only on the termination of his employment as General Employee.

3. Funding.

A. Establishment of DROP Account.

A DROP Account shall be established for each Member participating in the DROP. A Member's DROP Account shall consist of amounts transferred to the DROP under subsection 3.B., and earnings or interest on those amounts.

B. Transfers From Retirement System.

(1) As of the first day of each month of a Member's period of participation in the DROP, the monthly retirement benefit he would have received under the System had he terminated his employment as a general employee and elected to receive monthly benefit payments thereunder shall be transferred to his DROP Account, except as otherwise provided for in subsection 2.D.(2). A Member's period of participation in the DROP shall be determined in accordance with the provisions of subsections 2.C. and 2.D., but in no event shall it continue past the date he terminates his employment as a general employee.

(2) Except as otherwise provided in subsection 2.D.(2), a Member's DROP Account under this subsection 3.B. shall be debited or credited ~~after each fiscal year quarter~~ with either:

(a) Interest at an effective rate of six and one-half percent (6 1/2%) per annum compounded quarterly determined on the last business day of the prior quarter's ending balance and credited to the Member's DROP Account as of such date; or

(b) Earnings, to be credited or debited to the Member's DROP Account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a Member's DROP Account shall be credited or debited at a rate equal to the net investment return realized by the System for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the Member's DROP Account is invested by the Board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a Member's DROP Account pursuant to this subsection 3.B.(2)(b), brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the Board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

Upon electing participation in the DROP, the Member shall elect to receive either interest or earnings on his account to be determined as provided above. The Member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

- (3) A Member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the Member is a participant in the DROP. A Member's final DROP account value for distribution to the Member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter and prior to distribution. If a Member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the Member's 1st month of employment following the last month of the permissible period of DROP participation, the Member's DROP Account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the Member is employed by the City. A Member employed by the after the permissible period of DROP participation will still not be eligible for pre-retirement death or disability benefits, and will not accrue additional Credited Service except as provided for in Section 26, Reemployment After Retirement.

#### 4. Distribution of DROP Accounts on Termination of Employment.

##### A. Eligibility for Benefits.

A Member shall receive the balance in his DROP Account in accordance with the provisions of this subsection 4. upon his termination of employment as a General Employee. Except as provided in subsection 4.E., no amounts shall be paid to a Member from the DROP prior to his termination of employment as a General Employee.

##### B. Form of Distribution.

- (1) Unless the Member elects otherwise, distribution of his DROP Account shall be made in a lump sum, subject to the direct rollover provisions set forth in subsection 4.F. ~~A Member may, however, elect, in such time and manner as the Board shall prescribe, that his DROP distribution be used to purchase a nonforfeitable fixed annuity payable in such form as the Member may elect.~~ Elections under this paragraph shall be in writing and shall be made in such time or manner as the Board shall determine.
- (2) Notwithstanding the preceding, if a Member dies before his benefit is paid, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select. If no Beneficiary designation is made, the DROP Account shall be distributed to the Member's estate.

C. Date of Payment of Distribution.

Except as otherwise provided in this subsection 4., distribution of a Member's DROP Account shall be made as soon as administratively practicable following the Member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election on forms designated by the Board to either receive a cash lump sum or a rollover of the lump sum amount.

D. Proof of Death and Right of Beneficiary or Other Person.

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Member's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

E. Distribution Limitation.

Notwithstanding any other provision of subsection 4., all distributions from the DROP shall conform to the "Minimum Distribution of Benefits" provisions as provided for herein.

F. Direct Rollover of Certain Distributions.

This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the System in section .

5. Administration of DROP.

A. Board Administers the DROP.

The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the Board. The members of the Board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as Trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A Trustee shall not vote on any question relating exclusively to himself.

B. Individual Accounts, Records and Reports.

The Board shall maintain records showing the operation and condition of the DROP, including records showing the individual balances in each Member's DROP Account and the Board shall keep in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare and distribute to Members participating in the DROP

and other individuals or file with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.

C. Establishment of Rules.

Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law.

D. Limitation of Liability.

- (1) The Trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (2) Neither the Board nor any Trustee of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

6. General Provisions.

A. The DROP is not a separate retirement plan.

Instead, it is a program under which a Member who is eligible for normal retirement under the System may elect to accrue future retirement benefits in the manner provided in this Section 27 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a Member is entitled to a lump sum distribution of his or her DROP Account balance or may elect a rollover. The DROP Account distribution is in addition to the Member's monthly benefit.

B. Notional account.

The DROP Account established for such a Member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the System. There is no change in the System's assets, and there is no distribution available to the Member until the Member's termination from the DROP. The Member has no control over the investment of the DROP account.

C. No employer discretion.

The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

D. IRC limit.

The DROP Account distribution, along with other benefits payable from the System, is subject to limitation under Internal Revenue Code Section 415(b).

(A) E) Amendment of DROP.

The DROP may be amended by an ordinance of the City at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any Member.

B) F. Facility of Payment.

If a Member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the Board shall direct that any benefit due him shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

C) G. Information.

Each Member, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the Board the information that it shall require to establish his rights and benefits under the DROP.

D) H. Prevention of Escheat.

If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three (3) months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the System, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the System. Upon such cancellation, the System shall have no further liability therefor except that, in the event such person or his Beneficiary later notifies the Board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.

E) I. Written Elections, Notification.

(1) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the manner for making notifications, elections or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election,

notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.

- (2) Each Member or Retiree who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Member or Retiree notifies the Board of his address.

**F J. Benefits Not Guaranteed.**

All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

**G K. Construction.**

- (1) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (2) The titles and headings of the subsections in this Section are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

**H L. Forfeiture of Retirement Benefits.**

Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

**I M. Effect of DROP Participation on Employment.**

Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

**SECTION 12:** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Leesburg.

**SECTION 13:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 14:** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

**SECTION 15:** That this Ordinance shall become effective upon its adoption.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COMMISSION  
OF THE CITY OF LEESBURG, FLORIDA, HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY

Law Offices  
**Christiansen & Dehner, P.A.**

63 Sarasota Center Blvd. Suite 107 Sarasota, Florida 34240 • 941-377-2200 • Fax 941-377-4848

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September 21, 2016

Mr. Bill Spinelli  
Finance Director  
City of Leesburg  
Post Office Box 490630  
Leesburg, FL 34749-0630

Re: Leesburg Retirement Plan for General Employees - Proposed Ordinance

Dear Mr. Spinelli:

Enclosed please find a proposed ordinance amending the City of Leesburg Retirement Plan for General Employees. With changes to the Internal Revenue Code (IRC) and its associated Regulations, as well as guidance from the Internal Revenue Service (IRS), the following amendments to the pension plan are proposed:

1. Section 1, Definitions, is being amended for IRC changes and requirements, to amend the definitions of:
  - a. Actuarial Equivalent - to amend the definition to incorporate the Mortality Table and interest rate currently being used by the plan's actuary
  - b. Credited Service - to clarify IRC regulations on leave conversions
  - c. Retirement - to indicate that members entering the DROP are entering Retirement status
  - d. Spouse - To clarify the definition in accordance with a recent US Supreme Court ruling
2. Section 2, Membership, has been amended to remove opt-out options from the plan that are no longer applicable.
3. Section 4, Finances and Fund Management, is being amended to further incorporate recent IRC requirements with regard to investments in commingled funds.
4. Section 6, Benefit amounts and eligibility, is being amended to change the Normal Retirement Date to include IRC required language regarding Normal Retirement Age and Normal Retirement Date.

6. Section 10, Optional Forms of Benefits, has been amended to amend the optional form of benefit known as a partial lump sum option (PLOP), to clarify that the percentage chosen is calculated as a percent of the total actuarial equivalent value of the member's benefit.
7. Section 14, Maximum Pension, has had several subsections amended to comply with IRC changes.
8. Section 15, Minimum Distribution of Benefits, is being amended for a reference clarification in subsection 2.B.4.
9. Section 25, Prior Government Service, subsection 5, is being amended to correct a reference.
10. Section 26, Reemployment After Retirement, is being amended to clearly reflect recent IRC guidance on the ability to continue to receive retirement benefits from the system upon reemployment after normal or early retirement, as well as remove language that is no longer applicable as the plan will not accept new members.
11. Section 27, Deferred Retirement Option Plan, is being amended in accordance with recent direction from the IRS in connection with the issuance of several recent Favorable Determination Letters to clarify investment returns on DROP accounts and add several sections clarifying the DROP provisions as required by the IRS.

By copy of this letter to the Board's actuary, Foster & Foster, Inc., I am requesting that they provide you with a letter indicating the cost, if any, associated with the adoption of this ordinance.

If you or any member of your staff have any questions with regard to this ordinance, please feel free to give me a call. In addition, if you feel it would be appropriate for me to be present at the meeting at which this ordinance is considered by the City Commission, please contact my office to advise me of the date that the ordinance would be considered.

Yours very truly,



Scott R. Christiansen

SRC/dm  
enclosure

cc: Patrick Donlan, with enclosure  
Susy Pita, with enclosure

September 23, 2016

Ms. Susy Pita, Plan Administrator  
21629 Stirling Pass  
Leesburg, FL 34748

Re: City of Leesburg  
Retirement Plan for General Employees

Dear Ms. Pita:

In response to Scott Christiansen's letter dated August 30, 2016, we have reviewed the Ordinance (identified on page 18 as dm/lsb/gen/08-29-16.ord) amending the Plan to comply with recent changes to the Internal Revenue Code and have determined that its adoption will have no impact on the assumptions used in determining the funding requirements of the program.

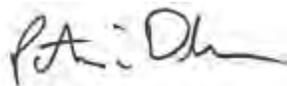
Additionally, the definition of Actuarial Equivalent is being amended to match the current valuation assumptions for mortality and interest. While adoption of these assumptions may result in a de minimis impact (either positive or negative) over the life of the Plan, it is not currently measureable, and therefore does not result in an immediate change to the Plan's funding requirements.

Because the changes do not result in a change in the valuation results, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to the following office:

Mr. Keith Brinkman  
Bureau of Local Retirement Systems  
Division of Retirement  
P. O. Box 9000  
Tallahassee, FL 32315-9000

If you have any questions, please let me know.

Sincerely,



Patrick T. Donlan

cc: Scott R. Christiansen, Board Attorney



# AGENDA MEMORANDUM

**Item No:** 6E.

**Meeting Date:** October 24, 2016

**From:** Dan Miller, Planning and Zoning Manager

**Subject:** Ordinance rezoning property for the proposed Stonegate Development, on U.S. Highway 27 from C-3 (Highway Commercial) to PUD (Planned Unit Development)

## Staff Recommendation

The Planning Commission and Planning and Zoning Staff recommend approval of the attached ordinance which rezones property from C-3 (Highway Commercial) to PUD (Planned Unit Development).

## Analysis

The applicant has requested to amend the current zoning to allow for a mixed use development which will contain an Assisted Living Facility along with retail, restaurant and office uses. The property is generally located northeast of the intersection of Arlington Ridge Boulevard and U.S. Highway 27, on the east side of U.S. Highway 27. The property is currently undeveloped. The current zoning is C-3 (Highway Commercial) and the future land use is General Commercial. The proposed zoning is consistent with the existing and desired forms of development in the area.

The Leesburg Planning Commission held a public hearing on September 22, 2016, and by a vote of 6-0, recommended approval.

## Options

1. Approve the requested rezoning, or
2. Such alternative action as the Commission may deem appropriate.

## Fiscal Impact

Upon development a positive fiscal impact is expected, as the proposed development will provide new jobs to the area, along with increased tax revenues and city utility service charges.

**Submission Date and Time:** 10/19/2016 2:32 PM

Department: <input type="checkbox"/> Comm Development _____ Prepared by: <input type="checkbox"/> Dan Miller _____ Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No _____ Advertised: <input type="checkbox"/> Not Required _____ Dates: _____ Attorney Review: <input type="checkbox"/> Yes <input type="checkbox"/> No _____ _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ MWR _____ Submitted by: _____ City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 30 +/- ACRES FROM C-3 (HIGHWAY COMMERCIAL) TO PUD (PLANNED UNIT DEVELOPMENT) ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF ARLINGTON RIDGE BOULEVARD AND US HIGHWAY 27 AND LYING EAST OF US HIGHWAY 27 AS LEGALLY DESCRIBED IN SECTIONS 13, 14, 23, AND 24, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (STONEGATE)

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

**Section 1:**

Based upon the petition of Mr. Dan Tatro, on behalf of Investment Properties of FL LLC, the petitioner of the property hereinafter described, which petition has heretofore been approved the City Commission of the City of Leesburg, Florida, pursuant to the provisions of the Laws of Florida, the said property located in Lake County, Florida, is hereby rezoned from C-3 (Highway Commercial) to PUD (Planned Unit Development) with conditions as shown in Exhibit A attached hereto, to wit:

**Section 2:**

This ordinance shall become effective upon its passage and adoption, according to law.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
Jay Hurley, Mayor

ATTEST:

\_\_\_\_\_  
J. Andi Purvis, City Clerk

**STONEGATE  
REZONING TO PUD (PLANNED UNIT DEVELOPMENT)  
PLANNED DEVELOPMENT CONDITIONS  
September 22, 2016**

These Planned Development Conditions for a PUD (Planned Unit Development) District are granted by the City of Leesburg Planning Commission, Lake County, Florida to Investment Properties of M & B, LLC, (Mackie McCabe) "Permittee" for the purposes and terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Development Process" of the City of Leesburg Code of Ordinances, as amended.

**BACKGROUND**

The "Permittee" has submitted an application requesting a PUD (Planned Unit Development) zoning district for residential and commercial uses on an approximately 30 +/- acre site within the City of Leesburg in accordance with their Planned Development application and supplemental information. The site is currently undeveloped.

**PURPOSE**

The purpose of this document is to provide appropriate zoning standards to maintain a high quality built environment through the application of flexible and diversified land use and development requirements. The request is to rezone the property from C-3 (Highway Commercial) to PUD (Planned Unit Development) to allow retail, medical and office uses. Changing the zoning on these parcels will allow an appropriate mix of uses for this location.

**1. PERMISSION**

Permission is hereby granted to Investment Properties of M & B, LLC, (Mackie McCabe) to operate, and maintain a PUD (Planned Unit Development) development in and on real property in the City of Leesburg. The property is generally located on the east side of U.S. Highway 27, south of County Road 48.

**2. LEGAL DESCRIPTION**

See attached legal Exhibit B

**3. LAND USES**

The above-described property shall be used for PUD (Planned Unit Development) uses as specifically provided herein, and pursuant to City of Leesburg development codes and standards.

**A. Uses**

- 1) Uses shall be those listed as permitted uses in this document and shall occupy the approximate area as shown on the Conceptual Site Plan, Exhibit C.

- 2) Permitted Uses shall be as follows:
- a. Residential Uses including:
    - i. assisted living (ALF) and independent living (ILF)
    - ii. nursing homes
    - iii. educational facilities (classrooms)
    - iv. Emergency care facilities
    - iv. Pharmacy, physician and dental offices (minor patient family accommodations), other medical related uses.
  - b. Commercial and retail uses including:
    - i. general office uses
    - ii. mini-warehouses and storage
    - iii. Other uses in the C-3 (Highway Commercial) zoning district shall be allowed except for any uses specifically listed as prohibited herein.
  - c. Other related uses may be included by written determination of the Planning & Zoning Manager. Such uses shall be consistent with the intent and purpose of the zoning requirements set forth in these SPUD conditions, and shall meet the parking standards as required herein. Parking availability may limit the permitted uses.
- 3) Prohibited Uses shall be as follows:
- a. rehab centers (including drug and alcohol)
  - b. outdoor recreation
  - c. bars/clubs/lounges
  - d. cinema or theater
  - e. funeral home/monetary/crematoriums
  - f. package store (alcohol)
  - g. car wash
  - h. transient accommodations
  - i. truck stops
  - j. passenger terminals
  - k. automotive uses
  - l. light or heavy industrial uses
  - m. thrift stores
  - n. stockpiling
  - o. all waste related services
  - p. Any other similar uses which are not considered medical, office, or commercial in character or intensity which may adversely impact the adjoining properties do to traffic, noise, dust, etc.

B. Area

The Impervious surface coverage for this site shall not exceed eighty (80) percent of the gross site area.

C. Open Space

A minimum of twenty (20) percent of the site shall be developed as open space, including retention areas, buffer and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.

4. **SITE ACCESS**

- A. Access to the property shall be from U.S. Highway 27. Prior to construction, all access points shall be subject to permitting through the City of Leesburg, Lake County or the Florida Department of Transportation as required by law.

5. **GENERAL DEVELOPMENT STANDARDS**

- A. The minimum development standards shall be those required for the C-3 (Highway Commercial) district except as amended by these conditions and may limit the permitted uses based on site plan requirements.
- B. All signs placed or constructed on the property shall comply with *Article VI- Sign Regulations, Section 25-421 through Section 25-426*, City of Leesburg Code of Ordinances, as amended.
- C. All operations shall be carried on entirely within an enclosed structure, except as permitted under accessory uses of Section 25-284, City of Leesburg Code of Ordinances, as amended.

6. **ARCHITECTURAL STANDARDS**

- A. Currently, the Leesburg City Commission is considering the implementation of Architectural Standards for new development and redevelopment. All phases and all structures of this development shall meet or exceed the architectural standards as adopted by the City Commission. However, should architectural standards as noted above not be in place at the time of construction of any phase or structure within this development, the following standards shall prevail:

1. Architectural Theme

- i. All buildings shall have a common architectural theme, and all four (4) sides of each building shall be finished in the same design and materials as used in the front of the building.

2. Screening of equipment

- i. Mechanical units and roof equipment should be screened from view with parapet or other screening method so that mechanical equipment is not seen from public right-of-way and the adjacent residential property.

3. Exterior construction materials

- i. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
- a. at least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.

- b. At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a "cementitious" lap siding. (A "cementitious" lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option).
- c. All textured stucco, provided there are unique design features such as recessed areas, tile roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.
- d. Metal, aluminum, Masonite or vinyl siding shall not be used as a siding or finishing material for the exterior of any building constructed under the terms of this Small Planned Unit Development agreement.
- e. The Community Development Director, or designee, shall review the final exterior building design and materials based on the requirements of the Architectural Standards set forth herein, and such review shall include the adherence to the requirements of the City of Leesburg Code of Ordinances, as amended.

#### 4. Building Façade

- i. Building facades shall provide architectural relief for building walls and frontage walls facing the street. Buildings shall provide a foundation or base, typically from ground to bottom of the lower windowsills, with changes in volume or material. A clear visual division shall be maintained between ground level floors and upper floors on multi-story buildings.

#### 5. Design Variations

- i. Other similar design variations meeting the intent of this section may be approved at the discretion of the Planning and Zoning Manager.

#### 7. **PARKING**

- A. The permittee shall have off-street parking spaces within the property per an approved site plan pursuant to the City of Leesburg Code of Ordinances, which shall include the required number of handicapped parking spaces. The location and design of the proposed parking areas will be reviewed during the site plan review process to provide for adequate parking, which may limit the permitted uses of the site.

#### 8. **WETLANDS**

- A. Should wetlands exist on the site; the following requirements shall apply. Prior to disturbance or development of any wetland area, the "Permittee" shall submit and receive approval from all affected governmental agencies to include, but not limited to, St. John's River Water Management District and the State of Florida Department of Environmental Regulation. Any notice of violation from any affected agency shall be cause for a cease and desist order on permits issued by the City of Leesburg until such

time as the violation has been resolved with the appropriate agency(s).

- B. Wetlands shall have a minimum upland buffer as established by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be replanted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- C. If wetland alteration is permitted by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from the Department of Environmental Protection, St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.

**9. DRAINAGE AND UTILITIES**

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
  - 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties.
  - 2) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.

**10. STORMWATER**

Prior to receiving final development approval, the permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Water, wastewater, reuse water and natural gas services will be provided by the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the permittee shall provide:

- A. A detailed site plan that demonstrates no unpermitted direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties.
- B. A stormwater management system designed and permitted to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. A responsible legal entity such as a property owners association shall be required for the maintenance of the stormwater management system on the property. This entity shall be created prior to the first certificate of occupancy of any structure on the property.
- D. The 100-year flood plain and wetlands jurisdictional line shall be shown on the appropriate plans.
- E. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District.

- F. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg, the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements.

**11. TRANSPORTATION**

- A. All future transportation improvements shall be based on a current traffic analysis and shall be contingent upon Site Plan approval of the project site by City staff during the development review and permitting process. All required transportation improvements shall comply with all regulations and permitting requirements of the City of Leesburg, Lake County, and/or the Florida Department of Transportation as applicable.
- B. The Permittee shall be responsible for obtaining all necessary Lake County and City of Leesburg permits for future development of the project site and a copy of all permits shall be provided to the City of Leesburg.
- C. The Permittee shall provide all necessary improvements such as turn lanes or signalization within and adjacent to the development on as required by a traffic study for the project. Required improvements shall be reviewed and approved by Florida Department of Transportation, Lake County and City of Leesburg prior to construction.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. Sidewalks shall be a minimum width of five feet. All sidewalks shall be constructed in accordance with City of Leesburg Code of Ordinances.

**12. LANDSCAPING AND BUFFER REQUIREMENTS**

- A. Landscaping –  
All required landscaping and buffering shall be constructed in accordance with regulations contained within the City of Leesburg Code of Ordinances, including the following:
  - 1. As each lot is developed, a street side landscape buffer shall be constructed on the eastern boundary of the property along U.S. Highway 27, as required by the City of Leesburg Code of Ordinances.
  - 2. A five (5) foot landscape buffer shall be installed property lines of all lots not fronting on U.S. 27 or the Palatka River. This five (5) foot buffer shall meet or exceed the following requirements. Ground cover, including mulch, pine bark, cedar, rock or synthetic mulch; shrubbery at a rate of 30" on center, a minimum of 18"-24" tall at planting, and two canopy or three understory trees, per 100 linear feet.
- B. Other Buffers -
  - 1. An upland buffer shall be placed along the Palatka River as required by the City of Leesburg, Florida Department of Environmental Protection, St. Johns

River Water Management District and/or U.S. Army Corp of Engineers, whichever is more restrictive.

2. Land uses allowed within the upland buffers are limited to overlooks, hiking trails, walkways, passive recreation activities and stormwater facilities as permitted by St. Johns River Water Management District.

C. Variations

Variations to the landscape and buffer requirements of the code may be approved by the Planning and Zoning Manager or designee as long as the intent of the SPUD and the Code are maintained.

**13. MAINTENANCE**

- A. With the exception of public utilities and sidewalks, maintenance of all site improvements, including but not limited to drives, internal sidewalks, landscaping and stormwater retention/drainage shall be the responsibility of the owner.

**14. MISCELLANEOUS CONDITIONS**

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Development Conditions. Any other proposed use must be specifically authorized through rezoning the property or in accordance with the Planned Development amendment process.
- B. A wildlife management plan for the project site shall be prepared based on the results of the environmental permit approvals obtained from applicable governmental agencies.
- C. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- D. Construction and operation of the proposed use(s) shall at all times comply with City and other governmental agencies rules and regulations.
- E. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- F. These SPUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition herein set out.

**15. LEVELS OF SERVICE**

As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not

limited to roads, sewage, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities. However, no final development order (building permits) shall be granted for a proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

## LEGAL DESCRIPTION

## EXHIBIT B

That part of the Northeast 1/4 of the Northeast 1/4 of Section 23, Township 20 South, Range 24 East, Lake County, Florida; lying Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida, and Easterly of the easterly right-of-way line of U.S. Highway No. 27.

That part of the Southeast 1/4 of the Southeast 1/4 of Section 14, Township 20 South, Range 24 East in Lake County, Florida, lying Southerly and Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida, and Easterly of the Easterly right-of-way line of U.S. Highway No. 27, Less and except that portion conveyed in Official Records Book 1154, Page 290, more particularly described as follows:

Commence at the Southeast corner of the NE 1/4 of the SE 1/4 of Section 14, Township 20 South, Range 24 East, in Lake County, Florida, and run N.89°24'40"W., along the South line of the NE 1/4 of the SE 1/4 a distance of 661.12 feet to the Point of Beginning of this description; from said Point of Beginning, continue N.89°24'40"W., along the South line of the NE 1/4 of the SE 1/4, said line also being the North line of the SE 1/4 of the SE 1/4 of said Section 14, a distance of 531.62 feet to a point on the Northeastery right-of-way line of U.S. Highway No. 27, said point being on a curve concave Northeastery and having a radius of 5661.65 feet and a radial bearing of S.62°21'46 W.; thence Southeastery along the arc of said curve and Northeastery right-of-way line of said U.S. Highway No. 27 through a central angle of 00°22'22" an arc length of 36.84 feet to the North right-of-way line of S.C.L. Railroad; thence leaving said Northeastery right-of-way line of U.S. Highway No. 27 run N.89°48'39"E., along the North right-of-way line of the S.C.L.Railroad a distance of 515.42 feet; thence N.00°35'20"E., 26.07 feet to the Point of Beginning.

That part of the Southwest 1/4 of the Southwest 1/4 of Section 13, Township 20 South, Range 24 East, Lake County, Florida, lying Southerly and Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida.

That part of the Northwest 1/4 of the Northwest 1/4 of Section 24, Township 20 South, Range 24 East, Lake County, Florida, lying Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida, and Easterly of the Easterly right-of-way line of U.S. Highway No. 27, and lying Northwesterly of the Northwesterly line of the additional right-of-way acquired by the State of Florida for U.S. Highway No. 27 (State Road No. 25).

That part of the abandoned right-of-way and spur line of the Atlantic Coast Line Railroad lying within the part of the Southeast 1/4 of the Southeast 1/4 of Section 14, Township 20 South, Range 24 East, lying East of the Easterly line of the right-of-way of U.S. Highway No. 27, and lying Westerly of the centerline of Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida.

Together with Reciprocal Cross Access Easement by and between Clifford F. Cook and Allen R. Kelley and Zappala Muscarella and Associates, Inc., a Florida Corporation recorded July 10, 2002 in Official Records Book 2140, Page 2212, Public Records of Lake County, Florida.





**CITY OF LEESBURG PLANNING & ZONING DIVISION  
RECOMMENDATIONS**

**DATE:** September 22, 2016  
**OWNER:** Investment Properties of M&B, LLC, (Mackie McCabe)  
**PETITIONER** Dan Tatro  
**PROJECT:** Stonegate Development  
**REQUEST:** Planned Unit Development  
**CASE NO.:** PUD-16-136

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**THE PLANNING & ZONING DIVISION RECOMMENDS:**

APPROVAL of the request

**for the following reason(s):**

1. The proposed zoning amendment is compatible with adjacent properties zoned Lake County R-2 (Estate Residential) to the north, City R1-A (Single Family Residential) to the east and south, and PUD (Planned Unit Development) to the west. This proposal does not appear to create a detriment to surrounding properties.
2. The proposed zoning district PUD (Planned Unit Development) as conditioned and shown in the attached "Exhibit A," is compatible with the current City Future Land Use designation of General Commercial.
3. The rezoning of the subject properties is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, and Objective 1.6.

**Action Requested:**

1. Vote to approve the request to rezone the subject property from C-3 (Highway Commercial) to PUD (Planned Unit Development) with the proposed Stonegate Planned Development Conditions attached hereto as Exhibit A-C and forward to the City Commission for consideration.

**STONEGATE  
REZONING TO PUD (PLANNED UNIT DEVELOPMENT)  
PLANNED DEVELOPMENT CONDITIONS**

**September 22, 2016**

These Planned Development Conditions for a PUD (Planned Unit Development) District are granted by the City of Leesburg Planning Commission, Lake County, Florida to Investment Properties of M & B, LLC, (Mackie McCabe) "Permittee" for the purposes and terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Development Process" of the City of Leesburg Code of Ordinances, as amended.

**BACKGROUND**

The "Permittee" has submitted an application requesting a PUD (Planned Unit Development) zoning district for residential and commercial uses use on an approximately 30 +/- acre site within the City of Leesburg in accordance with their Planned Development application and supplemental information. The site is currently undeveloped.

**PURPOSE**

The purpose of this document is to provide appropriate zoning standards to maintain a high quality built environment through the application of flexible and diversified land use and development requirements. The request is to rezone the property from C-3 (Highway Commercial) to PUD (Planned Unit Development) to allow retail, medical and office uses. Changing the zoning on these parcels will allow an appropriate mix of uses for this location.

**1. PERMISSION**

Permission is hereby granted to Investment Properties of M & B, LLC, (Mackie McCabe) to operate, and maintain a PUD (Planned Unit Development) development in and on real property in the City of Leesburg. The property is generally located on the east side of U.S. Highway 27, south of County Road 48.

**2. LEGAL DESCRIPTION**

See attached legal Exhibit B

**3. LAND USES**

The above-described property shall be used for PUD (Planned Unit Development) uses as specifically provided herein, and pursuant to City of Leesburg development codes and standards.

A. Uses

- 1) Uses shall be those listed as permitted uses in this document and shall occupy the approximate area as shown on the Conceptual Site Plan, Exhibit C.

- 2) Permitted Uses shall be as follows:
  - a. Residential Uses including:
    - i. assisted living (ALF) and independent living (ILF)
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    - iii. educational facilities (classrooms)
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  - b. Commercial and retail uses including:
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    - ii. mini-warehouses and storage
    - iii. Other uses in the C-3 (Highway Commercial) zoning district shall be allowed except for any uses specifically listed as prohibited herein.
  - c. Other related uses may be included by written determination of the Planning & Zoning Manager. Such uses shall be consistent with the intent and purpose of the zoning requirements set forth in these SPUD conditions, and shall meet the parking standards as required herein. Parking availability may limit the permitted uses.
  
- 3) Prohibited Uses shall be as follows:
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  - b. outdoor recreation
  - c. bars/clubs/lounges
  - d. cinema or theater
  - e. funeral home/mortuary/crematoriums
  - f. package store (alcohol)
  - g. car wash
  - h. transient accommodations
  - i. truck stops
  - j. passenger terminals
  - k. automotive uses
  - l. light or heavy industrial uses
  - m. thrift stores
  - n. stockpiling
  - o. all waste related services
  - p. Any other similar uses which are not considered medical, office, or commercial in character or intensity which may adversely impact the adjoining properties do to traffic, noise, dust, etc.

B. Area

The Impervious surface coverage for this site shall not exceed eighty (80) percent of the gross site area.

C. Open Space

A minimum of twenty (20) percent of the site shall be developed as open space, including retention areas, buffer and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.

4. **SITE ACCESS**

- A. Access to the property shall be from U.S. Highway 27. Prior to construction, all access points shall be subject to permitting through the City of Leesburg, Lake County or the Florida Department of Transportation as required by law.

5. **GENERAL DEVELOPMENT STANDARDS**

- A. The minimum development standards shall be those required for the C-3 (Highway Commercial) district except as amended by these conditions and may limit the permitted uses based on site plan requirements.
- B. All signs placed or constructed on the property shall comply with *Article VI- Sign Regulations, Section 25-421 through Section 25-426*, City of Leesburg Code of Ordinances, as amended.
- C. All operations shall be carried on entirely within an enclosed structure, except as permitted under accessory uses of Section 25-284, City of Leesburg Code of Ordinances, as amended.

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- A. Currently, the Leesburg City Commission is considering the implementation of Architectural Standards for new development and redevelopment. All phases and all structures of this development shall meet or exceed the architectural standards as adopted by the City Commission. However, should architectural standards as noted above not be in place at the time of construction of any phase or structure within this development, the following standards shall prevail:

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- i. All buildings shall have a common architectural theme, and all four (4) sides of each building shall be finished in the same design and materials as used in the front of the building.

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- i. Mechanical units and roof equipment should be screened from view with parapet or other screening method so that mechanical equipment is not seen from public right-of-way and the adjacent residential property.

3.. Exterior construction materials

- i. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
  - a. at least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.

- b. At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a “cementitious” lap siding. (A “cementitious” lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option).
- c. All textured stucco, provided there are unique design features such as recessed areas, tile roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.
- d. Metal, aluminum, Masonite or vinyl siding shall not be used as a siding or finishing material for the exterior of any building constructed under the terms of this Small Planned Unit Development agreement.
- e. The Community Development Director, or designee, shall review the final exterior building design and materials based on the requirements of the Architectural Standards set forth herein, and such review shall include the adherence to the requirements of the City of Leesburg Code of Ordinances, as amended.

#### 4. Building Façade

- i. Building facades shall provide architectural relief for building walls and frontage walls facing the street. Buildings shall provide a foundation or base, typically from ground to bottom of the lower windowsills, with changes in volume or material. A clear visual division shall be maintained between ground level floors and upper floors on multi-story buildings.

#### 5. Design Variations

- i. Other similar design variations meeting the intent of this section may be approved at the discretion of the Planning and Zoning Manager.

### 7. **PARKING**

- A. The permittee shall have off-street parking spaces within the property per an approved site plan pursuant to the City of Leesburg Code of Ordinances, which shall include the required number of handicapped parking spaces. The location and design of the proposed parking areas will be reviewed during the site plan review process to provide for adequate parking, which may limit the permitted uses of the site.

### 8. **WETLANDS**

- A. Should wetlands exist on the site; the following requirements shall apply. Prior to disturbance or development of any wetland area, the "Permittee" shall submit and receive approval from all affected governmental agencies to include, but not limited to, St. John's River Water Management District and the State of Florida Department of Environmental Regulation. Any notice of violation from any affected agency shall be cause for a cease and desist order on permits issued by the City of Leesburg until such

time as the violation has been resolved with the appropriate agency(s).

- B. Wetlands shall have a minimum upland buffer as established by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be replanted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- C. If wetland alteration is permitted by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from the Department of Environmental Protection, St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.

**9. DRAINAGE AND UTILITIES**

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
  - 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties.
  - 2) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.

**10. STORMWATER**

Prior to receiving final development approval, the permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Water, wastewater, reuse water and natural gas services will be provided by the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the permittee shall provide:

- A. A detailed site plan that demonstrates no unpermitted direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties.
- B. A stormwater management system designed and permitted to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. A responsible legal entity such as a property owners association shall be required for the maintenance of the stormwater management system on the property. This entity shall be created prior to the first certificate of occupancy of any structure on the property.
- D. The 100-year flood plain and wetlands jurisdictional line shall be shown on the appropriate plans.
- E. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District.

- F. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg; the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements.

**11. TRANSPORTATION**

- A. All future transportation improvements shall be based on a current traffic analysis and shall be contingent upon Site Plan approval of the project site by City staff during the development review and permitting process. All required transportation improvements shall comply with all regulations and permitting requirements of the City of Leesburg, Lake County, and/or the Florida Department of Transportation as applicable.
- B. The Permittee shall be responsible for obtaining all necessary Lake County and City of Leesburg permits for future development of the project site and a copy of all permits shall be provided to the City of Leesburg.
- C. The Permittee shall provide all necessary improvements such as turn lanes or signalization within and adjacent to the development on as required by a traffic study for the project. Required improvements shall be reviewed and approved by Florida Department of Transportation, Lake County and City of Leesburg prior to construction.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. Sidewalks shall be a minimum width of five feet. All sidewalks shall be constructed in accordance with City of Leesburg Code of Ordinances.

**12. LANDSCAPING AND BUFFER REQUIREMENTS**

- A. Landscaping –  
All required landscaping and buffering shall be constructed in accordance with regulations contained within the City of Leesburg Code of Ordinances, including the following:
  - 1. As each lot is developed, a street side landscape buffer shall be constructed on the eastern boundary of the property along U.S. Highway 27, as required by the City of Leesburg Code of Ordinances.
  - 2. A five (5) foot landscape buffer shall be installed property lines of all lots not fronting on U.S. 27 or the Palatlahaha River. This five (5) foot buffer shall meet or exceed the following requirements. Ground cover, including mulch, pine bark, cedar, rock or synthetic mulch; shrubbery at a rate of 30" on center, a minimum of 18"-24" tall at planting, and two canopy or three understory trees, per 100 linear feet.
- B. Other Buffers -
  - 1. An upland buffer shall be placed along the Palatlahaha River as required by the City of Leesburg, Florida Department of Environmental Protection, St. Johns

River Water Management District and/or U.S. Army Corp of Engineers, whichever is more restrictive.

2. Land uses allowed within the upland buffers are limited to overlooks, hiking trails, walkways, passive recreation activities and stormwater facilities as permitted by St. Johns River Water Management District.

C. Variations

Variations to the landscape and buffer requirements of the code may be approved by the Planning and Zoning Manager or designee as long as the intent of the SPUD and the Code are maintained.

**13. MAINTENANCE**

- A. With the exception of public utilities and sidewalks, maintenance of all site improvements, including but not limited to drives, internal sidewalks, landscaping and stormwater retention/drainage shall be the responsibility of the owner.

**14. MISCELLANEOUS CONDITIONS**

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Development Conditions. Any other proposed use must be specifically authorized through rezoning the property, or in accordance with the Planned Development amendment process.
- B. A wildlife management plan for the project site shall be prepared based on the results of the environmental permit approvals obtained from applicable governmental agencies.
- C. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- D. Construction and operation of the proposed use(s) shall at all times comply with City and other governmental agencies rules and regulations.
- E. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- F. These SPUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition herein set out.

**15. LEVELS OF SERVICE**

As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not

limited to roads, sewage, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities. However, no final development order (building permits) shall be granted for a proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

## LEGAL DESCRIPTION

## EXHIBIT B

That part of the Northeast 1/4 of the Northeast 1/4 of Section 23, Township 20 South, Range 24 East, Lake County, Florida; lying Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida, and Easterly of the easterly right-of-way line of U.S. Highway No. 27.

That part of the Southeast 1/4 of the Southeast 1/4 of Section 14, Township 20 South, Range 24 East in Lake County, Florida, lying Southerly and Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida, and Easterly of the Easterly right-of-way line of U.S. Highway No. 27, Less and except that portion conveyed in Official Records Book 1154, Page 290, more particularly described as follows:

Commence at the Southeast corner of the NE 1/4 of the SE 1/4 of Section 14, Township 20 South, Range 24 East, in Lake County, Florida, and run N.89°24'40"W., along the South line of the NE 1/4 of the SE 1/4 a distance of 661.12 feet to the Point of Beginning of this description; from said Point of Beginning, continue N.89°24'40"W., along the South line of the NE 1/4 of the SE 1/4, said line also being the North line of the SE 1/4 of the SE 1/4 of said Section 14, a distance of 531.62 feet to a point on the Northeasterly right-of-way line of U.S. Highway No. 27, said point being on a curve concave Northeasterly and having a radius of 5661.65 feet and a radial bearing of S.62°21'46 W.; thence Southeasterly along the arc of said curve and Northeasterly right-of-way line of said U.S. Highway No. 27 through a central angle of 00°22'22" an arc length of 36.84 feet to the North right-of-way line of S.C.L. Railroad; thence leaving said Northeasterly right-of-way line of U.S. Highway No. 27 run N.89°48'39"E., along the North right-of-way line of the S.C.L.Railroad a distance of 515.42 feet; thence N.00°35'20"E., 26.07 feet to the Point of Beginning.

That part of the Southwest 1/4 of the Southwest 1/4 of Section 13, Township 20 South, Range 24 East, Lake County, Florida, lying Southerly and Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida.

That part of the Northwest 1/4 of the Northwest 1/4 of Section 24, Township 20 South, Range 24 East, Lake County, Florida, lying Westerly of the centerline of the Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida, and Easterly of the Easterly right-of-way line of U.S. Highway No. 27, and lying Northwesterly of the Northwesterly line of the additional right-of-way acquired by the State of Florida for U.S. Highway No. 27 (State Road No. 25).

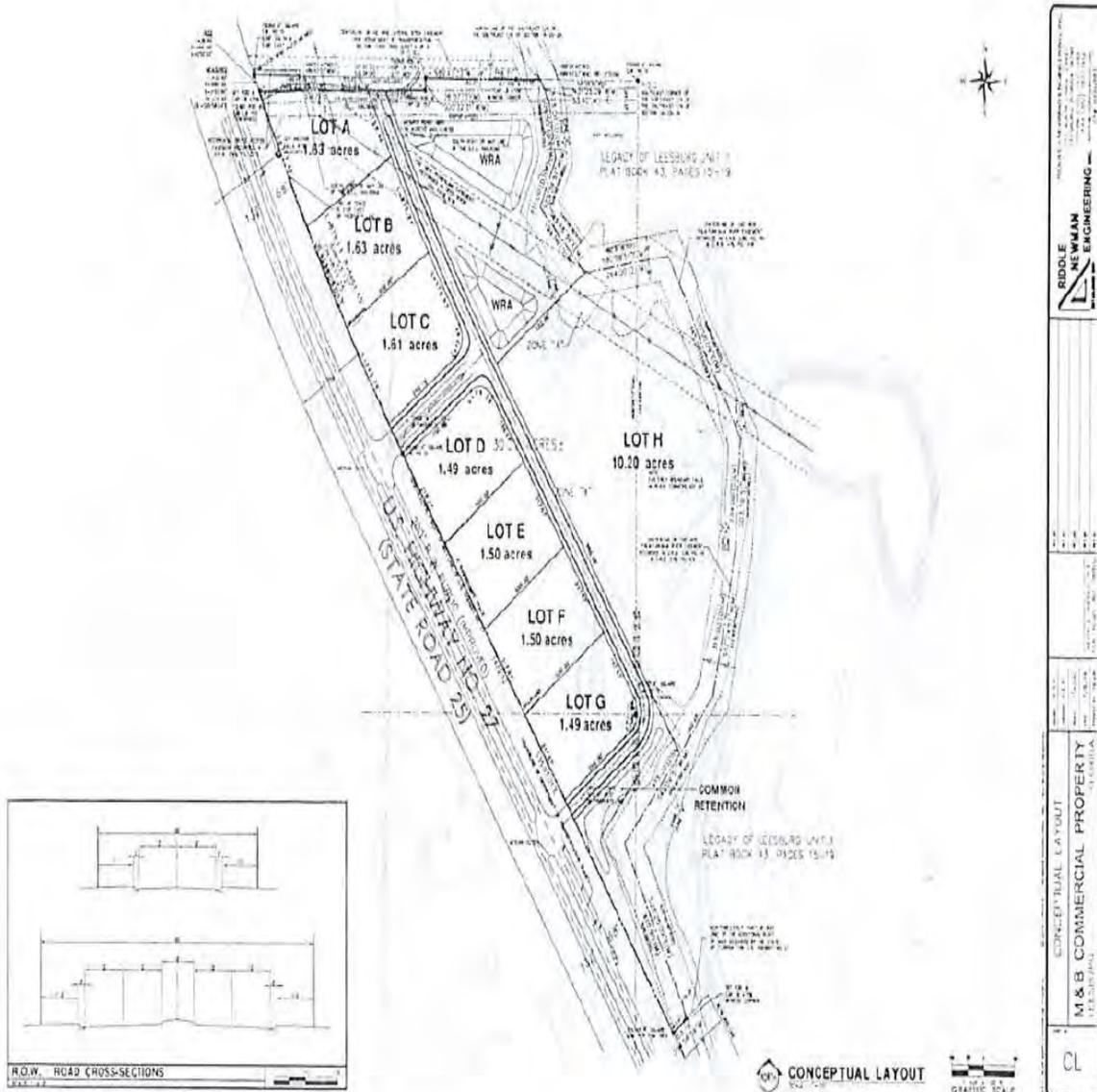
That part of the abandoned right-of-way and spur line of the Atlantic Coast Line Railroad lying within the part of the Southeast 1/4 of the Southeast 1/4 of Section 14, Township 20 South, Range 24 East, lying East of the Easterly line of the right-of-way of U.S. Highway No. 27, and lying Westerly of the centerline of Palatlahaha Creek as described in Official Records Book 336, Page 451 and Official Records Book 479, Page 416, Public Records of Lake County, Florida.

Together with Reciprocal Cross Access Easement by and between Clifford F. Cook and Allen R. Kelley and Zappala Muscarella and Associates, Inc , a Florida Corporation recorded July 10, 2002 in Official Records Book 2140, Page 2212, Public Records of Lake County, Florida.

Lake County Alternate Key(s) #: 1087929, 1087937, 1088127, 3800586

**SITE PLAN**

**EXHIBIT C**





DRAFT SUMMARY MINUTES OF THE REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY COMMISSION CHAMBERS, CITY HALL  
THURSDAY, SEPTEMBER 22nd, 2016 - 4:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, September 22nd, 2016, in the Commission Chambers at City Hall.

Chairman James Argento called the meeting to order at 4:30 p.m.

The following Commission members were present:

James Argento - Chairman  
Don Lukich  
Frazier Marshall  
Agnes Berry  
Clell Coleman  
Ted Bowersox

City staff in attendance included Dan Miller, Planning & Zoning Manager, Kandi Harper, Senior Planner, Adrian Parker, Community Development Coordinator, and Billie Shell, Administrative Assistant II.

**1. PUBLIC HEARING CASE # PUD-16-136 – STONEGATE DEVELOPMENT – PLANNED UNIT DEVELOPMENT**

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 30+/- ACRES FROM C-3 (HIGHWAY COMMERCIAL) TO PUD (PLANNED UNIT DEVELOPMENT) ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF ARLINGTON RIDGE BOULEVARD AND US HIGHWAY 27 AND LYING EAST OF US HIGHWAY 27 AS LEGALLY DESCRIBED IN SECTIONS 13, 14, 23 AND 24, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. **(CITY COMMISSION DATES – 1<sup>ST</sup> READING ON OCTOBER 10<sup>TH</sup>, 2016 AND 2<sup>ND</sup> READING ON OCTOBER 24<sup>TH</sup>, 2016)**

Dan Miller introduced Stonegate as a 30+/- acres mixed use development along South US Highway 27, south of County Road 48.

Mr. Miller stated this development would consist of an assisted living, an independent living, and nursing facilities to be located on the eastern side. A mini storage facility, and other retail/office space would be developed along US Highway 27.

Kandi Harper entered the exhibits into the record. Exhibit items included the staff summary, departmental review summary, staff recommendations, aerial map, land use and zoning map, CRA map, site photos, and conceptual site plan.

Kandi Harper utilized a power point presentation to demonstrate the area of the proposed site.

Staff recommendations to approve case # PUD-16-136 are based on the following:

- The case meets the current criteria, and is compatible with the current land uses.
- Compatible with the adjacent zoning classifications and does not appear to have a detrimental impact on the surrounding properties

Dan Miller stated that the case was forwarded to other City Departments for comment. Public Works noted there may be the need of a lift station in the area of the development. The Building Department commented that all building codes shall be met should the case be approved.

Mr. Miller indicated there were several phone calls from the general public, most seeking information about the case and proposed use. There were no written comments for approval, four (4) written comments for disapproval.

Dan Miller shared the four (4) written disapprovals with the Commissioners.

Clarification was provided regarding the separation of the development from the neighboring residential area, by the Palatkala River.

Adrian Parker, Community Development Coordinator explained the buffers required by the St. John's Water Management and DEP in order to protect the trees, various vegetation, and wetlands in the area.

Dan Tatro representing the sellers of the property spoke briefly to explain that the property is currently zoned C3, with the uses previously determined. Mr. Tatro also stated there is a buyer for the back ten acres with contract negotiations currently being exchanged.

Chairman Argento opened the discussion to public comment.

One citizen spoke with concerns of any new ingress/egress on the Highway, as well as additional traffic lights in the area. The citizen stated they would be particularly interested in any DOT traffic studies, and noise studies done regarding the development. The citizen also verbalized concern over a tree line near the subject development being removed.

Dan Miller explained that due to the close proximity to CR 48 and the existing 55 MPH speed limit, DOT would (more than likely) only allow one (1) ingress/egress on US Highway 27 to the development. Mr. Miller also stated that the City has no jurisdiction or decision in the manner.

Mr. Miller also stated the tree line would not be removed.

With no further comments or questions, discussion was closed for Planning Commission deliberation.

**Commissioner Lukich made a MOTION for APPROVAL of case #CUP-16-136 – STONEGATE DEVELOPMENT. Commissioner Bowersox SECONDED the MOTION which CARRIED UNAMIOUSLY by a vote of 6-0**

## ANNOUNCEMENTS

A transfer of position for the current Planning and Zoning Administrative Assistant II, Billie Shell, was announced.

## ADJOURNMENT

Approximately 5:28 p.m.

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James Argento, Chairman

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Kandi Harper  
Senior Planner

**CITY OF LEESBURG PLANNING & ZONING DIVISION  
STAFF SUMMARY**

**DATE:** September 16, 2016  
**OWNER:** Investment Properties of M & B, LLC  
**PETITIONER:** Investment Properties of M & B, LLC  
**PROJECT:** PUD (Planned Unit Development)  
**REQUEST:** Planned Unit Development to allow for medical, retail, commercial office, assisted and independent living, storage.  
**CASE NO.:** PUD-16-136

**GENERAL LOCATION:** This property is generally located northeast of the intersection of Arlington Ridge Boulevard and U.S. Highway 27 and lying east of U.S. Highway 27.

**FUTURE LAND USE DESIGNATION:** General Commercial

**SURROUNDING FUTURE LAND USE DESIGNATION:**

North – General Commercial; Lake County Urban Low Density  
South – General Commercial; Low Density Residential  
East – Low Density Residential  
West – Neighborhood Mixed Use

**PROPOSED FUTURE LAND USE DESIGNATION:** Same

**EXISTING ZONING DESIGNATION:** PUD (Planned Unit Development)

**SURROUNDING ZONING DESIGNATIONS:**

North – C-3 (Highway Commercial)  
South – C-1 (Neighborhood Commercial); R-1-A (Single Family Residential)  
East – R-1-A (Single Family Residential)  
West – C-3 (Highway Commercial); R-3 (High Density Residential); PUD (Residential Planned Unit Development)

**PROPOSED ZONING DESIGNATION:** PUD (Planned Unit Development)

**EXISTING LAND USE:** Vacant acreage

**SURROUNDING LAND USE:**

North – Commercial; Institutional; Agricultural  
South – Single family residential  
East – Single family residential  
West – Single family residential; Commercial; Agriculture

**PROPOSED LAND USE:** Medical, retail, commercial office, assisted and independent living, personal storage.



**CITY OF LEESBURG PLANNING & ZONING DIVISION  
DEPARTMENTAL REVIEW SUMMARY**

**DATE:** September 16<sup>th</sup>, 2016  
**OWNER:** Investment Properties of M & B, LLC  
**PETITIONER:** Investment Properties of M & B, LLC  
**PROJECT:** PUD (Planned Unit Development)  
**REQUEST:** To allow for a mix of uses to include Assisted Living Facility, Independent Living Facility, Commercial Office, Retail, Medical, Storage.  
**CASE NO.:** PUD-16-136 Stonegate Development

**THE FOLLOWING COMMENTS RECEIVED FROM EACH DEPARTMENT:**

**POLICE**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**FIRE**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**ELECTRIC**

This is out of Electric's service territory; Steven C. Davis, Electric Service Planner Supervisor, July 7, 2016.

**WATER**

Utilities are generally located in the area for service of this PUD. Elevation and system pressure will determine if a wastewater lift-station is required. For all utilities, off-site improvements may be required; Darel W. Craine, Deputy Director of Public Works, 9/7/2016

**WATER DISTRIBUTION**

Utilities are generally located in the area for service of this PUD. Elevation and system pressure will determine if a wastewater lift-station is required. For all utilities, off-site improvements may be required; Darel W. Craine, Deputy Director of Public Works, 9/7/2016

**WATER BACKFLOW**

Utilities are generally located in the area for service of this PUD. Elevation and system pressure will determine if a wastewater lift-station is required. For all utilities, off-site improvements may be required; Darel W. Craine, Deputy Director of Public Works, 9/7/2016

## DEPARTMENTAL REVIEW SUMMARY

*Stonegate Development – PUD-16-136*

### **STORMWATER**

Utilities are generally located in the area for service of this PUD. Elevation and system pressure will determine if a wastewater lift-station is required. For all utilities, off-site improvements may be required; Darel W. Craine, Deputy Director of Public Works, 9/7/2016

### **WASTEWATER**

Utilities are generally located in the area for service of this PUD. Elevation and system pressure will determine if a wastewater lift-station is required. For all utilities, off-site improvements may be required; Darel W. Craine, Deputy Director of Public Works, 9/7/2016

### **GAS**

I don't have any problem with the proposal. We have gas connections available to the site that we hope they will use; Jessie Cummins, Field Operations Supervisor, 9/9/2016

### **GIS**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **BUILDING**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **ENGINEERING/PUBLIC WORKS/SURVEY**

Utilities are generally located in the area for service of this PUD. Elevation and system pressure will determine if a wastewater lift-station is required. For all utilities, off-site improvements may be required; Darel W. Craine, Deputy Director of Public Works, 9/7/2016

### **ADDRESSING**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **ECONOMIC DEVELOPMENT**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **COMMUNICATIONS UTILITY**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **PUBLIC RESPONSES**

#### ***Approval:***

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

## DEPARTMENTAL REVIEW SUMMARY

*Stonegate Development – PUD-16-136*

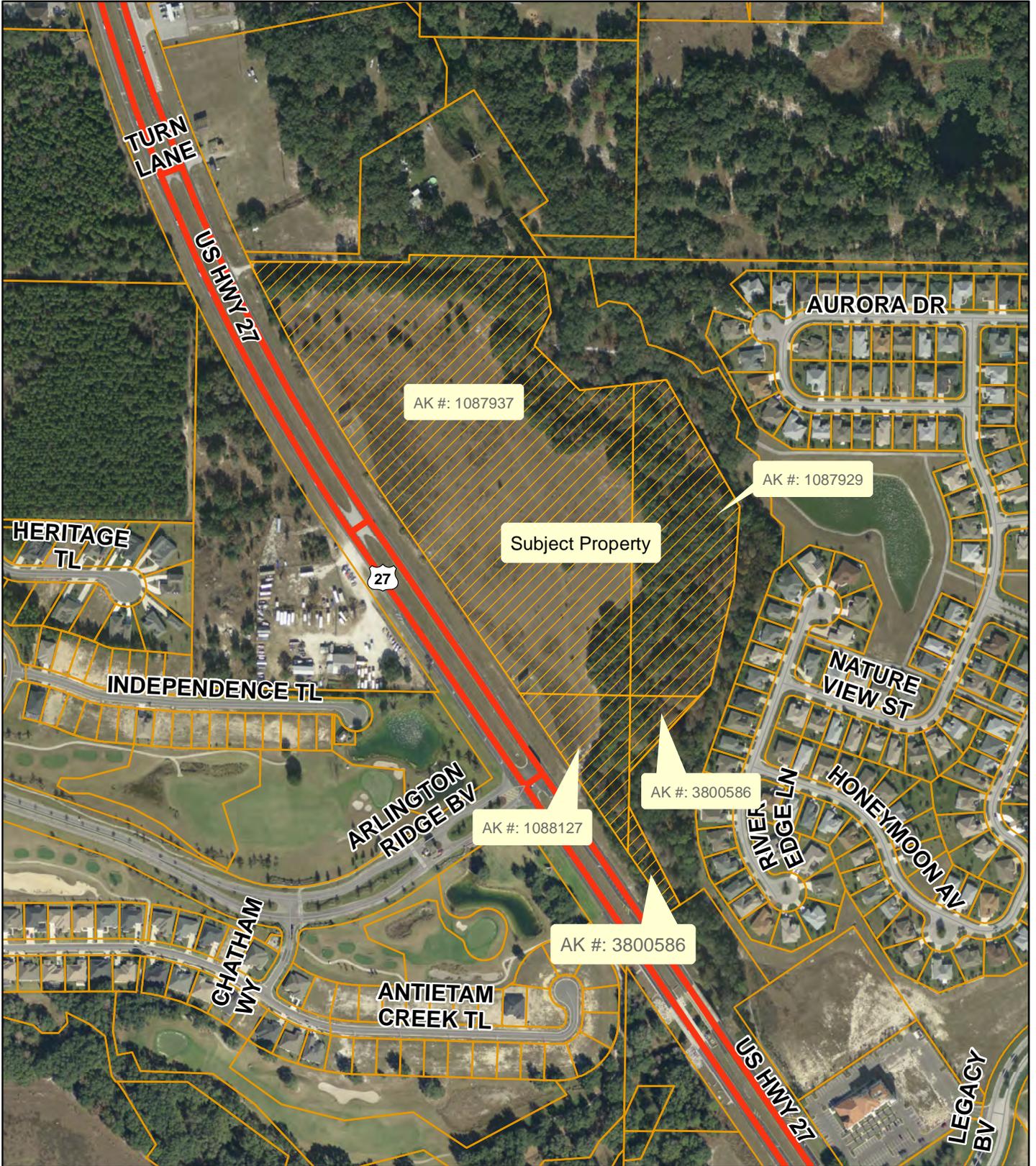
### ***Disapproval:***

Four comments were received for disapproval.

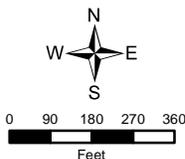
### ***General Comments:***

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

# Locator

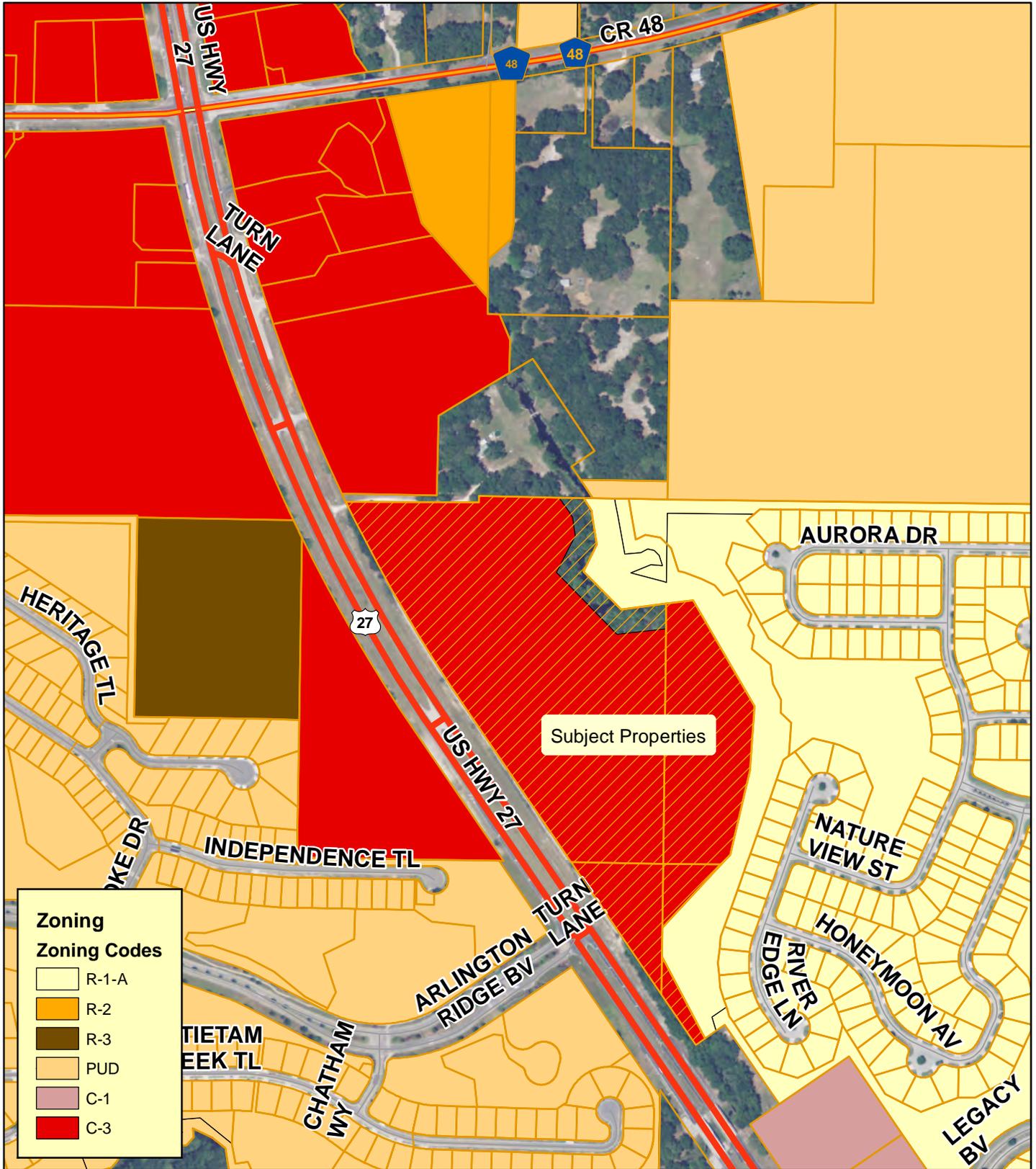


**Planning  
& Zoning  
Division**



**PUD 16-136 Mixed Use Planned Unit Development  
Stonegate Development  
AK #: 1087937, 1087929, 1088127, 3800586  
Sections 13, 14, 23, & 24 Township 20 South Range 24 East**

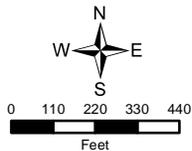
# Zoning



Zoning	
Zoning Codes	
	R-1-A
	R-2
	R-3
	PUD
	C-1
	C-3

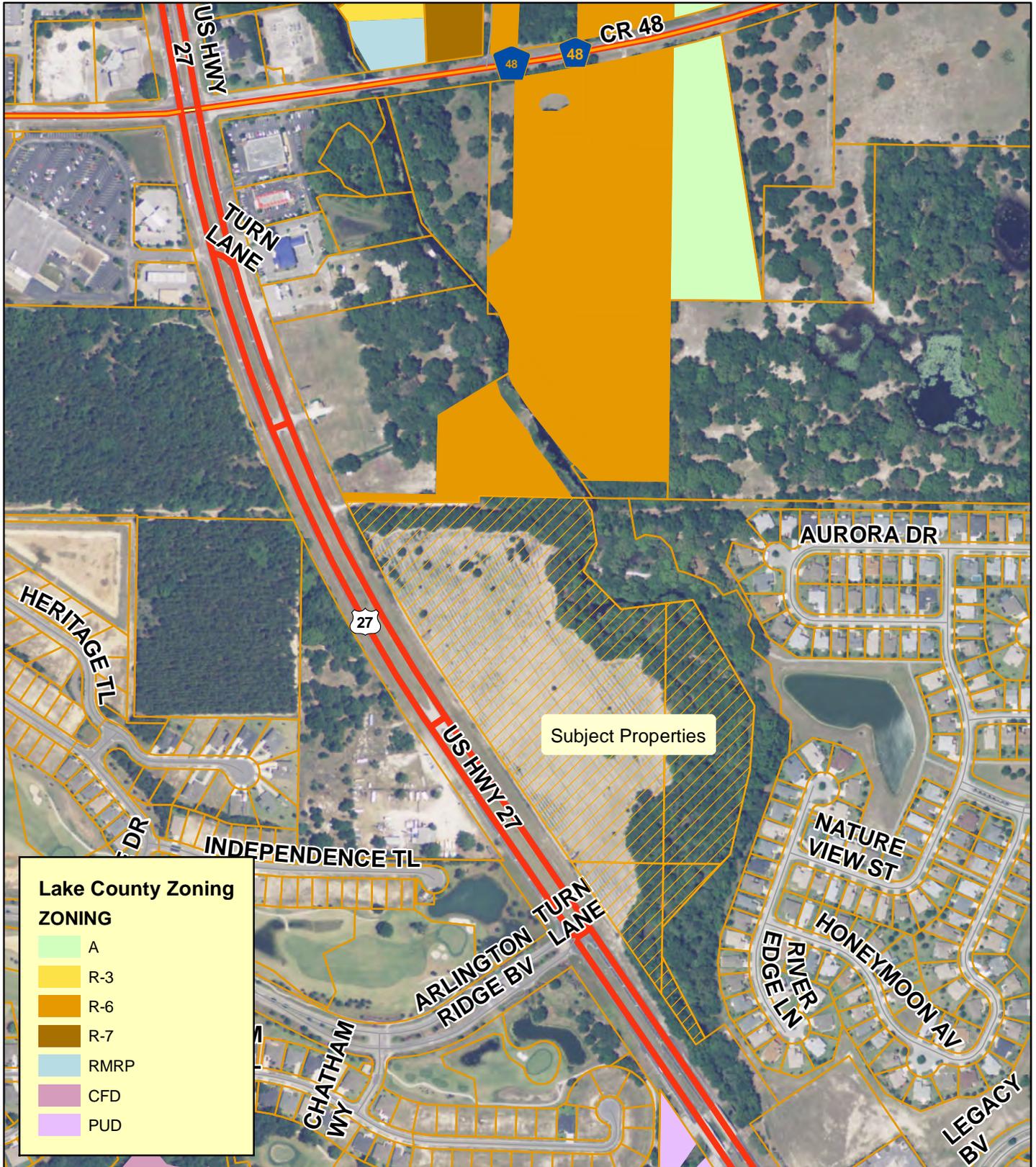


**Planning  
& Zoning  
Division**



**PUD 16-136; 30 Acres MOL**  
**Stonegate Development**  
**Investment Properties of M & B, LLC**  
**AK #s: 1087937, 1087929, 1088127, 3800586**

# Lake County Zoning

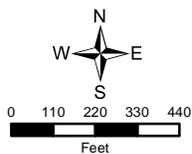


**Lake County Zoning**  
**ZONING**

- A
- R-3
- R-6
- R-7
- RMRP
- CFD
- PUD

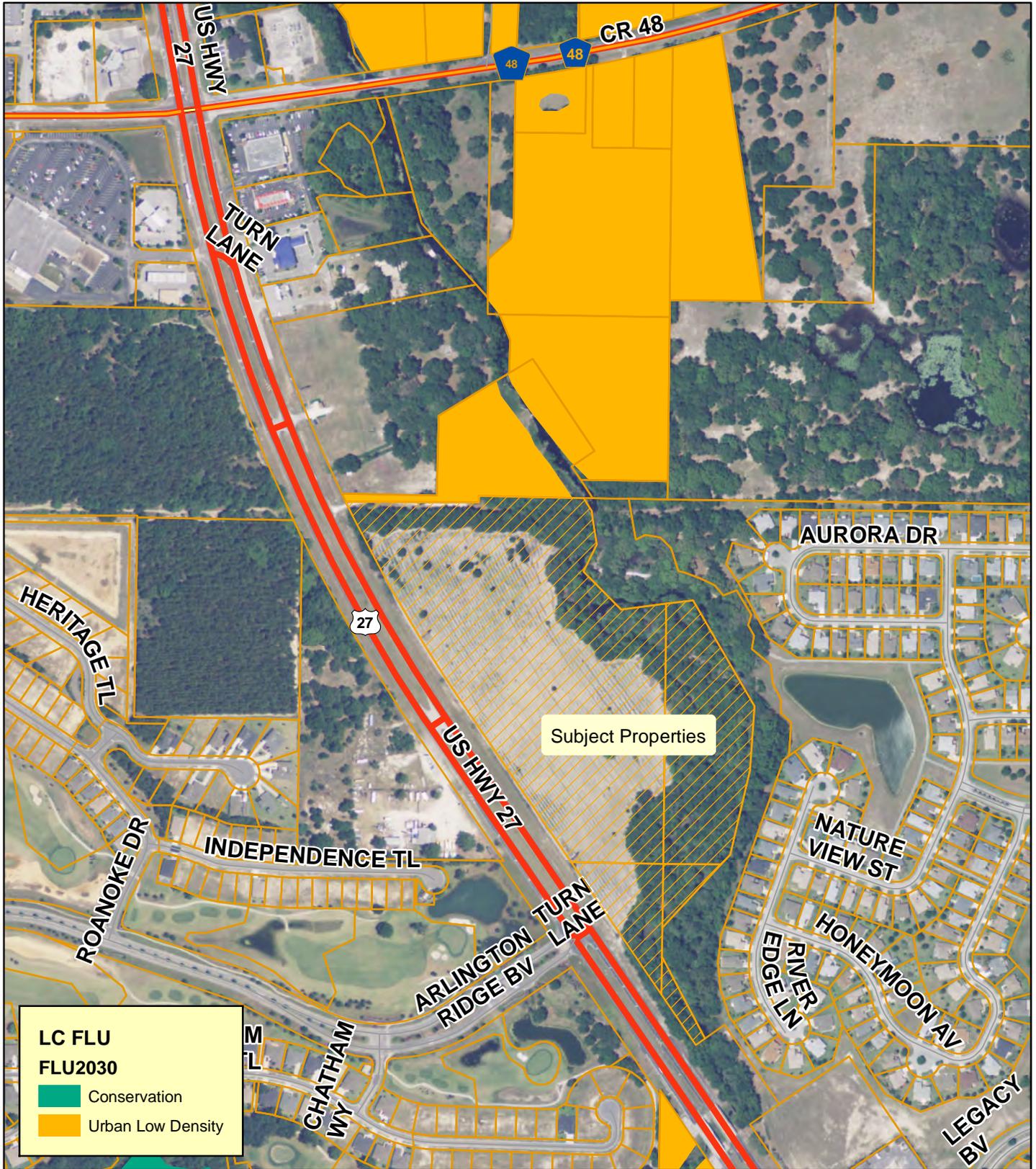


**Planning  
& Zoning  
Division**

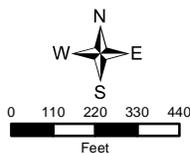


**PUD 16-136; 30 Acres MOL**  
**Stonegate Development**  
**Investment Properties of M & B, LLC**  
**AK #s: 1087937, 1087929, 1088127, 3800586**

# Lake County Future Land Use

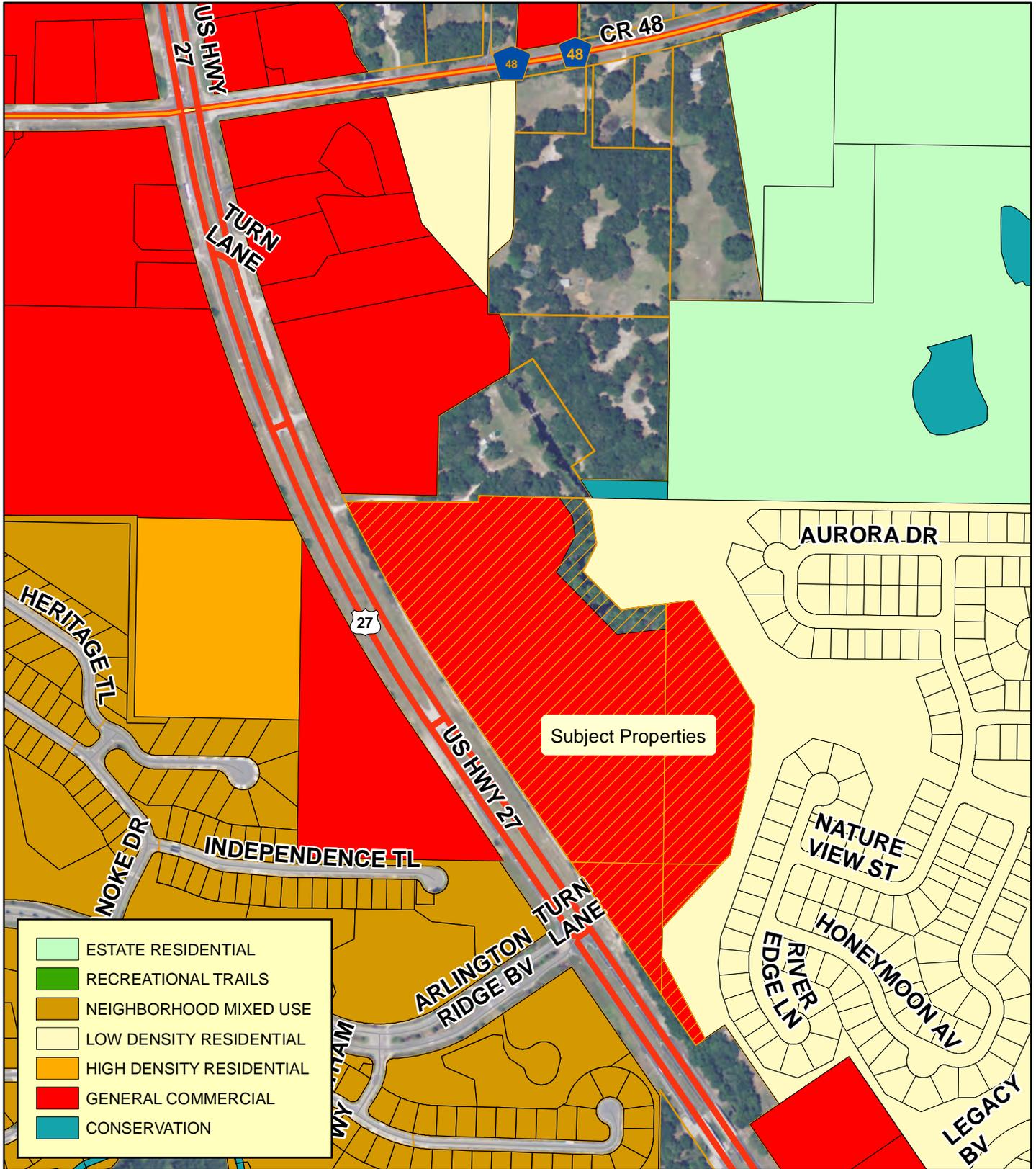


**Planning  
& Zoning  
Division**

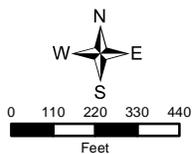


**PUD 16-136; 30 Acres MOL  
Stonegate Development  
Investment Properties of M & B, LLC  
AK #s: 1087937, 1087929, 1088127, 3800586**

# Future Land Use

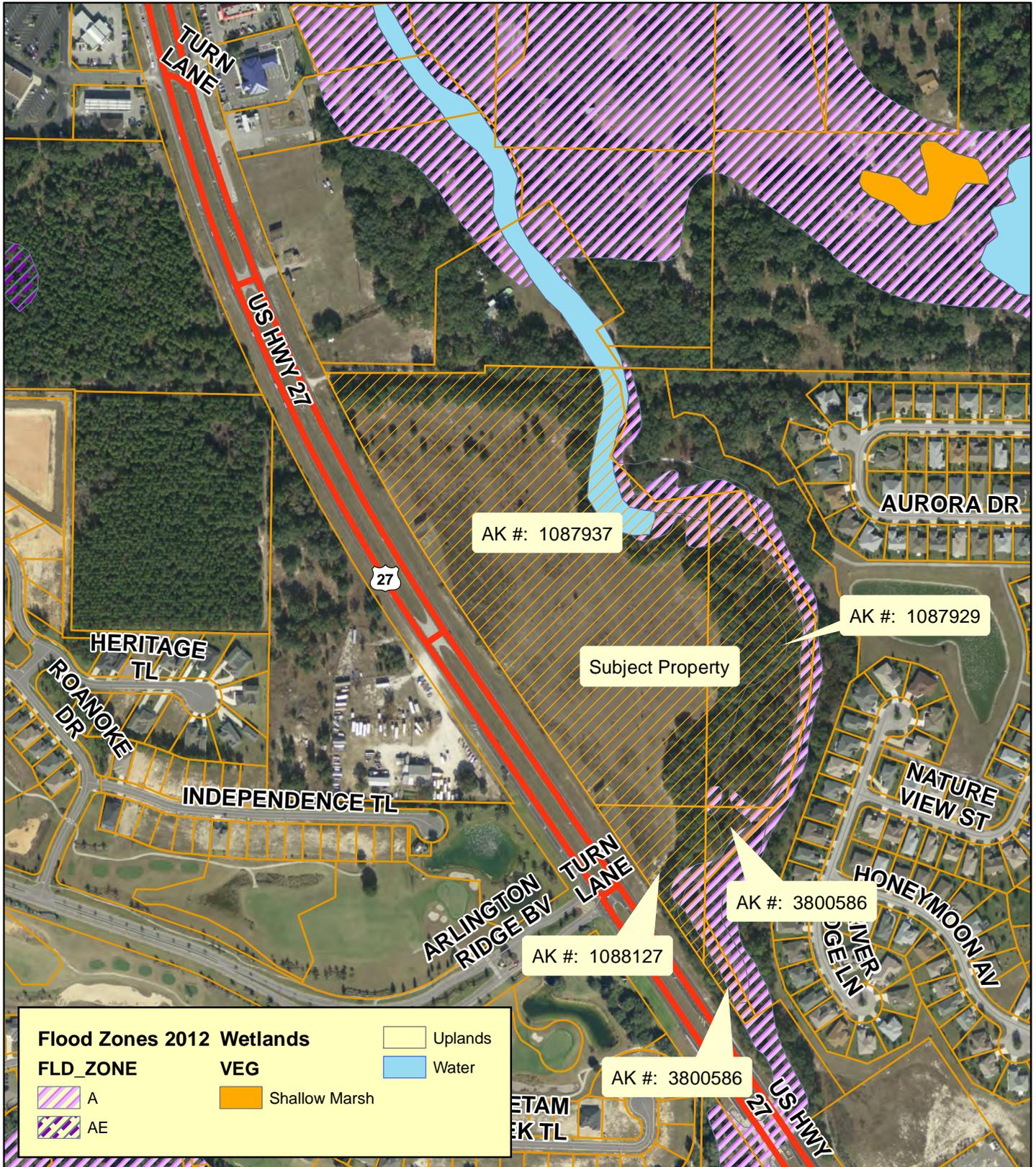


**Planning  
& Zoning  
Division**

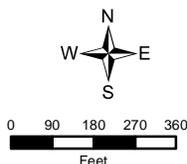


**PUD 16-136; 30 Acres MOL**  
**Stonegate Development**  
**Investment Properties of M & B, LLC**  
**AK #s: 1087937, 1087929, 1088127, 3800586**

# Wetlands and Flood Zones

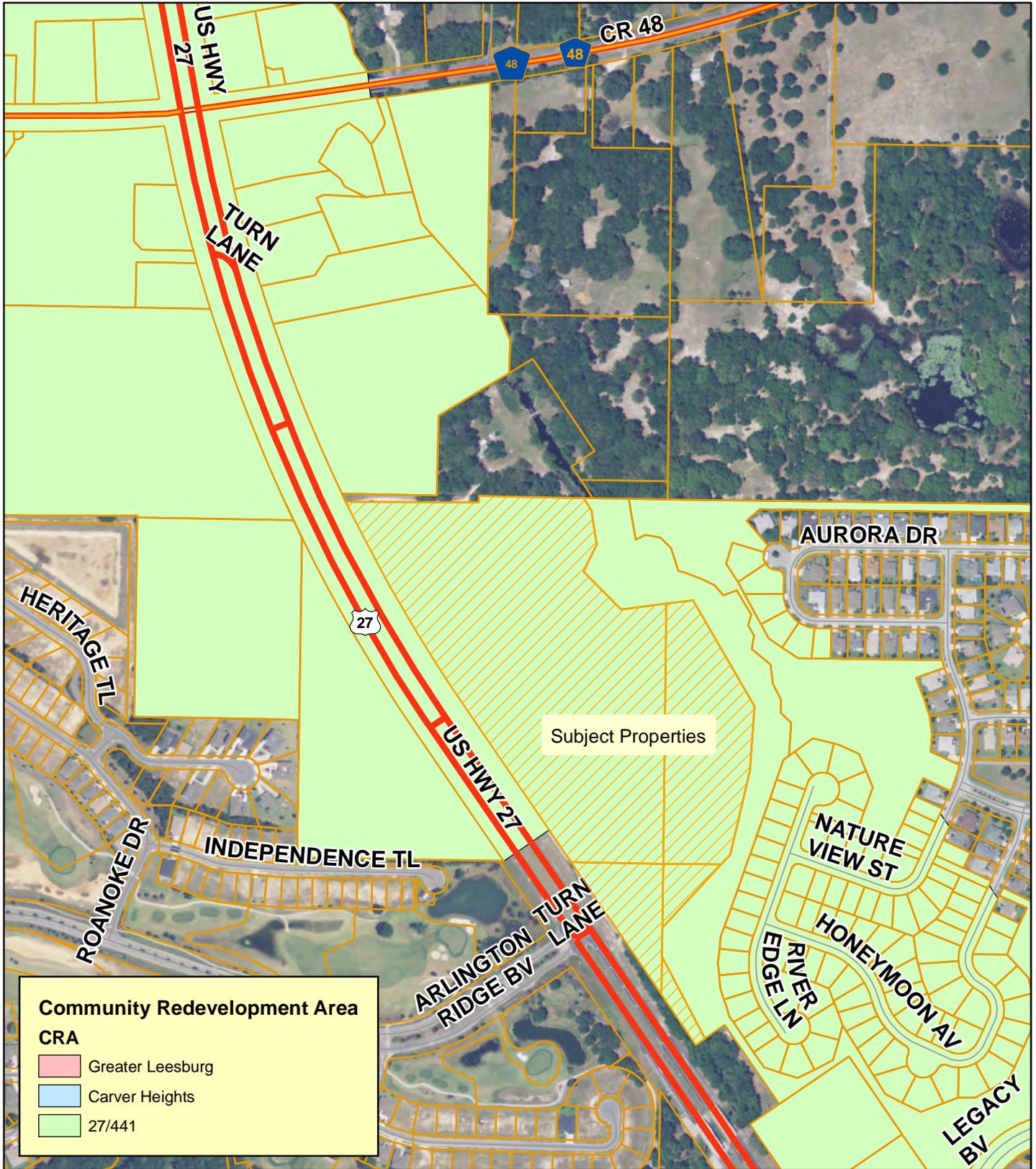


**Planning & Zoning Division**

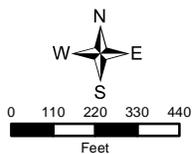


**PUD 16-136 Mixed Use Planned Unit Development  
Stonegate Development  
AK #: 1087937, 1087929, 1088127, 3800586  
Sections 13, 14, 23, & 24 Township 20 South Range 24 East**

# Community Redevelopment Area



**Planning  
& Zoning  
Division**



**PUD 16-136; 30 Acres MOL  
Stonegate Development  
Investment Properties of M & B, LLC  
AK #s: 1087937, 1087929, 1088127, 3800586**



**Subject property: (undeveloped)**



**Views looking west and north to Arlington Ridge subdivision**



**Views looking west along U.S. Hwy 27**



**Views looking north along U.S. Hwy 27**



# AGENDA MEMORANDUM

**Item No:** 6F.

**Meeting Date:** October 24, 2016

**From:** Dan Miller, Planning & Zoning Manager

**Subject:** Ordinance rezoning property for the proposed Venetian Isles Development, from PUD (Planned Unit Development) to PUD (Planned Unit Development) with revised conditions.

## Staff Recommendation

The Planning Commission and Planning and Zoning Staff recommend approval of the attached ordinance which rezones the subject property from PUD (Planned Unit Development) to PUD (Planned Unit Development) with revised conditions.

## Analysis

The applicant has requested to amend the current zoning to allow a 96 unit senior (age 55+) multi-family residential complex be added as a permitted use in the currently approved PUD zoning. This PUD currently lists medical, retail, assisted living and memory care uses. The property is generally located on the east side of Lake Street, south of Dixie Avenue, and north of Mellathon Circle, and is currently undeveloped. All other conditions of the PUD remain unchanged.

The Planning Commission recommended that Site A on Exhibit C-1 be approved for this development, and staff has revised the PUD wording to that effect. At their public hearing on September 22, 2016, the Leesburg Planning Commission voted to approve this request by a vote of 6-0.

## Options

1. Approve the requested rezoning, or
2. Such alternative action as the Commission may deem appropriate.

## Fiscal Impact

Upon development a positive fiscal impact is expected, as the proposed development will provide new jobs to the area, along with increased tax revenues and city utility service charges.

**Submission Date and Time:** 10/19/2016 2:33 PM

Department: <u>Comm Development</u> Prepared by: <u>Dan Miller</u> Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Advertised: <input type="checkbox"/> Not Required Dates: _____ Attorney Review: <input type="checkbox"/> Yes <input type="checkbox"/> No Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. <u>MWR</u> Submitted by: _____ City Manager _____	Account No. _____ Project No. _____ WF No. _____ Budget _____ Available _____
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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 85 +/- ACRES FROM PUD (PLANNED UNIT DEVELOPMENT) TO PUD (PLANNED UNIT DEVELOPMENT) ON PROPERTY GENERALLY LOCATED SOUTH OF THE INTERSECTION OF EAST DIXIE AVENUE AND SOUTH LAKE STREET AND NORTH OF MELLATHON CIRCLE, AS LEGALLY DESCRIBED IN SECTION 25, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (VENETIAN ISLES)

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

**Section 1:**

Based upon the petition of Tony Bengé, on behalf of TAC FL Land Holdings, LLC, the petitioner of the property hereinafter described, which petition has heretofore been approved the City Commission of the City of Leesburg, Florida, pursuant to the provisions of the Laws of Florida, the said property located in Lake County, Florida, is hereby rezoned from PUD (Planned Unit Development) to PUD (Planned Unit Development) with revised conditions as shown in Exhibit A attached hereto, to wit:

**Section 2:**

This ordinance shall become effective upon its passage and adoption, according to law.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
Jay Hurley, Mayor

ATTEST:

\_\_\_\_\_  
J. Andi Purvis, City Clerk

**VENETIAN ISLE  
PUD (PLANNED UNIT DEVELOPMENT)  
PLANNED DEVELOPMENT CONDITIONS  
September 22, 2016**

These Planned Development Conditions for a PUD (Planned Unit Development) District are granted by the City of Leesburg Planning Commission, Lake County, Florida to Ardent Companies, TAC Florida LLC or assigns, "Permittee" for the purposes and terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Development Process" of the City of Leesburg Code of Ordinances, as amended.

**BACKGROUND:** The "Permittee" has submitted an application requesting a PUD (Planned Unit Development) zoning district to permit a mixed use development consisting of single family residential, age-restricted (55+) multi-family, assisted living, memory care and ancillary housing uses including a hotel, retail uses, plus commercial facilities and offices to support the local medical community on an approximately 55 acre site within the City of Leesburg in accordance with their Planned Development application and supplemental information.

**1. PERMISSION**

Permission is hereby granted to Ardent Companies, TAC Florida LLC to operate and maintain a PUD (Planned Unit Development) development in and on real property in the City of Leesburg. The property is generally located south of Dixie Avenue and east of Lake Street. The property is more particularly described as shown in the attached legal description below.

**2. LEGAL DESCRIPTION:**

See **Exhibit B**.

**3. LAND USE**

The above-described property, containing approximately 55 acres, shall be used for single family residential, age restricted multi-family (55+), assisted living, memory care and ancillary housing uses including a hotel, retail uses, plus commercial uses pursuant to City of Leesburg development codes and standards.

A. Uses

- 1) Uses shall be those listed as permitted uses in the PUD district as amended in this document and shall occupy the approximate area as shown on the Conceptual Plan **Exhibit C**. Proposed Senior Housing shall be allowed as illustrated in "Option A" (98 units on approximately six {6} acres) as seen on Exhibit C-1 Conceptual Site Plan (for Senior Housing).
- 2) Accessory uses shall be as follows:
  - a. outdoor commercial recreation
  - b. bars and lounges within a hotel

- c. clubs and lodges within an assisted living facility
- d. educational facilities within an assisted living facility or hotel
- e. Any other similar uses which are considered accessory to permitted uses which does not adversely impact the adjoining properties do to traffic, noise, dust, etc.

- 3) Uses prohibited shall be as follows:
  - a. outdoor commercial recreation
  - b. commercial bars and lounges except as an accessory use to a hotel
  - c. clubs and lodges except as an accessory use to an assisted living facility
  - d. crematoriums
  - e. package stores
  - f. industrial uses
  - g. educational facilities
  - h. vehicle sales service and repair
  - k. kennels
  - l. truck stops
  - m. Any other similar uses which are not considered residential, office or commercial in character or intensity which may adversely impact the adjoining properties do to traffic, noise, dust, etc.

B. Residential Development

- 1) The project shall contain a maximum of 200 (residents) assisted living memory care residential units, 100 independent senior adult living units, a 98-unit age restricted multi-family complex (illustrated as "Option A" on Exhibit C-1 Conceptual Site Plan for Senior Housing) and 25 detached single family units on approximately 54.5 acres. The gross density for this development shall not exceed 12 units per acre for any senior adult uses; the gross density for the single family site shall not exceed 4 units per acre.
- 2) The minimum lot size shall be 6,000 square feet for the detached single family homes.
- 3) Minimum lot widths shall be 60 feet. Minimum lot depth shall be 100 feet.
- 4) The following minimum yard setbacks shall be maintained for single-family detached:
  - Front setback – 20 feet;
  - Rear setback – 18 feet; and
  - Side setbacks – minimum of 5 feet.
- 5) Minimum distance between single-family detached structures shall be 10 feet with 20 feet for assisted living unit building groups; measured from building wall to building wall and the roof overhang shall not exceed 40 percent of the distance between the building wall and the property line.
- 6) Corner lots shall have a minimum side yard setback of 20 feet from the public right-of-way.

- 7) Accessory structures shall have a minimum rear and side setback of 5 feet and single accessory structures that are not attached to the principal structure shall not occupy more than 30 percent of the required rear yard.
- 8) An attached screened enclosure with screen roof must maintain a minimum setback of five (5) feet from the rear property line.
- 9) City staff as part of the preliminary site plan approval process shall approve final lot sizes and setbacks based on the general intent of the PUD as per conceptual plans.
- 10) Impervious surface coverage for single-family detached shall not exceed 70 percent.
- 11) A minimum of thirty (30) percent of the site shall be developed as open space, including retention areas, buffer and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.
- 12) Maximum building height for single family detached units shall not exceed two stories or 30 feet except for the assisted living/memory care residential units which shall not exceed five stories or 55 feet.

#### C. Recreational Development

- 1) Recreational development shall include active and passive uses and consist of a minimum of 1.5 +/- acres of the project. Recreational development shall meet the requirements of the City of Leesburg Land Development Code (as amended) and adopted Growth Management Plan (as amended).
- 2) Recreational development provided on the site shall include active and passive uses, as well as enclosed or un-enclosed recreational space, devoted to the joint use of the residents. Such recreation space shall consist of not less than two hundred (200) square feet of space per dwelling unit. In computing usable recreation space, the following items may be considered at one and twenty-five hundredths (1.25) times the actual area.
  - a. Recreational activities such as tennis and hand ball courts, etc.
  - b. Developed recreational trails which provide access to the public trail system.
  - c. Swimming pool, including the deck area which normally surrounds such pools.
  - d. Indoor recreation rooms provided such rooms are permanently maintained for the use of residents for recreation.
- 3) Required stormwater areas and buffer areas shall not be considered as recreational space except for areas developed as recreational trails which provide access to the public trail system.
- 4) The Planned Unit Development shall provide planned accessibility from all areas of the development to any proposed recreational facilities including pedestrian access where possible.
- 5) Recreational uses may include, but not be limited to the following uses:
  - a. Satellite recreational centers, clubhouses within the residential areas

- b. Tennis courts
- c. Swimming pools
- d. Shuffle board
- e. Jogging Path / Pedestrian Path
- f. Horse shoes
- g. Croquet
- h. Softball fields
- i. Exercise rooms
- j. Wood shop
- k. Craft room
- l. Media room
- m. Card room
- n. Billiards room
- o. Library
- p. Dressing room
- q. Computer room

- 6) Developer shall provide a covered over look dock on Lake Harris for development residents. In addition, a nature trail/board walk shall be constructed from the overlook dock area to the west to tie into the proposed nature trail/board walk planned through the Royal Palms project, subject to approval by state and local permitting agencies.

- D. Limited commercial uses shall be allowed within buildings designated for recreational use and shall be intended for the primary use of project residents. The location and intensity of such uses shall be approved by the City staff as part of the preliminary site plan review process. Examples of such uses are sales office, post office, ATM or bank services, coffee shop etc.
- E. The commercial use of a sales office and/or model center shall be a permitted use as long as it is specifically related to the PUD residential development of the site.

4. **SITE ACCESS**

- A. Access to the site shall be provided by a minimum of two access points which may be gated as shown on the conceptual plans, one on East Dixie Avenue and one on Lake Avenue. The accesses shall be through divided boulevard type roads. The Lake Avenue access shall line up with the Royal Palms project access point, where feasible. Any additional access, shall be reviewed through the Traffic Study required and the City's site plan review process. Final determination of the direction of traffic movement into and out of all permitted access points shall be determined through the Traffic Study as required by the City's site plan review process.

5. **DESIGN/ARCHITECTURAL REQUIREMENTS**

- A. Currently, the Leesburg City Commission is considering the implementation of Architectural Standards for new commercial development and redevelopment. All phases and all structures of this development shall meet or exceed the architectural standards as adopted by the City Commission. Should these proposed commercial architectural standards not be in place at the time of construction of any phase or structure within this development, the following standards shall prevail for commercial development.

- B. All buildings shall have a common architectural theme for each phase and the side of buildings which face residential areas or streets (public or private) shall be finished in the same materials as used in the front of buildings.
- C. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project including sides and rear of buildings which shall be integrated with the front elevation materials and design.
- D. Mechanical units and roof equipment should be screened from view with parapet or other screening method so that mechanical equipment is not seen from public right-of-way and the adjacent residential property.
- E. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
  - 1) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
  - 2) At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a "cementitious" lap siding. (A "cementitious" lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option).
  - 3) All textured stucco, provided there are unique design features such as recessed areas, tile roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.
- F. Design of the commercial phase of the project shall comply with the intent of the Design Guideline Requirements (See **Exhibit D**).
- G. Single family detached and assisted living units shall be designed with elevations that are the same or similar to the attached elevations (See **Exhibit F**).
- H. Other similar design variations meeting the intent of this section may be approved at the discretion of the Community Development Director.

## 6. DEVELOPMENT STANDARDS

- A. The minimum development standards shall be those required for the C-3 Highway Commercial district for commercial uses except as amended by these conditions and may limit the permitted uses based on site plan requirements.
- B. Minimum building setbacks shall be fifty-five (55) feet except for single family residential uses from any abutting residential district property boundaries and thirty (30) feet from the western boundary.
- B. Structures other than single family detached units shall not exceed forty (40) feet in height (three stories) as measured from the first floor, finished floor level on the site

except for hotel and multi-family uses which shall not exceed fifty-five (55) feet and five (5) stories.

- D. A wildlife/archaeological management plan for the project site shall be prepared, if applicable, based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The management plan shall be submitted to the City as part of the site plan application. The Permittee shall designate a responsible legal entity that shall implement and maintain the management plan.
- E. The permittee shall construct off-street parking spaces within the development pursuant to the City of Leesburg Code of Ordinances, as amended, which shall include the required number of handicapped parking spaces.

## 7. WETLANDS

Should wetlands exist on the site, the following requirements shall apply. Prior to disturbance or development of any wetland area, the "Permittee" shall submit and receive approval from all affected governmental agencies to include, but not limited to, St. John's River Water Management District and the State of Florida Department of Environmental Regulation. Any notice of violation from any affected agency shall be cause for a cease and desist order on permits issued by the City of Leesburg until such time as the violation has been resolved with the appropriate agency(s).

## 8. DRAINAGE AND UTILITIES

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
  - 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties shall be required.
  - 2) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.

## 9. TRANSPORTATION IMPROVEMENTS

All transportation improvements shall be contingent upon site plan approval by City of Leesburg staff during development review/permit application. Said approval shall also be contingent upon review and approval by the Lake-Sumter MPO, Lake County and the Florida Department of Transportation where required.

- A. **Traffic/Transportation Study**  
A traffic/transportation study shall be submitted prior to final zoning approval for review and determination of any necessary access improvements, including any off-site improvements required by FDOT, Lake County, the Lake-Sumter MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.
- B. **Roadway Improvements**  
The applicant shall provide all necessary roadway and intersection improvements within the development and its connection to Dixie Avenue and east of Lake Street, included but not limited to the paving of Lake Street, Clark St., Mellathon Cr., and Monterey Dr.

south to Lake Harris. Any offsite improvements required by FDOT, Lake County, Lake-Sumter MPO and City of Leesburg based on a current traffic analysis shall be the developer's responsibility and shall be reviewed by City staff during the site plan review process. Approval of all necessary permits and improvements as required by the City of Leesburg, the Lake-Sumter MPO, Lake County and FDOT shall include any needed right of way, signalization and improvements required to support the development.

C. Internal Circulation

Drives and accesses shall be constructed within the interior of the development such that continuous vehicular access is available among and between all structures within the development.

10. **LANDSCAPING AND BUFFER REQUIREMENTS**

A. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances including;

- 1) For each one hundred (100) linear feet, or fraction thereof, of boundary, the following plants shall be provided in accordance with the planting standards and requirements of the City of Leesburg Code of Ordinances, as amended.
  - a. Two (2) canopy trees
  - b. Two (2) ornamental trees
  - c. Thirty (30) shrubs
  - d. The remainder of the buffer area shall be landscaped with grass, groundcover, and/or other landscape treatment.
  - e. Existing vegetation in the required buffer shall be protected during construction.

B. A vegetative landscape buffer area of a minimum of twenty-five (25) feet shall also be constructed and/or maintained in all areas adjacent to residential zoning classifications. Said vegetative buffer shall consist of existing trees and the required fence. A plan for the buffer shall be submitted to, and approved by, the Planning & Zoning Division during the site plan review process prior to issuance of a building permit.

C. A buffer along adjacent parcels to the east and south consisting of a six (6) foot solid PVC fence shall be used as a visual and security buffer for adjacent residential areas. The fence shall include a continuous decorative cap and end column features where applicable. (See **Exhibit E**)

D. Variations to the landscape requirements of the code may be approved by the Community Development Director, as long as the intent of the PUD and the Landscaping Code are maintained including consideration of existing natural vegetative buffers.

11. **MAINTENANCE**

A. With the exception of public utilities, maintenance of all site improvements, including but not limited to drives, internal sidewalks, landscaping and drainage shall be the responsibility of the owner.

12. **DEVELOPMENT PHASING**

A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. Changes to the Development Plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Development review process.

- B. Implementation of the project shall substantially commence within 36 months of approval of this Planned Development. In the event, the conditions of the PUD have not been substantially implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to another appropriate zoning classification.

13. MISCELLANEOUS CONDITIONS

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- C. Construction and operation of the proposed use(s) shall at all times comply with City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor or assigns and shall be subject to each and every condition herein set out.

14. CONCURRENCY

As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to roads, sewage, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities. However, no final development order (site plan and building permits) shall be granted for a proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

- A. Utilities
  - 1) Projected Capacities
    - a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
    - b. If the development requires construction of new distribution mains, since existing facilities in the service area are not adequate, the developer will be

required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.

B. Commitment of Capacity

There are no previous commitments of any existing or planned excess capacity.

C. Ability to Provide Services

The City intends to provide water, wastewater and reclaimed water services within its service area for the foreseeable future.

LEGAL DESCRIPTION

## PARCEL 1:

That part of Government Lot 4, Section 25, Township 19 South, Range 24 East, Lake County, Florida, described as follows:

From the Northwest corner of the Southwest 1/4 of Section 25, run East along the North line of Southwest 1/4 a distance of 1345.48 feet to the Point of Beginning; thence run South 1925.00 feet along the East line of Lake Street; thence run S 89°38'13" E 1291.98 feet to the East line of the Southwest 1/4 of said Section 25; thence run North along said East line to Northeast corner of Southwest 1/4 of Section 25; thence run West along the North line of Southwest 1/4 to the Point of Beginning.

LESS the Right-of-Way of Dixie Avenue and LESS the West 600.00 feet of the North 600.00 feet of that part of Government Lot 4 in Section 25, Township 19 South, Range 24 East, in the City of Leesburg, Florida, lying South of the South line of the Right-of-Way of Dixie Avenue and East of the East line of the Right-of-Way of Lake Street as said streets existed on January 2, 1974; and LESS the South 600.00 feet of the North 1250.00 feet of the West 435.60 feet of that part of Government Lot 4 in Section 25, Township 19 South, Range 24 East, in the City of Leesburg, Florida, lying South of the South line of Right-of-Way of Dixie Avenue and East of the East line of the Right-of-Way of Lake Street as said streets existed on January 2, 1974.

## PARCEL 2:

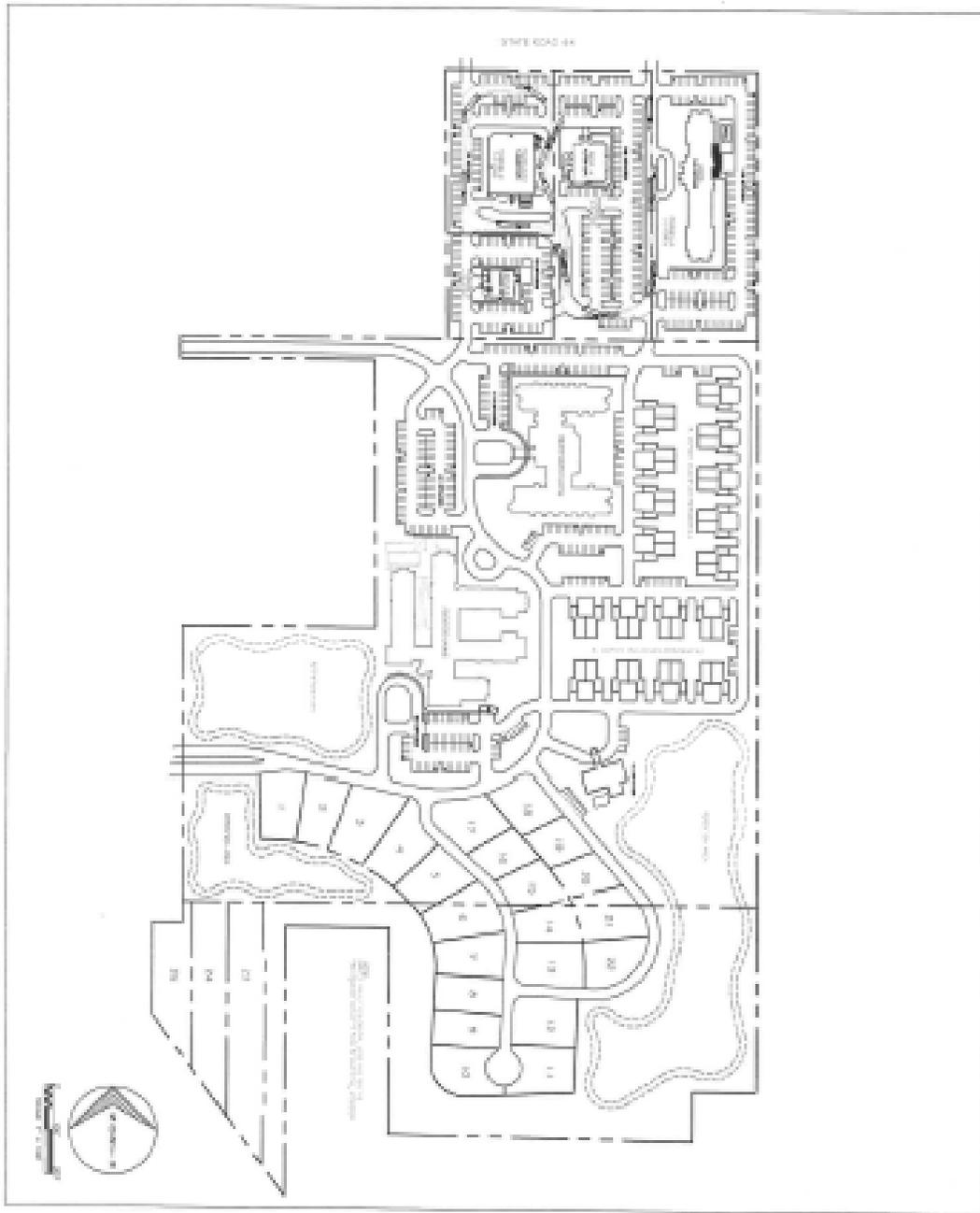
From the Northwest corner of the Southwest 1/4 of above said Section 25; run East along the North line of Southwest 1/4 a distance of 1085.48 feet; thence South 510.00 feet; thence East 200.00 feet to the Right-of-Way line of Lake Street; thence run South along said West line of Lake Street 1475.00 feet to the Point of Beginning; thence run East 293.00 feet; thence South

to Lake Harris; thence Westerly and Northwesterly along said lake to a point South of Point of Beginning; thence run North along the Southerly extension of the above mentioned West Right-of-Way line of Lake Street to the Point of Beginning.

Lots 11, 12, 13, 14, 15, 16, 17 and the North 156.70 feet of Lot 18, Block 108 less the South 82.50 feet of the said North 156.70 of Lot 18; All of Block 125; All of Block 126; and Lots 1, 4, 5 and 8, Block 127, less the 67.00 feet thereof; and a part of Lot 7, Block 139, of EAST LEESBURG as recorded in Plat Book 1, Page 69, of the Public Records of Lake County, Florida, described as follows:

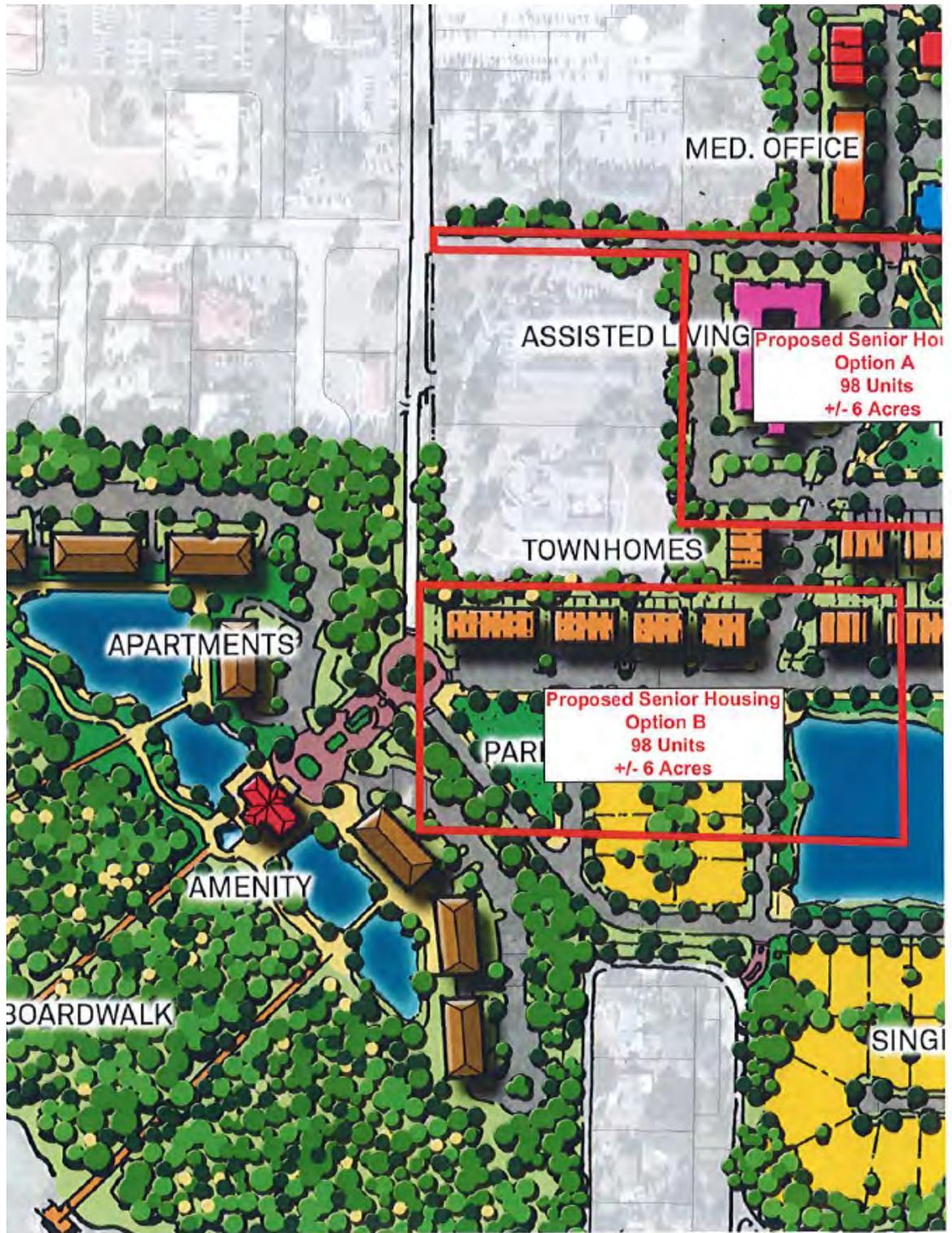
From the Northwest corner of Lot 18, Block 108, of said EAST LEESBURG, run S 00°17'00" E along the West line of Lot 18 a distance of 185.00 feet to the Point of Beginning of this description; thence run N 89°54'30" W 678.91 feet, more or less, to a point that is 177.00 feet East of the West line of Block 139, said point being in a canal; thence Northerly parallel with the said West line of Block 139 to the North line of aforesaid Lot 7, Block 139; thence Easterly along the North line of Lot 7, Block 139 a distance of 679.39 feet to the East line of Block 139; thence run S 00°17'00" E along the East line of Block 139 to the Point of Beginning.

Alternate Key Numbers 2518596, 1347751, 1347742, 2892056, 1206430, 1205808 and 3792476.



<p><b>Legend</b></p> <p>--- Proposed Road</p> <p>--- Proposed Sidewalk</p> <p>--- Proposed Utility</p> <p>--- Proposed Stormwater</p> <p>--- Proposed Sewer</p> <p>--- Proposed Water</p> <p>--- Proposed Gas</p> <p>--- Proposed Cable</p> <p>--- Proposed Fiber Optic</p> <p>--- Proposed Telephone</p> <p>--- Proposed Other</p>	<p><b>Notes</b></p> <p>1. All dimensions are in feet.</p> <p>2. All dimensions are to the centerline of the road.</p> <p>3. All dimensions are to the centerline of the utility.</p> <p>4. All dimensions are to the centerline of the stormwater.</p> <p>5. All dimensions are to the centerline of the sewer.</p> <p>6. All dimensions are to the centerline of the water.</p> <p>7. All dimensions are to the centerline of the gas.</p> <p>8. All dimensions are to the centerline of the cable.</p> <p>9. All dimensions are to the centerline of the fiber optic.</p> <p>10. All dimensions are to the centerline of the telephone.</p> <p>11. All dimensions are to the centerline of the other.</p>
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<p><b>SP-2</b></p> <p>Project No. _____</p> <p>Sheet No. _____</p> <p>Date _____</p> <p>Scale _____</p>	<p><b>Client</b></p> <p>Varian Isle Senior Living</p> <p>1000 West 10th Street</p> <p>San Jose, CA 95128</p>	<p><b>Developer</b></p> <p>Single Development Corp.</p> <p>1000 West 10th Street</p> <p>San Jose, CA 95128</p>	<p><b>Architect</b></p> <p>Cubac &amp; Peterson</p> <p>Architects, Engineers, Planners</p> <p>1000 West 10th Street</p> <p>San Jose, CA 95128</p>
	<p><b>TITLE</b></p> <p>SITE PLAN</p>		



## DESIGN GUIDELINE REQUIREMENTS

## EXHIBIT D

- A. The following design standards are intended to be used as a guide for design of large commerce or industrial developments and as an evaluation tool by city staff in the review process.

1) **Design standards – Aesthetic character.**

a. Facades and exterior walls.

Intent: Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large buildings and provide visual interest that will be consistent with the community's identity, character, and scale. The intent is to encourage a more human scale that citizens of the City of Leesburg will be able to identify with their community. The resulting scale will ensure a greater likelihood of reuse of structure by subsequent tenants.

Standard: Developments with facades facing public roads or adjacent residential districts over one hundred (100) feet in linear length shall incorporate wall projections or recesses a minimum of three (3) foot depth and a minimum of thirty-five (35) contiguous feet within each one hundred (100) feet of facade length which shall extend over twenty (20) percent of the facade. Developments shall use animating features such as arcades, display windows, entry areas, or awnings along at least sixty (60) percent of the facade.

b. Detail features.

Intent: Buildings should have architectural features and patterns that provide visual interests, at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.

Standard: Building facades shall include a repeating pattern that shall include no less than three (3) of the elements listed below. At least one (1) of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty-five (35) feet, either horizontally or vertically.

1. Color change.

2. Texture change.

3. Material module change (brick, stone etc.).

4. Expression of architectural or structural bay through a change in plane no less than twelve (12) inches in width, such as an offset, reveal, or projecting rib.

c. Roofs.

Intent: Variations in roof lines should be used to add interest to, and reduce the massive scale of large buildings. Roof features should complement the character of adjoining neighborhoods.

Standard: Roof lines shall be varied with a change in height every one hundred (100) linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view. Where predominantly visible roof sections of buildings are exposed to view, the use of tile, metal, or designer roof materials is encouraged. Alternating lengths and designs may be acceptable and can be addressed during the preliminary development plan process.

d. Materials and colors.

Intent: Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

Standard:

1. Predominant exterior building materials shall be high quality materials including brick or stone and at least one of the following, without limitation:
  - i. Stucco
  - ii. Wood
  - iii. Metal
  - iv. Decorative concrete masonry units
2. Facade colors shall be low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
3. Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
4. Predominant exterior building materials as well as accents should not include the following unless covered with at least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of approved material and/or textured stucco finish:
  - i. Decorative concrete masonry units
  - ii. Tilt-up concrete panels
  - iii. Pre-fabricated steel panels

e. Entryways.

Intent: Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. The standards identify desirable entryway design features.

Standard: Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

1. Canopies or porticos
2. Architectural towers
3. Recesses/projections
4. Arcades
5. Varied height raised corniced parapets
6. Peaked roof forms
7. Arches
8. Outdoor patios
9. Display windows
10. Architectural details such as tile work and moldings which are integrated into the building structure and design
11. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting

2) **Site Design and Relationship to the Surrounding Community**

a. Entrances.

Intent: Large buildings should feature multiple entrances with smaller entrances along the abutting public or private right-of-way and shall feature gateways or pedestrian mall at the intersection corner. Multiple building entrances reduce walking distances from cars, facilitate pedestrian access from parking lots, and provide convenience where certain entrances offer access to individual uses, or identified departments in a large building. Multiple entrances also mitigate the

effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

Standard: All sides of a principal building that directly face an abutting public or private right-of-way shall feature at least one (1) pedestrian entrance per side. Where a principal building directly faces a row of smaller retail stores along the border of more than two (2) abutting public or private rights-of-way, there shall be only two (2) entrances required. The corner entrance shall be designed to provide a gateway or pedestrian mall that provides pedestrian access to the larger uses in the interior of the site. The number of entrances for the buildings shall be addressed at the preliminary development plan stage. Where additional uses will be located in the principal building each such use shall have at least one (1) exterior pedestrian entrance which shall conform to the above requirements.

b. Parking lot orientation.

Intent: Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance. Parking lots should be oriented between the larger principle buildings and the smaller buildings required along the perimeters of the site adjacent to public streets and off site uses.

Standard: No more than thirty (30) percent of the off-street parking area for the entire property shall be located between the front facade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by perimeter smaller buildings development.

c. Back and sides.

Intent: The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features should mitigate these impacts. Any back or side of a building visible from a public or private right-of-way or a residential area shall be built in accordance with 1. Design guidelines--Aesthetic character. The Community Development Director may waive this requirement as part of the development plan review process if there are special or unique circumstances.

Standard: The minimum setback for any building facade shall be in accordance with the Land Development Code. Where the facade faces adjacent residential uses an earthen berm shall be installed, no less than six (6) feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of ten (10) feet on center. Additional landscaping may be required by the Community Development Director to effectively buffer adjacent land use as deemed appropriate. All additional landscape requirements of the landscape and tree protection code or of other sections of these guide lines shall apply.

d. Outdoor storage, trash collection, and loading areas.

Intent: Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties, residential areas and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one (1) building is located on a site and such buildings are not more than forty (40) feet apart, or on those sides of buildings that do not have

pedestrian entrances. Joint use of loading and screening areas by multiple users will be encouraged where ever possible.

Standard:

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.
  2. Outdoor storage areas and heavy equipment or aerial equipment parking areas should be located away from C.R. 470. Aerial equipment (bucket trucks, cherry pickers, etc.) must be parked/stored with the aerial device in the down position.
  3. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within fifty (50) feet of any public or street, public sidewalk, or internal pedestrian way.
  4. No delivery, loading, trash removal or compaction, exterior activities and large vehicle movement or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level of forty-five (45) dB, as measured at the lot line of any adjoining property.
  5. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, bay doors and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape. Backflow preventors, fire department connections, and mechanical equipment (including wall-mounted electrical panels) within 100 feet of C.R. 470 must be screened from view with landscaping or other screening approved by the Community Development Director.
  6. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with decorative walls and/or solid fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.
- e. Pedestrian flows.

Intent: Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within the center grounds.

Standard:

1. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public or private right-of-way, excluding major highways. The Community Development Director may waive this requirement as part of the development plan review process if there are special or unique circumstances.
2. Continuous internal pedestrian walkways, no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum,

walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of their length.

3. Sidewalks, no less than five (5) feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least three (3) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
  4. Internal pedestrian walkways provided in conformance with subsection e. above, shall provide weather protection features such as awnings or arcades within thirty (30) feet of all customer entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas.
  5. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.
- f. Signage.
1. A master signage plan will be required at the time of site plan approval.
  2. Entry monument signs identifying the center shall be permitted for any approved entrance. At proposed street intersections, monument signs identifying the internal business shall be permitted. Monument signs identifying multiple businesses within the center shall be preferred.
  3. Electronic message signage shall be permitted.
  4. Signage shall comply with the City of Leesburg sign code for Commercial Uses.

### 3) **Central Features and Community Spaces.**

Intent: Buildings should offer attractive and inviting pedestrian scale features, spaces and amenities. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pickup points should be considered as integral parts of the configuration. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. The features and spaces should enhance the building and the center as integral parts of the community fabric.

Standard: Each business establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkways, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the city staff, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. Although the City of Leesburg does not currently maintain a public bus system, Lake County does offer limited service to commercial areas; therefore, areas should be provided or

designed to accommodate bus service and the growing number of private bus services (i.e., senior citizen, nursing home/assisted living facilities, etc.).





## Ivy Springs Manor

### *Assisted Living & Memory Care*

MSA: Atlanta, GA	Units: 77
Construction: 5/11 - 6/12	Occupancy: 60%
Opened: 7/2012	Sq. Ft.: 53,000
Pre-leased: 26%	Est. Stab.: 2/2013

*Ivy Springs Manor is located in an affluent high-growth suburb of Atlanta, within a mile of the largest shopping mall and retail trade area in the southeast.*

[www.ivyspringsmanor.com](http://www.ivyspringsmanor.com)



## Grace Manor

### Memory Care

MSA: Daytona Beach, FL	Units: 53
Construction: 6/10 - 5/11	Occupancy: 91%
Opened: 6/2011	Sq. Ft.: 35,000
Pre-leased: 15%	Est. Stab.: Complete

*Grace Manor began as a drastic expansion and reconstruction of a small, existing skilled nursing facility on its original location. The community enjoys a beautiful setting with multiple courtyards and gardens separating its three distinct care neighborhoods.*

[www.gracemanorportorange.com](http://www.gracemanorportorange.com)



## The Legacy at Georgetown

### *Assisted Living & Memory Care*

MSA: Austin, TX	Units: 80
Construction: 11/11 - 11/12	Occupancy: N/A
Opening: 2/13	Sq. Ft.: 62,000
Pre-leased: 6%	Est. Stab.: 11/2013

*The Legacy at Georgetown is located at the entrance to Sun City Georgetown, one of the largest senior living communities in the US. Set among mesquite trees and designed in Texas hill-country style, it is a unique and strategically located community.*

[www.legacyatgeorgetown.com](http://www.legacyatgeorgetown.com)





Stone/Brick



Stucco



**Stucco/pavers**

**CITY OF LEESBURG PLANNING & ZONING DIVISION  
STAFF SUMMARY**

**DATE:** September 16, 2016  
**OWNER:** Ardent Companies / TAC FL Land Holdings, LLC  
**PETITIONER:** Tony Benge  
**PROJECT:** PUD (Planned Unit Development)  
**REQUEST:** Planned Unit Development zoning to allow for a mix of uses for medical care, housing and commercial ancillary uses  
**CASE NO.:** PUD-16-126

**GENERAL LOCATION:** This property is generally located south of the intersection of East Dixie Avenue and South Lake Street and north of Mellathon Circle.

**FUTURE LAND USE DESIGNATION:**  
Neighborhood Mixed Use

**SURROUNDING FUTURE LAND USE DESIGNATION:**  
North – General Commercial  
South – Water Body  
East – High Density Residential  
West – Conservation; Water Body

**PROPOSED FUTURE LAND USE DESIGNATION:**  
n/a

**EXISTING ZONING DESIGNATION:** PUD (Planned Unit Development)

**SURROUNDING ZONING DESIGNATIONS:**  
North – C-2 (Community Commercial)  
South – R-1-A (Single Family Residential)  
East – PUD (Residential Planned Unit Development)  
West – Water Body

**PROPOSED ZONING DESIGNATION:** Amended PUD (Planned Unit Development)

**EXISTING LAND USE:** Vacant

**SURROUNDING LAND USE:**  
North – Commercial; Residential  
South – Single family residential  
East – Commercial; Professional Offices; Residential  
West – Commercial; Professional Offices; Residential

**PROPOSED LAND USE:** Planned Unit Development – mixed use including medical care, housing and commercial ancillary uses



**CITY OF LEESBURG PLANNING & ZONING DIVISION  
DEPARTMENTAL REVIEW SUMMARY**

**DATE:** September 14, 2016  
**OWNER:** Ardent Companies, TAC FL Land Holdings, LLC  
**PETITIONER:** The Ardent Companies  
**PROJECT:** PUD (Planned Unit Development)  
**REQUEST:** To allow for a mix of uses to include Assisted Living Facility, Independent Living Facility, memory care and ancillary housing, Senior housing, hotel, retail/commercial supporting the local medical community including restaurant, pharmacy and other general retail uses, medical offices and single family homes.  
**CASE NO.:** PUD-16-126 Venetian Isles/Royal Palm Amendment

**THE FOLLOWING COMMENTS RECEIVED FROM EACH DEPARTMENT:**

**POLICE**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**FIRE**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**ELECTRIC**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**WATER DISTRIBUTION**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**WATER BACKFLOW**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**STORMWATER**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

**WASTEWATER**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

## DEPARTMENTAL REVIEW SUMMARY

*Venetian Isles/Royal Palm Amendment – PUD-16-126*

### **GAS**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **GIS**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **BUILDING**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **ENGINEERING/PUBLIC WORKS/SURVEY**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **ADDRESSING**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **ECONOMIC DEVELOPMENT**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **COMMUNICATIONS UTILITY**

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

### **PUBLIC RESPONSES**

#### ***Approval:***

Two responses were received for approval.

#### ***Disapproval:***

No comment received as of Wednesday, September 14<sup>th</sup>, 2016.

#### ***General Comments:***

General public phone calls related to details of the proposed development and meeting place, date and time.



**CITY OF LEESBURG PLANNING & ZONING DIVISION  
RECOMMENDATIONS**

**DATE:** September 22, 2016  
**OWNER:** Ardent Companies, TAC FL Land Holdings, LLC  
**PETITIONER** The Ardent Companies (Todd Terwilliger)  
**PROJECT:** Venetian Isles/Royal Palms  
**REQUEST:** Planned Unit Development – Revision of conditions  
**CASE NO.:** PUD-16-126

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**THE PLANNING & ZONING DIVISION RECOMMENDS:**

APPROVAL of the request

**for the following reason(s):**

1. The proposed zoning amendment is compatible with adjacent properties zoned R-2 (Medium Density Residential), PUD (Planned Unit Development) and C-2(Community Commercial) to the north, R1-A (Single Family Residential) to the south, PUD (Planned Unit Development) to the east and west. As conditioned, this proposal does not appear to create a detriment to surrounding properties.
2. The proposed zoning district PUD (Planned Unit Development) as conditioned and shown in the attached “Exhibit A,” is compatible with the current City Future Land Use designation of High Density Residential.
3. The rezoning of the subject properties is consistent with the City’s Growth Management Plan, Future Land Use Element, Goal I, and Objective 1.6.

**Action Requested:**

1. Vote to approve the request to rezone the subject property from PUD (Planned Unit Development) to PUD (Planned Unit Development) with the proposed Venetian Isle and Royal Palms Planned Development Conditions attached hereto as Exhibit A-C and forward to the City Commission for consideration.

**VENETIAN ISLE  
PUD (PLANNED UNIT DEVELOPMENT)  
PLANNED DEVELOPMENT CONDITIONS  
September 22, 2016**

These Planned Development Conditions for a PUD (Planned Unit Development) District are granted by the City of Leesburg Planning Commission, Lake County, Florida to Ardent Companies, TAC Florida LLC or assigns, "Permittee" for the purposes and terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Development Process" of the City of Leesburg Code of Ordinances, as amended.

**BACKGROUND:** The "Permittee" has submitted an application requesting a PUD (Planned Unit Development) zoning district to permit a mixed use development consisting of single family residential, age-restricted (55+) multi-family, assisted living, memory care and ancillary housing uses including a hotel, retail uses, plus commercial facilities and offices to support the local medical community on an approximately 55 acre site within the City of Leesburg in accordance with their Planned Development application and supplemental information.

**1. PERMISSION**

Permission is hereby granted to Ardent Companies, TAC Florida LLC to operate and maintain a PUD (Planned Unit Development) development in and on real property in the City of Leesburg. The property is generally located south of Dixie Avenue and east of Lake Street. The property is more particularly described as shown in the attached legal description below.

**2. LEGAL DESCRIPTION:**

See **Exhibit B**.

**3. LAND USE**

The above-described property, containing approximately 55 acres, shall be used for single family residential, age restricted multi-family (55+), assisted living, memory care and ancillary housing uses including a hotel, retail uses, plus commercial uses pursuant to City of Leesburg development codes and standards.

A. Uses

- 1) Uses shall be those listed as permitted uses in the PUD district as amended in this document and shall occupy the approximate area as shown on the Conceptual Plan **Exhibit C**. Proposed Senior Housing shall be allowed as illustrated in "Option A" (98 units on approximately six {6} acres) as seen on **Exhibit C-1** Conceptual Site Plan (for Senior Housing).
- 2) Accessory uses shall be as follows:
  - a. outdoor commercial recreation
  - b. bars and lounges within a hotel
  - c. clubs and lodges within an assisted living facility
  - d. educational facilities within an assisted living facility or hotel
  - e. Any other similar uses which are considered accessory to permitted uses which does not adversely impact the adjoining properties do to traffic, noise, dust, etc.

- 3) Uses prohibited shall be as follows:
  - a. outdoor commercial recreation
  - b. commercial bars and lounges except as an accessory use to a hotel
  - c. clubs and lodges except as an accessory use to an assisted living facility
  - d. crematoriums
  - e. package stores
  - f. industrial uses
  - g. educational facilities
  - h. vehicle sales service and repair
  - k. kennels
  - l. truck stops
  - m. Any other similar uses which are not considered residential, office or commercial in character or intensity which may adversely impact the adjoining properties do to traffic, noise, dust, etc.

B. Residential Development

- 1) The project shall contain a maximum of 200 (residents) assisted living memory care residential units, 100 independent senior adult living units, a 98-unit age restricted multi-family complex (illustrated as "Option A" on Exhibit C-1 Conceptual Site Plan for Senior Housing) and 25 detached single family units on approximately 54.5 acres. The gross density for this development shall not exceed 12 units per acre for any senior adult uses; the gross density for the single family site shall not exceed 4 units per acre.
- 2) The minimum lot size shall be 6,000 square feet for the detached single family homes.
- 3) Minimum lot widths shall be 60 feet. Minimum lot depth shall be 100 feet.
- 4) The following minimum yard setbacks shall be maintained for single-family detached:  
  
Front setback – 20 feet;  
Rear setback – 18 feet; and  
Side setbacks – minimum of 5 feet.
- 5) Minimum distance between single-family detached structures shall be 10 feet with 20 feet for assisted living unit building groups; measured from building wall to building wall and the roof overhang shall not exceed 40 percent of the distance between the building wall and the property line.
- 6) Corner lots shall have a minimum side yard setback of 20 feet from the public right-of-way.
- 7) Accessory structures shall have a minimum rear and side setback of 5 feet and single accessory structures that are not attached to the principal structure shall not occupy more than 30 percent of the required rear yard.
- 8) An attached screened enclosure with screen roof must maintain a minimum setback

of five (5) feet from the rear property line.

- 9) City staff as part of the preliminary site plan approval process shall approve final lot sizes and setbacks based on the general intent of the PUD as per conceptual plans.
- 10) Impervious surface coverage for single-family detached shall not exceed 70 percent.
- 11) A minimum of thirty (30) percent of the site shall be developed as open space, including retention areas, buffer and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.
- 12) Maximum building height for single family detached units shall not exceed two stories or 30 feet except for the assisted living/memory care residential units which shall not exceed five stories or 55 feet.

#### C. Recreational Development

- 1) Recreational development shall include active and passive uses and consist of a minimum of 1.5 +/- acres of the project. Recreational development shall meet the requirements of the City of Leesburg Land Development Code (as amended) and adopted Growth Management Plan (as amended).
- 2) Recreational development provided on the site shall include active and passive uses, as well as enclosed or un-enclosed recreational space, devoted to the joint use of the residents. Such recreation space shall consist of not less than two hundred (200) square feet of space per dwelling unit. In computing usable recreation space, the following items may be considered at one and twenty-five hundredths (1.25) times the actual area.
  - a. Recreational activities such as tennis and hand ball courts, etc.
  - b. Developed recreational trails which provide access to the public trail system.
  - c. Swimming pool, including the deck area which normally surrounds such pools.
  - d. Indoor recreation rooms provided such rooms are permanently maintained for the use of residents for recreation.
- 3) Required stormwater areas and buffer areas shall not be considered as recreational space except for areas developed as recreational trails which provide access to the public trail system.
- 4) The Planned Unit Development shall provide planned accessibility from all areas of the development to any proposed recreational facilities including pedestrian access where possible.
- 5) Recreational uses may include, but not be limited to the following uses:
  - a. Satellite recreational centers, clubhouses within the residential areas
  - b. Tennis courts
  - c. Swimming pools
  - d. Shuffle board
  - e. Jogging Path / Pedestrian Path
  - f. Horse shoes
  - g. Croquet
  - h. Softball fields
  - i. Exercise rooms

- j. Wood shop
- k. Craft room
- l. Media room
- m. Card room
- n. Billiards room
- o. Library
- p. Dressing room
- q. Computer room

6) Developer shall provide a covered over look dock on Lake Harris for development residents. In addition, a nature trail/board walk shall be constructed from the overlook dock area to the west to tie into the proposed nature trail/board walk planned through the Royal Palms project, subject to approval by state and local permitting agencies.

D. Limited commercial uses shall be allowed within buildings designated for recreational use and shall be intended for the primary use of project residents. The location and intensity of such uses shall be approved by the City staff as part of the preliminary site plan review process. Examples of such uses are sales office, post office, ATM or bank services, coffee shop etc.

E. The commercial use of a sales office and/or model center shall be a permitted use as long as it is specifically related to the PUD residential development of the site.

#### 4. SITE ACCESS

A. Access to the site shall be provided by a minimum of two access points which may be gated as shown on the conceptual plans, one on East Dixie Avenue and one on Lake Avenue. The accesses shall be through divided boulevard type roads. The Lake Avenue access shall line up with the Royal Palms project access point, where feasible. Any additional access, shall be reviewed through the Traffic Study required and the City's site plan review process. Final determination of the direction of traffic movement into and out of all permitted access points shall be determined through the Traffic Study as required by the City's site plan review process.

#### 5. DESIGN/ARCHITECTURAL REQUIREMENTS

A. Currently, the Leesburg City Commission is considering the implementation of Architectural Standards for new commercial development and redevelopment. All phases and all structures of this development shall meet or exceed the architectural standards as adopted by the City Commission. Should these proposed commercial architectural standards not be in place at the time of construction of any phase or structure within this development, the following standards shall prevail for commercial development.

B. All buildings shall have a common architectural theme for each phase and the side of buildings which face residential areas or streets (public or private) shall be finished in the same materials as used in the front of buildings.

C. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project including sides and rear of buildings which shall be integrated with the front elevation materials and design.

D. Mechanical units and roof equipment should be screened from view with parapet or other

screening method so that mechanical equipment is not seen from public right-of-way and the adjacent residential property.

- E. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
  - 1) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
  - 2) At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a "cementitious" lap siding. (A "cementitious" lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option).
  - 3) All textured stucco, provided there are unique design features such as recessed areas, tile roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.
- F. Design of the commercial phase of the project shall comply with the intent of the Design Guideline Requirements (See **Exhibit D**).
- G. Single family detached and assisted living units shall be designed with elevations that are the same or similar to the attached elevations (See **Exhibit F**).
- H. Other similar design variations meeting the intent of this section may be approved at the discretion of the Community Development Director.

## 6. DEVELOPMENT STANDARDS

- A. The minimum development standards shall be those required for the C-3 Highway Commercial district for commercial uses except as amended by these conditions and may limit the permitted uses based on site plan requirements.
- B. Minimum building setbacks shall be fifty-five (55) feet except for single family residential uses from any abutting residential district property boundaries and thirty (30) feet from the western boundary.
- B. Structures other than single family detached units shall not exceed forty (40) feet in height (three stories) as measured from the first floor, finished floor level on the site except for hotel and multi-family uses which shall not exceed fifty-five (55) feet and five (5) stories.
- D. A wildlife/archaeological management plan for the project site shall be prepared, if applicable, based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The management plan shall be submitted to the City as part of the site plan application. The Permittee shall designate a responsible legal entity that shall implement and maintain the management plan.
- E. The permittee shall construct off-street parking spaces within the development pursuant to

the City of Leesburg Code of Ordinances, as amended, which shall include the required number of handicapped parking spaces.

**7. WETLANDS**

Should wetlands exist on the site, the following requirements shall apply. Prior to disturbance or development of any wetland area, the "Permittee" shall submit and receive approval from all affected governmental agencies to include, but not limited to, St. John's River Water Management District and the State of Florida Department of Environmental Regulation. Any notice of violation from any affected agency shall be cause for a cease and desist order on permits issued by the City of Leesburg until such time as the violation has been resolved with the appropriate agency(s).

**8. DRAINAGE AND UTILITIES**

A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:

- 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties shall be required.
- 2) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.

**9. TRANSPORTATION IMPROVEMENTS**

All transportation improvements shall be contingent upon site plan approval by City of Leesburg staff during development review/permit application. Said approval shall also be contingent upon review and approval by the Lake-Sumter MPO, Lake County and the Florida Department of Transportation where required.

**A. Traffic/Transportation Study**

A traffic/transportation study shall be submitted prior to final zoning approval for review and determination of any necessary access improvements, including any off-site improvements required by FDOT, Lake County, the Lake-Sumter MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.

**B. Roadway Improvements**

The applicant shall provide all necessary roadway and intersection improvements within the development and its connection to Dixie Avenue and east of Lake Street, included but not limited to the paving of Lake Street, Clark St., Mellathon Cr., and Monterey Dr. south to Lake Harris. Any offsite improvements required by FDOT, Lake County, Lake-Sumter MPO and City of Leesburg based on a current traffic analysis shall be the developer's responsibility and shall be reviewed by City staff during the site plan review process. Approval of all necessary permits and improvements as required by the City of Leesburg, the Lake-Sumter MPO, Lake County and FDOT shall include any needed right of way, signalization and improvements required to support the development.

**C. Internal Circulation**

Drives and accesses shall be constructed within the interior of the development such that continuous vehicular access is available among and between all structures within the development.

**10. LANDSCAPING AND BUFFER REQUIREMENTS**

- A. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances including:
  - 1) For each one hundred (100) linear feet, or fraction thereof, of boundary, the following plants shall be provided in accordance with the planting standards and requirements of the City of Leesburg Code of Ordinances, as amended.
    - a. Two (2) canopy trees
    - b. Two (2) ornamental trees
    - c. Thirty (30) shrubs
    - d. The remainder of the buffer area shall be landscaped with grass, groundcover, and/or other landscape treatment.
    - e. Existing vegetation in the required buffer shall be protected during construction.
- B. A vegetative landscape buffer area of a minimum of twenty-five (25) feet shall also be constructed and/or maintained in all areas adjacent to residential zoning classifications. Said vegetative buffer shall consist of existing trees and the required fence. A plan for the buffer shall be submitted to, and approved by, the Planning & Zoning Division during the site plan review process prior to issuance of a building permit.
- C. A buffer along adjacent parcels to the east and south consisting of a six (6) foot solid PVC fence shall be used as a visual and security buffer for adjacent residential areas. The fence shall include a continuous decorative cap and end column features where applicable. (See **Exhibit E**)
- D. Variations to the landscape requirements of the code may be approved by the Community Development Director, as long as the intent of the PUD and the Landscaping Code are maintained including consideration of existing natural vegetative buffers.

**11. MAINTENANCE**

- A. With the exception of public utilities, maintenance of all site improvements, including but not limited to drives, internal sidewalks, landscaping and drainage shall be the responsibility of the owner.

**12. DEVELOPMENT PHASING**

- A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. Changes to the Development Plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Development review process.
- B. Implementation of the project shall substantially commence within 36 months of approval of this Planned Development. In the event, the conditions of the PUD have not been substantially implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to another appropriate zoning classification.

13. **MISCELLANEOUS CONDITIONS**

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- C. Construction and operation of the proposed use(s) shall at all times comply with City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor or assigns and shall be subject to each and every condition herein set out.

14. **CONCURRENCY**

As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to roads, sewage, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities. However, no final development order (site plan and building permits) shall be granted for a proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

- A. Utilities
  - 1) Projected Capacities
    - a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
    - b. If the development requires construction of new distribution mains, since existing facilities in the service area are not adequate, the developer will be required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.
- B. Commitment of Capacity
  - There are no previous commitments of any existing or planned excess capacity.

C. Ability to Provide Services

The City intends to provide water, wastewater and reclaimed water services within its service area for the foreseeable future.

LEGAL DESCRIPTION

## PARCEL 1:

That part of Government Lot 4, Section 25, Township 19 South, Range 24 East, Lake County, Florida, described as follows:

From the Northwest corner of the Southwest 1/4 of Section 25, run East along the North line of Southwest 1/4 a distance of 1345.48 feet to the Point of Beginning; thence run South 1925.00 feet along the East line of Lake Street; thence run S 89°38'13" E 1291.98 feet to the East line of the Southwest 1/4 of said Section 25; thence run North along said East line to Northeast corner of Southwest 1/4 of Section 25; thence run West along the North line of Southwest 1/4 to the Point of Beginning.

LESS the Right-of-Way of Dixie Avenue and LESS the West 600.00 feet of the North 600.00 feet of that part of Government Lot 4 in Section 25, Township 19 South, Range 24 East, in the City of Leesburg, Florida, lying South of the South line of the Right-of-Way of Dixie Avenue and East of the East line of the Right-of-Way of Lake Street as said streets existed on January 2, 1974; and LESS the South 600.00 feet of the North 1250.00 feet of the West 435.60 feet of that part of Government Lot 4 in Section 25, Township 19 South, Range 24 East, in the City of Leesburg, Florida, lying South of the South line of Right-of-Way of Dixie Avenue and East of the East line of the Right-of-Way of Lake Street as said streets existed on January 2, 1974.

## PARCEL 2:

From the Northwest corner of the Southwest 1/4 of above said Section 25; run East along the North line of Southwest 1/4 a distance of 1085.48 feet; thence South 510.00 feet; thence East 200.00 feet to the Right-of-Way line of Lake Street; thence run South along said West line of Lake Street 1475.00 feet to the Point of Beginning; thence run East 293.00 feet; thence South

to Lake Harris; thence Westerly and Northwesterly along said lake to a point South of Point of Beginning; thence run North along the Southerly extension of the above mentioned West Right-of-Way line of Lake Street to the Point of Beginning.

Lots 11, 12, 13, 14, 15, 16, 17 and the North 156.70 feet of Lot 18, Block 108 less the South 82.50 feet of the said North 156.70 of Lot 18; All of Block 125; All of Block 126; and Lots 1, 4, 5 and 8, Block 127, less the 67.00 feet thereof; and a part of Lot 7, Block 139, of EAST LEESBURG as recorded in Plat Book 1, Page 69, of the Public Records of Lake County, Florida, described as follows:

From the Northwest corner of Lot 18, Block 108, of said EAST LEESBURG, run S 00°17'00" E along the West line of Lot 18 a distance of 185.00 feet to the Point of Beginning of this description; thence run N 89°54'30" W 678.91 feet, more or less, to a point that is 177.00 feet East of the West line of Block 139, said point being in a canal; thence Northerly parallel with the said West line of Block 139 to the North line of aforesaid Lot 7, Block 139; thence Easterly along the North line of Lot 7, Block 139 a distance of 679.39 feet to the East line of Block 139; thence run S 00°17'00" E along the East line of Block 139 to the Point of Beginning.

Alternate Key Numbers 2518596, 1347751, 1347742, 2892056, 1206430, 1205808 and 3792476.





- A. The following design standards are intended to be used as a guide for design of large commerce or industrial developments and as an evaluation tool by city staff in the review process.

1) **Design standards – Aesthetic character.**

a. Facades and exterior walls.

Intent: Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large buildings and provide visual interest that will be consistent with the community's identity, character, and scale. The intent is to encourage a more human scale that citizens of the City of Leesburg will be able to identify with their community. The resulting scale will ensure a greater likelihood of reuse of structure by subsequent tenants.

Standard: Developments with facades facing public roads or adjacent residential districts over one hundred (100) feet in linear length shall incorporate wall projections or recesses a minimum of three (3) foot depth and a minimum of thirty-five (35) contiguous feet within each one hundred (100) feet of facade length which shall extend over twenty (20) percent of the facade. Developments shall use animating features such as arcades, display windows, entry areas, or awnings along at least sixty (60) percent of the facade.

b. Detail features.

Intent: Buildings should have architectural features and patterns that provide visual interests, at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.

Standard: Building facades shall include a repeating pattern that shall include no less than three (3) of the elements listed below. At least one (1) of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty-five (35) feet, either horizontally or vertically.

1. Color change.
2. Texture change.
3. Material module change (brick, stone etc.).
4. Expression of architectural or structural bay through a change in plane no less than twelve (12) inches in width, such as an offset, reveal, or projecting rib.

c. Roofs.

Intent: Variations in roof lines should be used to add interest to, and reduce the massive scale of large buildings. Roof features should complement the character of adjoining neighborhoods.

Standard: Roof lines shall be varied with a change in height every one hundred (100) linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view. Where predominantly visible roof sections of buildings are exposed to view, the use of tile, metal, or designer roof materials is encouraged. Alternating lengths and designs may be acceptable and can be addressed during the preliminary development plan process.

d. Materials and colors.

Intent: Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

Standard:

1. Predominant exterior building materials shall be high quality materials including brick or stone and at least one of the following, without limitation:
    - i. Stucco
    - ii. Wood
    - iii. Metal
    - iv. Decorative concrete masonry units
  2. Facade colors shall be low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
  3. Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
  4. Predominant exterior building materials as well as accents should not include the following unless covered with at least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of approved material and/or textured stucco finish:
    - i. Decorative concrete masonry units
    - ii. Tilt-up concrete panels
    - iii. Pre-fabricated steel panels
- e. Entryways.  
Intent: Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. The standards identify desirable entryway design features.  
Standard: Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:
1. Canopies or porticos
  2. Architectural towers
  3. Recesses/projections
  4. Arcades
  5. Varied height raised corniced parapets
  6. Peaked roof forms
  7. Arches
  8. Outdoor patios
  9. Display windows
  10. Architectural details such as tile work and moldings which are integrated into the building structure and design
  11. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting

## 2) **Site Design and Relationship to the Surrounding Community**

### a. Entrances.

Intent: Large buildings should feature multiple entrances with smaller entrances along the abutting public or private right-of-way and shall feature gateways or pedestrian mall at the intersection corner. Multiple building entrances reduce walking distances from cars, facilitate pedestrian access from parking lots, and provide convenience where certain entrances offer access to individual uses, or identified departments in a large building. Multiple entrances also mitigate the effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

Standard: All sides of a principal building that directly face an abutting public or private right-of-way shall feature at least one (1) pedestrian entrance per side. Where

a principal building directly faces a row of smaller retail stores along the border of more than two (2) abutting public or private rights-of-way, there shall be only two (2) entrances required. The corner entrance shall be designed to provide a gateway or pedestrian mall that provides pedestrian access to the larger uses in the interior of the site. The number of entrances for the buildings shall be addressed at the preliminary development plan stage. Where additional uses will be located in the principal building each such use shall have at least one (1) exterior pedestrian entrance which shall conform to the above requirements.

b. Parking lot orientation.

Intent: Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance. Parking lots should be oriented between the larger principle buildings and the smaller buildings required along the perimeters of the site adjacent to public streets and off site uses.

Standard: No more than thirty (30) percent of the off-street parking area for the entire property shall be located between the front facade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by perimeter smaller buildings development.

c. Back and sides.

Intent: The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features should mitigate these impacts. Any back or side of a building visible from a public or private right-of-way or a residential area shall be built in accordance with 1. Design guidelines--Aesthetic character. The Community Development Director may waive this requirement as part of the development plan review process if there are special or unique circumstances.

Standard: The minimum setback for any building facade shall be in accordance with the Land Development Code. Where the facade faces adjacent residential uses an earthen berm shall be installed, no less than six (6) feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of ten (10) feet on center. Additional landscaping may be required by the Community Development Director to effectively buffer adjacent land use as deemed appropriate. All additional landscape requirements of the landscape and tree protection code or of other sections of these guide lines shall apply.

d. Outdoor storage, trash collection, and loading areas.

Intent: Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties, residential areas and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one (1) building is located on a site and such buildings are not more than forty (40) feet apart, or on those sides of buildings that do not have pedestrian entrances. Joint use of loading and screening areas by multiple users will be encouraged where ever possible.

Standard:

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading,

- or other such uses shall not be visible from public or private rights-of-way.
2. Outdoor storage areas and heavy equipment or aerial equipment parking areas should be located away from C.R. 470. Aerial equipment (bucket trucks, cherry pickers, etc.) must be parked/stored with the aerial device in the down position.
  3. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within fifty (50) feet of any public or street, public sidewalk, or internal pedestrian way.
  4. No delivery, loading, trash removal or compaction, exterior activities and large vehicle movement or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level of forty-five (45) dB, as measured at the lot line of any adjoining property.
  5. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, bay doors and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape. Backflow preventors, fire department connections, and mechanical equipment (including wall-mounted electrical panels) within 100 feet of C.R. 470 must be screened from view with landscaping or other screening approved by the Community Development Director.
  6. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with decorative walls and/or solid fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.
- e. Pedestrian flows.
- Intent: Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within the center grounds.
- Standard:
1. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public or private right-of-way, excluding major highways. The Community Development Director may waive this requirement as part of the development plan review process if there are special or unique circumstances.
  2. Continuous internal pedestrian walkways, no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of their length.
  3. Sidewalks, no less than five (5) feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any

facade abutting public parking areas. Such sidewalks shall be located at least three (3) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.

4. Internal pedestrian walkways provided in conformance with subsection e. above, shall provide weather protection features such as awnings or arcades within thirty (30) feet of all customer entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas.
5. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.

f. Signage.

1. A master signage plan will be required at the time of site plan approval.
2. Entry monument signs identifying the center shall be permitted for any approved entrance. At proposed street intersections, monument signs identifying the internal business shall be permitted. Monument signs identifying multiple businesses within the center shall be preferred.
3. Electronic message signage shall be permitted.
4. Signage shall comply with the City of Leesburg sign code for Commercial Uses.

3) **Central Features and Community Spaces.**

Intent: Buildings should offer attractive and inviting pedestrian scale features, spaces and amenities. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pickup points should be considered as integral parts of the configuration. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. The features and spaces should enhance the building and the center as integral parts of the community fabric.

Standard: Each business establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkways, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the city staff, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. Although the City of Leesburg does not currently maintain a public bus system, Lake County does offer limited service to commercial areas; therefore, areas should be provided or designed to accommodate bus service and the growing number of private bus services (i.e., senior citizen, nursing home/assisted living facilities, etc.).





### Ivy Springs Manor

#### *Assisted Living & Memory Care*

MSA: Atlanta, GA	Units: 77
Construction: 5/11 - 6/12	Occupancy: 60%
Opened: 7/2012	Sq. Ft.: 53,000
Pre-leased: 26%	Est. Stab.: 2/2013

*Ivy Springs Manor is located in an affluent high-growth suburb of Atlanta, within a mile of the largest shopping mall and retail trade area in the southeast.*

[www.ivyspringsmanor.com](http://www.ivyspringsmanor.com)



CONFIDENTIAL | Thrive Senior Living, LLC | November 2012 | 27

## Grace Manor

### Memory Care

MSA: Daytona Beach, FL	Units: 53
Construction: 6/10 - 5/11	Occupancy: 91%
Opened: 6/2011	Sq. Ft.: 35,000
Pre-leased: 15%	Est. Stab.: Complete

*Grace Manor began as a drastic expansion and re-construction of a small, existing skilled nursing facility on its original location. The community enjoys a beautiful setting with multiple courtyards and gardens separating its three distinct care neighborhoods.*

[www.gracemanorportorange.com](http://www.gracemanorportorange.com)



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## The Legacy at Georgetown

### *Assisted Living & Memory Care*

MSA: Austin, TX	Units: 80
Construction: 11/11 - 11/12	Occupancy: N/A
Opening: 2/13	Sq. Ft.: 62,000
Pre-leased: 6%	Est. Stab.: 11/2013

*The Legacy at Georgetown is located at the entrance to Sun City Georgetown, one of the largest senior living communities in the US. Set among mesquite trees and designed in Texas hill-country style, it is a unique and strategically located community.*

[www.legacyatgeorgetown.com](http://www.legacyatgeorgetown.com)





**Stone/Brick**



**Stucco**



**Stucco/pavers**



DRAFT SUMMARY MINUTES OF THE REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY COMMISSION CHAMBERS, CITY HALL  
THURSDAY, SEPTEMBER 22nd, 2016 - 4:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, September 22nd, 2016, in the Commission Chambers at City Hall.

Chairman James Argento called the meeting to order at 4:30 p.m.

The following Commission members were present:

James Argento - Chairman  
Don Lukich  
Frazier Marshall  
Agnes Berry  
Clell Coleman  
Ted Bowersox

Chairman Argento called for the first case under new business, noted as Agenda item #6.

**NEW BUSINESS**

**1. PUBLIC HEARING CASE # PUD-16-126 – VENETIAN ISLES / ROYAL PALM – PLANNED UNIT DEVELOPMENT**

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 85+/- ACRES FROM PUD (PLANNED UNIT DEVELOPMENT) TO PUD (PLANNED UNIT DEVELOPMENT) THAT WILL INCLUDE A MIX OF USES ON PROPERTY GENERALLY LOCATED SOUTH OF THE INTERSECTION OF EAST DIXIE AVENUE AND SOUTH LAKE STREET AND NORTH OF MELLATHON CIRCLE AS LEGALLY DESCRIBED IN SECTION 25, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. **(CITY COMMISSION DATES – 1<sup>ST</sup> READING ON OCTOBER 10<sup>TH</sup>, 2016 AND 2<sup>ND</sup> READING ON OCTOBER 24<sup>TH</sup>, 2016)**

Dan Miller, Planning and Zoning Manager explained the rules of participation.

Dan Miller introduced case number #PUD-16-126 for the record and provided background information regarding the case.

Mr. Miller referred to the case as the Lake Street Development, consisting of 85 acres, a 98-unit apartment complex and approximately 25 detached single family homes. This project is designed for senior/assisted living, which will act as a “feeder unit” to a proposed assisted care/memory care facility on the proposed site. The project will be a “senior multi-family” type community, consisting of age 55+ and older, independent living residents.

Kandi Harper entered the exhibits into the record. Exhibit items included the staff summary, departmental review summary, staff recommendations, aerial map, land use and zoning map, CRA map, site photos, and conceptual site plan.

Kandi Harper utilized a power point presentation to demonstrate the area of the proposed site.

Mr. Miller indicated there were no substantial comments from other City Departments. The Building Division will require that all building codes be met for any proposed construction.

Mr. Miller explained there were a few public comments received.

Dan Miller read Staff Recommendations for approval into the record as follows:

- Compatible with the City’s future land uses designated for the area, and is consistent with the City’s growth management plan
- Compatible with the adjacent zoning classifications and does not appear to have a detrimental impact on the surrounding properties

Chairman Argento opened the meeting for audience participation, asking the applicant or representative for the applicant to step forward to speak first.

Representative, Tony Bengé spoke on behalf of the applicant, the Ardent Company. Mr. Bengé indicated the contract for purchase had been accepted as of September 22<sup>nd</sup>, 2016. Mr. Bengé also stated the property had been purchased by a group of Doctors.

Mr. Bengé clarified the proposed project would be geared more towards a “senior multi-family, 55+ independent life style, not the traditional classification of independent living associated with other medical type services.

With no further comment, Chairman Argento opened the discussion to the Planning Commissioners for their questions/concerns.

Commissioner’s questions centered around the actual location of the apartments (Option A or B as shown in the power point presentation), the height of the structure, and the distance between the apartment complex and the property of the existing Brookdale Assisted Living Facility.

Mr. Bengé responded stating that the apartment unit would be approximately three (3) stories in height, and would be built on 6-8 acres.

Based on City Staff recommendations, Mr. Bengé stated the applicant would be amenable to the site

of Option A. Constructing on the site of Option A would provide greater distance between the low and high density population in the area.

With no further comments from City Staff, Chairman Argento opened the case to public comment.

Concerned citizens spoke briefly regarding the case, one asking if the single family dwellings planned for this area would be in a “gated type” community setting.

Mr. Bengé confirmed the community would follow the original plan and remain as a gated community for those types of homes.

Another citizen inquired if street paving, and the addition of gas/sewer services would be done as a result of this development? An increase of traffic from Lake St. onto Dixie Ave. was also a concern.

Mr. Bengé stated the main entrance of the development would be on Dixie Ave.

Planning and Zoning Manager, Dan Miller addressed the street paving concerns based on the transportation improvements/studies that would be required. Mr. Miller stated without additional research, he would not be able to quote a time line for the paving.

Dan Miller added that traffic concerns are addressed based on the transportation studies that would be required, i.e. turn lanes, and other offsite improvements for this type of development.

Without further comment, Chairman Argento closed the discussion asking for a motion to approve or deny.

**Commissioner Lukich made a MOTION for APPROVAL with RESTRICTION to OPTION A (north location) of case # PUD-16-126-VENETIAN ISLES/ROYAL PALM. Commissioner Coleman SECONDED the MOTION which CARRIED UNANIMOUSLY by a vote of 6-0**

With no further comments or questions, discussion was closed for Planning Commission deliberation.

## **ADJOURNMENT**

Approximately 5:28 p.m.

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James Argento, Chairman

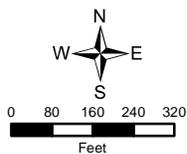
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Kandi Harper  
Senior Planner

# Locator

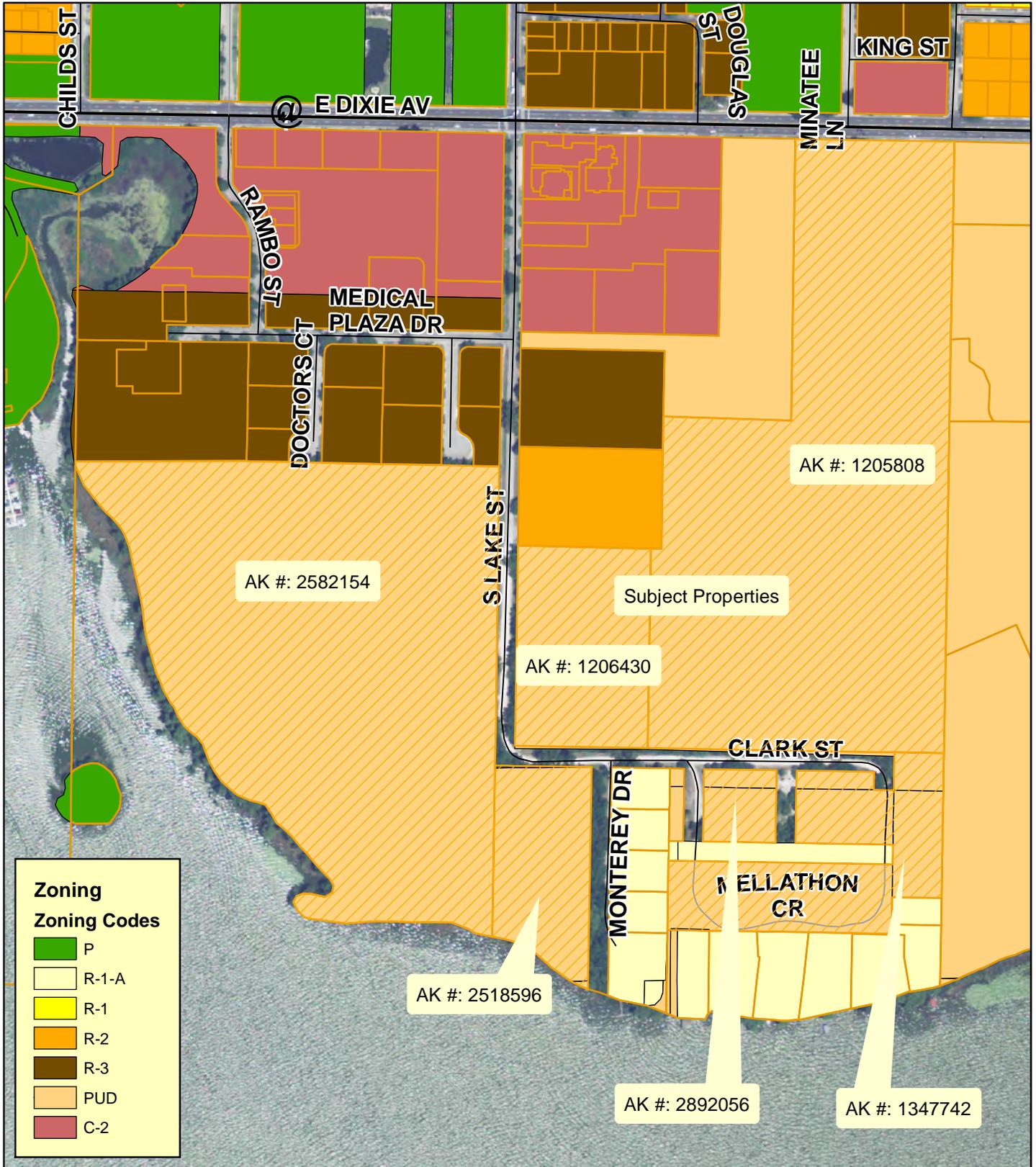


**Planning  
& Zoning  
Division**

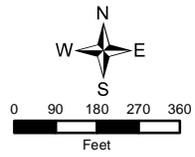


**PUD 16-126 85 Acres MOL  
Venetian Isles / Royal Palm Amendment  
TAC-FL Land Holdings LLC  
AK #: 1205808**

# Zoning

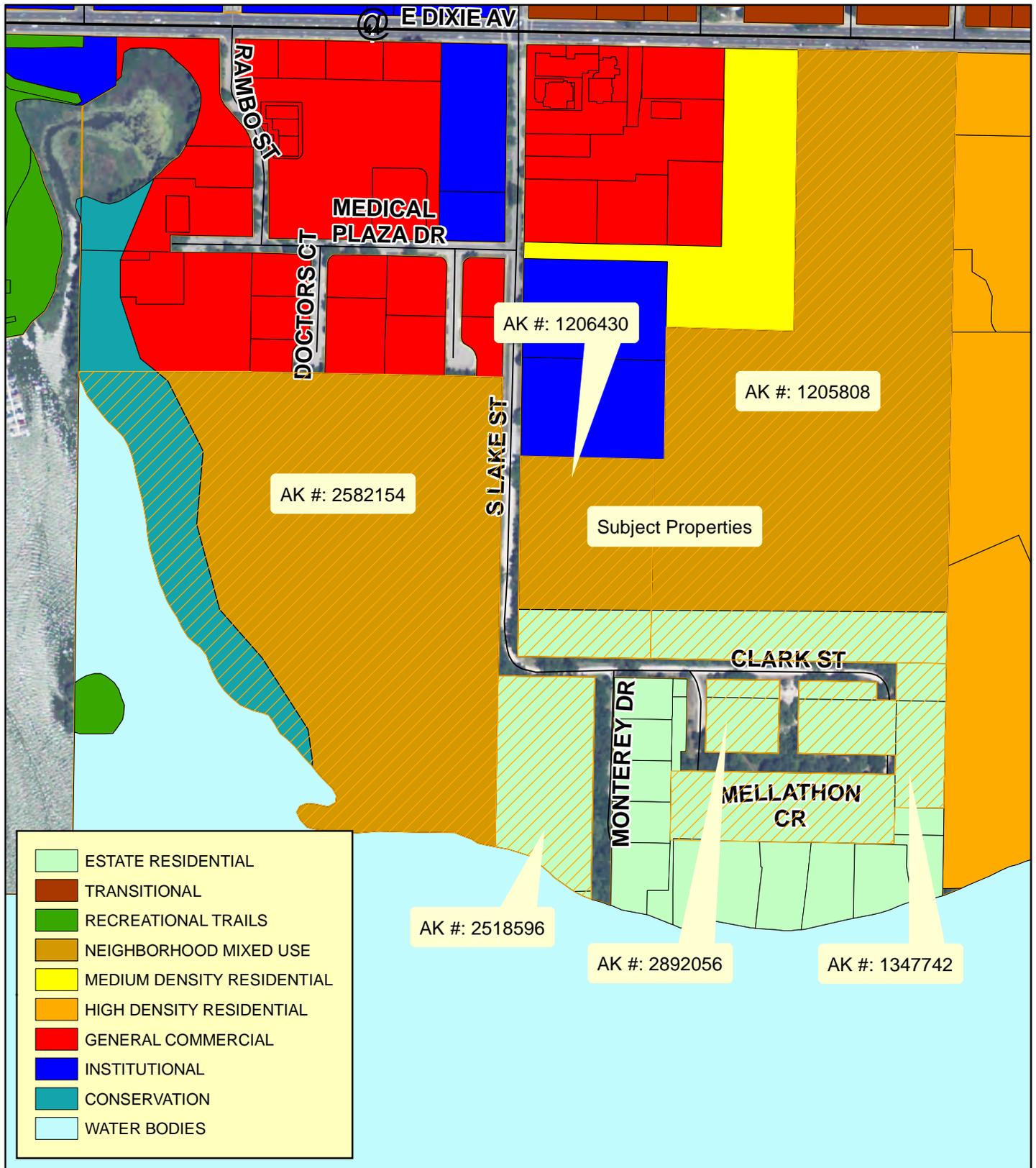


**Planning  
& Zoning  
Division**

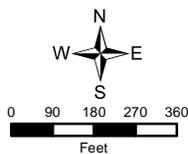


**PUD 16-126 85 Acres MOL  
Venetian Isles / Royal Palm Amendment  
TAC-FL Land Holdings LLC  
AK #: 1205808**

# Future Land Use

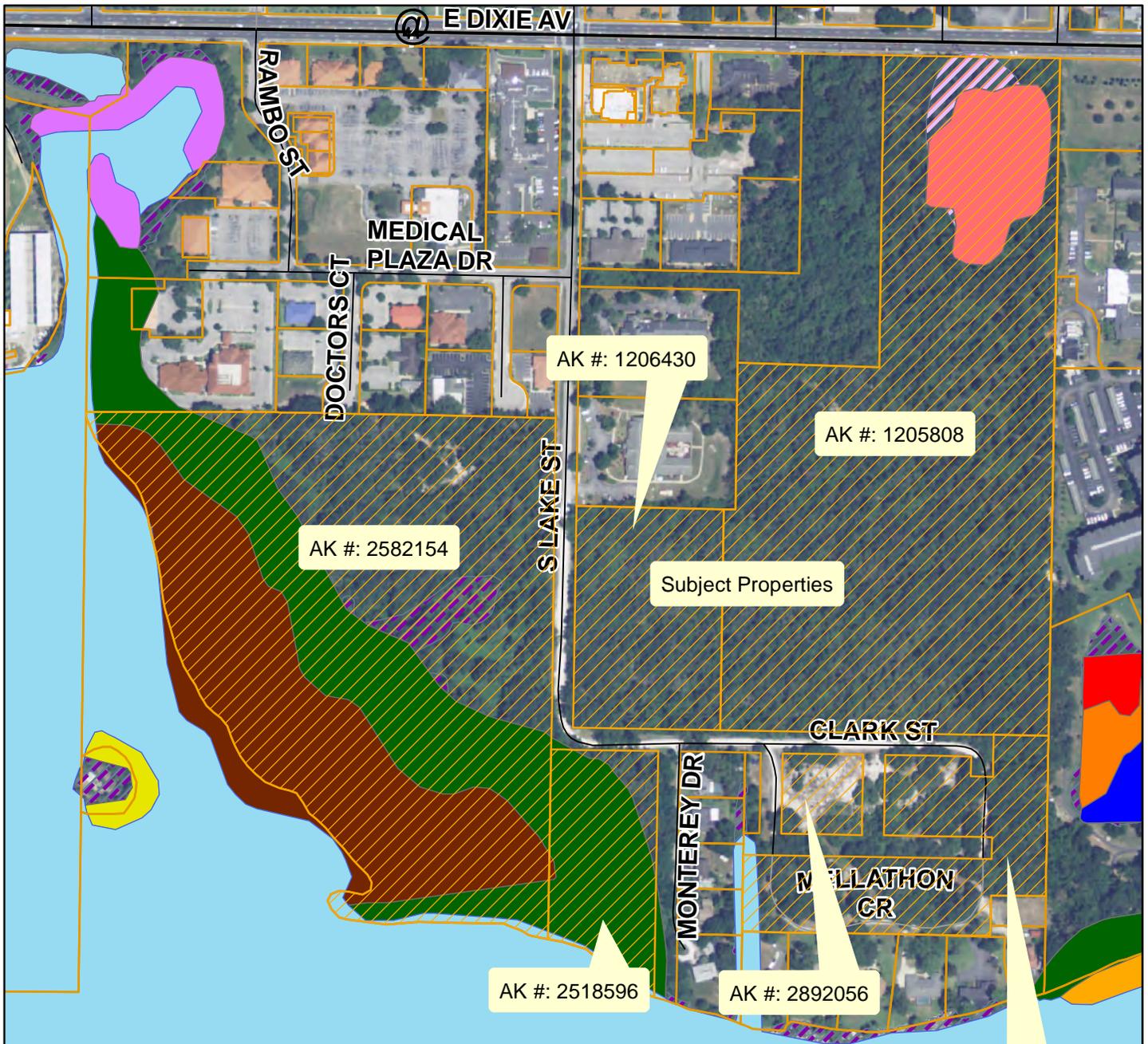


**Planning & Zoning Division**



PUD 16-126 85 Acres MOL  
 Venetian Isles / Royal Palm Amendment  
 TAC-FL Land Holdings LLC  
 AK #: 1205808

# Wetlands and Flood Zones



## Flood Zones 2012 Wetlands

### FLD\_ZONE

- A
- AE

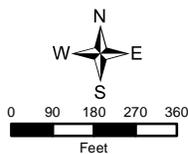
### VEG

- Cypress
- Floating Marsh
- Hardwood Swamp
- Lakeshore Emergents
- Shallow Marsh

- Shallow Marsh (Excavated)
- Shrub Swamp
- Shrub Swamp (Excavated)
- Uplands
- Water
- Water (Excavated)

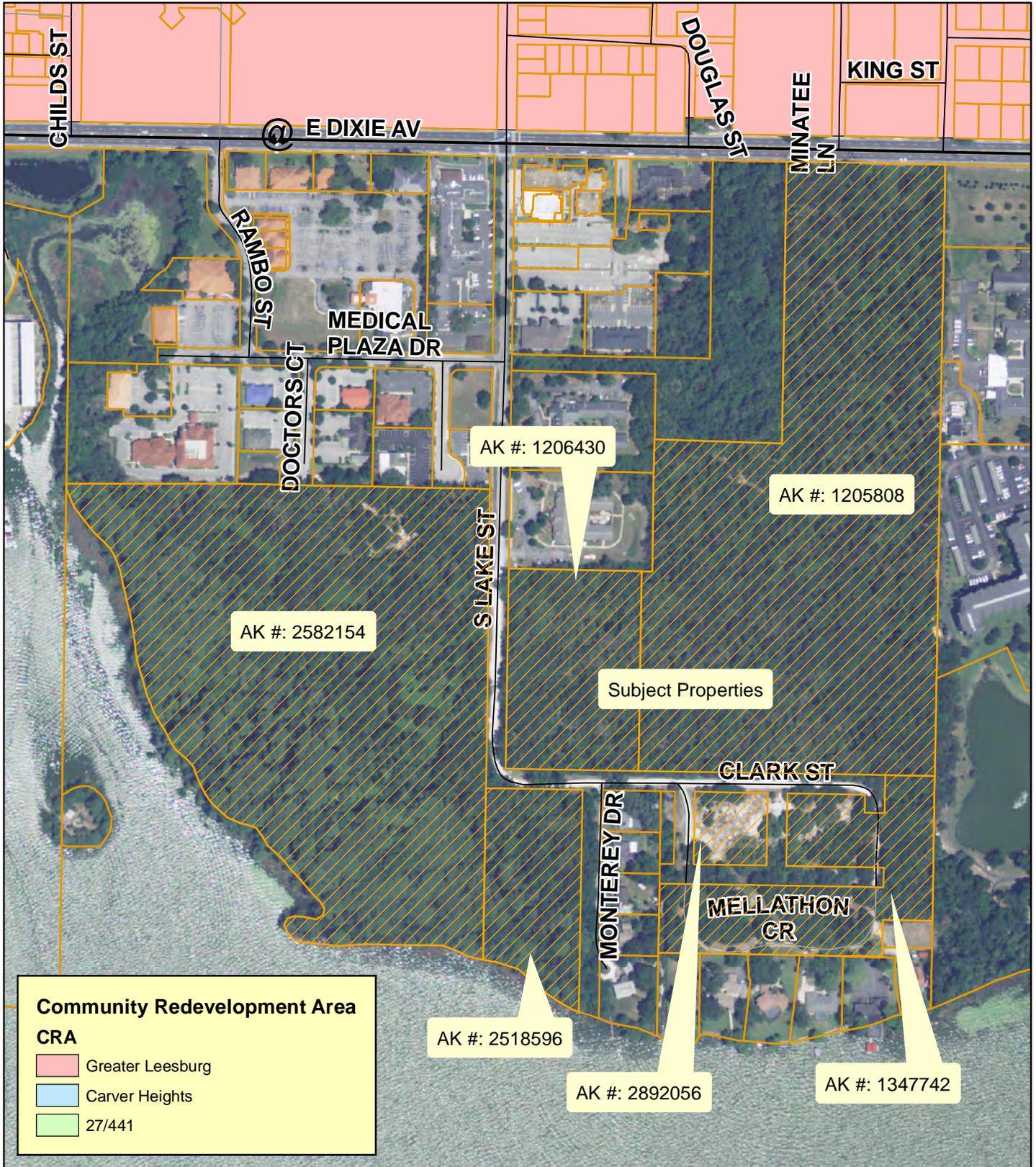


**Planning  
& Zoning  
Division**



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# Community Redevelopment Area



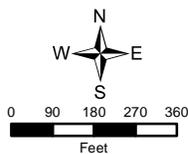
**Community Redevelopment Area**

**CRA**

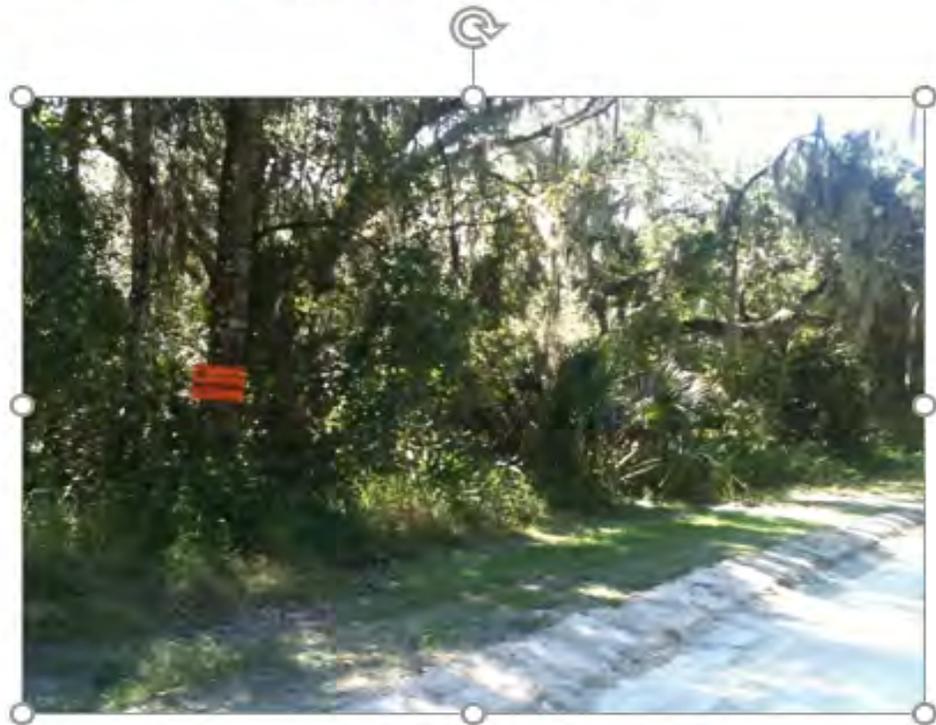
- Greater Leesburg
- Carver Heights
- 27/441



**Planning  
& Zoning  
Division**



**PUD 16-126 85 Acres MOL  
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TAC-FL Land Holdings LLC  
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PHOTOS OF THE SUBJECT PROPERTY - UNDEVELOPED



PHOTOS OF THE SUBJECT PROPERTY - UNDEVELOPED



PHOTOS OF THE SUBJECT PROPERTY - UNDEVELOPED