

APOPKA CITY COUNCIL AGENDA
February 01, 2017 1:30 PM
APOPKA CITY HALL COUNCIL CHAMBERS
Agendas are subject to amendment through
5:00pm on the day prior to City Council Meetings

CALL TO ORDER

INVOCATION - Pastor James Hicks of the Center of Faith Church

PLEDGE

AGENDA REVIEW

PUBLIC COMMENT; STAFF RECOGNITION AND ACKNOWLEDGEMENT

Public Comment Period:

The Public Comment Period is for City-related issues that may or may not be on today's Agenda. If you are here for a matter that requires a public hearing, please wait for that item to come up on the agenda. If you wish to address the Council, you must fill out an Intent to Speak form and provide it to the City Clerk prior to the start of the meeting. If you wish to speak during the Public Comment Period, please fill out a green-colored Intent-to-Speak form. If you wish to speak on a matter that requires a public hearing, please fill out a white-colored Intent-to-Speak form. Speaker forms may be completed up to 48 hours in advance of the Council meeting. Each speaker will have four minutes to give remarks, regardless of the number of items addressed. Please refer to Resolution No. 2016-16 for further information regarding our Public Participation Policy & Procedures for addressing the City Council.

Proclamations:

1. Black History Month Proclamation presented to Francina Boykin.

Mayor Kilsheimer

Employee Recognition:

- ❖ Five Year Service Award – Susan Bone – City Clerk's Office
- ❖ Five Year Service Award – Ariel Carrion – Police/Field Services
- ❖ Five Year Service Award – Alexandria Logsdon – Police/Field Services
- ❖ Five Year Service Award – Paul Michael Brown – Information Technology
- ❖ Ten Year Service Award – Donald Beggs – Fire/EMS
- ❖ Ten Year Service Award – Christopher Howell – Fire/EMS
- ❖ Ten Year Service Award – Darko Bocevski – Recreation/Athletics
- ❖ Fifteen Year Service Award – Kenneth Gatton – Public Services/Design Engineering

CONSENT (Action Item)

1. Authorize a Private Street Traffic Enforcement Agreement with Breckenridge Landowners Association.
2. Authorize the surplus, appraisal and bid advertisement for the sale of property.

BUSINESS (Action Item)

1. Impact Fee Assistance request from Qorvo.

Glenn A. Irby

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2546 – Second Reading – Annexation – 1109 S. Park Ave & 157 Rand Ct. – Legislative
2. Ordinance No. 2547 – First Reading – Annexation – Fisher Plantation Subdivision – Legislative
3. Ordinance No. 2548 – First Reading – Vacate Right of Way – West 2nd Street – Quasi-Judicial
4. Ordinance No. 2549 – First Reading – Vacate Right of Way – West 5th Street – Quasi-Judicial
5. Ordinance No. 2551 – First Reading – Large Scale Future Land Use Amendment – Legislative
6. Ordinance No. 2552 – First Reading – Small Scale Future Land Use Amendment – Legislative
7. Ordinance No. 2553 – First Reading – Change of Zoning – Quasi-Judicial
8. Resolution No. 2017-03 – Canterwood Bonds

Kyle Wilkes
James Hitt
James Hitt
James Hitt
Kyle Wilkes
Kyle Wilkes
Kyle Wilkes
Glenn A. Irby

CITY COUNCIL REPORTS

MAYOR'S REPORT

ADJOURNMENT

MEETINGS AND UPCOMING EVENTS

| DATE | TIME | EVENT |
|-------------------|-------------------|---|
| February 2, 2017 | 5:30pm – 9:00pm | Food Truck Round Up |
| February 10, 2017 | 6:00pm – 10:00pm | Old Florida Outdoor Festival at the Apopka Amphitheater |
| February 11, 2017 | 11:00am – 10:00pm | Old Florida Outdoor Festival at the Apopka Amphitheater |
| February 14, 2017 | 5:30pm – 6:00pm | Planning Commission Meeting |
| February 15, 2017 | 7:00pm – | Council Meeting |
| February 27, 2017 | 10:00am – 11:00am | Lake Apopka Natural Gas District Board Meeting: Winter Garden |
| March 1, 2017 | 1:30pm – | Council Meeting |
| March 2, 2017 | 5:30pm – 9:00pm | Food Truck Round Up |
| March 15, 2017 | 7:00pm – | Council Meeting |
| March 27, 2017 | 10:00am – 11:00am | Lake Apopka Natural Gas District Board Meeting: Winter Garden |

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least two (2) working days in advance of the meeting date and time at (407) 703-1704. F.S. 286.0105 If a person decides to appeal any decision or recommendation made by Council with respect to any matter considered at this meeting, he will need record of the proceedings, and that for such purposes he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any opening invocation that is offered before the official start of the Council meeting shall be the voluntary offering of a private person, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Council meeting are invited to stand during the opening ceremony. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Council Chambers or exit the City Council Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

Backup material for agenda item:

1. Authorize a Private Street Traffic Enforcement Agreement with Breckenridge Landowners Association.



CITY OF APOPKA CITY COUNCIL

- ___ CONSENT AGENDA
- ___ PUBLIC HEARING
- ___ SPECIAL REPORTS
- ___ OTHER:

MEETING OF: February 1, 2017
 FROM: Police Department
 EXHIBITS: Agreement

SUBJECT: PRIVATE STREET TRAFFIC ENFORCEMENT AGREEMENT

REQUEST: AUTHORIZE A TRAFFIC ENFORCEMENT AGREEMENT WITH BRECKENRIDGE LANDOWNERS ASSOCIATION, INC.

SUMMARY:

The Police Department has been approached by the Breckenridge Landowners Association, Inc., a non-profit corporation controlling the private roads within the Breckenridge Neighborhood, to enforce municipal and state traffic codes and laws within the gated neighborhood. Florida State Statute 316.006(2)(b) allows for a municipality to exercise jurisdiction over any private road within its boundaries if the municipality and party owning such road enter into a written agreement approved by the City Council. A copy of the agreement has been executed by the Breckenridge Landowners Association, Inc., and is attached.

FUNDING SOURCE:

N/A

RECOMMENDATION ACTION:

Authorize the Police Chief to execute the agreement on behalf of the City.

DISTRIBUTION

| | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

**AGREEMENT FOR
TRAFFIC CONTROL ON PRIVATE ROADS**

This Agreement for Traffic Control on Private Roads located in the gated community of BRECKENRIDGE LANDOWNERS ASSOCIATION, INC. is entered into by and between the City of Apopka, Florida (hereinafter referred to as the "City"), and BRECKENRIDGE LANDOWNERS ASSOCIATION, INC. (hereinafter referred to as BRECKENRIDGE).

WITNESSETH:

WHEREAS, BRECKENRIDGE owns fee simple title to all the private roadways lying within a gated community (hereinafter "Private Roads") more specifically described in a sketch of the property to be provide to the City of Apopka Police Department. These private roadways are located within the corporate limits of the City of Apopka; and

WHEREAS, pursuant to state statute, the City does not have traffic control jurisdiction over private roads such as those owned by BRECKENRIDGE; and

WHEREAS, Section 316.006(2)(b), *Florida Statutes*, provides that a city may exercise jurisdiction over any private roads if the city and the party owning such roads provide for city traffic control jurisdiction by a written agreement approved by the City Council; and

WHEREAS, BRECKENRIDGE wants the City to exercise traffic control jurisdiction over traffic offenses upon the Private Roads; and

WHEREAS, the City of Apopka Police Department is willing to exercise traffic control jurisdiction over traffic offenses upon the Private Roads; and

WHEREAS, the City of Apopka believes that a public purpose is served by enforcing traffic laws within the private roads owned by BRECKENRIDGE; and

WHEREAS, the parties desire to set forth the terms and conditions required for such an agreement.

NOW, THEREFORE, in consideration of the covenants and conditions herein, the City and BRECKENRIDGE hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct, and are incorporated herein by reference and form a material part of this Agreement.

2. **TRAFFIC CONTROL JURISDICTION.** The City agrees to exercise jurisdiction over traffic offenses upon the Private Roads pursuant to the terms and conditions expressed in Section 316.006(2)(b), *Florida Statutes* and as amended. The foregoing shall not be construed to require any minimum level of staffing or create any priority for traffic enforcement on the Private Roads. All decisions regarding the level of traffic enforcement on the Private Roads and staffing related thereto shall be within the sole discretion of the Chief of Police.

3. **TRAFFIC CONTROL SIGNAGE.** BRECKENRIDGE shall establish the speed limit for the Private Roads and shall be responsible for posting the speed limit by appropriate signage along said roads. Such signage must comply with Department of Transportation requirements prior to any enforcement action. The City shall enforce the speed limits consistent with Section 316.183, Florida Statutes.

4. **AUTHORITY IN ADDITION TO EXISTING AUTHORITY.** The City's exercise of traffic control jurisdiction pursuant to this Agreement shall be in addition to the authority presently exercised by the City over the Private Roads, and nothing herein shall be construed to limit or remove any such authority. The City agrees to continue to provide such police services as are required by law.

5. **COMPENSATION.** Pursuant to Florida Statute 316.006(2)(b)(1), the BRECKENRIDGE shall compensate the City of Apopka Police Department for the actual costs of traffic control and enforcement performed under this Agreement.

6. **CITY TO RETAIN REVENUES.** All revenue from the fines, costs, and penalties imposed by the traffic citations issued for violation of traffic laws as described above on the Private Roads shall be retained by the City and apportioned in the manner set forth in applicable statutes.

7. **LIABILITY NOT INCREASED.** Neither the existence of this Agreement nor anything contained herein shall give rise to any greater liability on the part of the City than that which the City would ordinarily be subjected to when providing its normal police services.

8. **INDEMNIFICATION.** To the fullest extent permitted by law, BRECKENRIDGE shall indemnify, defend, and hold the City harmless from any loss, cost, damage or expense, including attorney's fees, for any action arising out of, related to, or stemming from, either directly or indirectly, the maintenance, repair and/or reconstruction of any roads, road drainage or signage or any matter related to providing traffic control enforcement pursuant to this Agreement. To ensure its ability to fulfill its obligation under this paragraph, BRECKENRIDGE shall maintain General Liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00), and shall file with the City current certificates of the required insurance providing a 30-day advance written notice of cancellation. Such insurance shall (a) name the City as and additional insured as it relates to activities conducted pursuant to this contract and (b) be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the City. No claims whatsoever shall be made or asserted against the City by the Association for or on account of anything done or as a result of anything omitted to be done in connection with this Agreement.

9. **ROAD MAINTENANCE.** Neither the existence of the Agreement nor anything contained herein shall impose any obligation or duty upon the City to provide maintenance on and/or related drainage of the Private Roads. The maintenance, repair and construction or reconstruction of all roads, drainage and signage within BRECKENRIDGE shall at all times be solely and exclusively the responsibility of BRECKENRIDGE .

10. **TERM.** The term of this Agreement shall commence on the Date Approved by the Apopka City Council and continue through one year from such date and shall thereafter automatically continue for successive one year terms unless terminated by either party by thirty (30) days written notice to the other parties. The provisions of Paragraph 8 herein shall survive the termination of this Agreement.

11. **APPLICABLE LAW.** This agreement and the provision contained herein shall be construed and interpreted according to the laws of the State of Florida.

12. **ENTIRE AGREEMENT.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding and agreement between the parties and may not be changed, altered, or otherwise modified except when reduced to writing and executed in the same manner, with the approval of the City Council.

13. **NOTICE.** All notices to be given shall be in writing and sent by certified mail, return receipt requested, to the following:

AS TO THE CITY: Chief of Police
Apopka Police Department
112 East 6th Street
Apopka, Florida 32703

AS TO BRECKENRIDGE LANDOWNERS ASSOCIATION, INC.:
REGISTERED AGENT
SENTRY MANAGEMENT INC
2180 WEST SR 434 STE 5000
LONGWOOD, FL 32779

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

ATTEST:

CITY OF APOPKA

By: _____
Linda Goff, City Clerk

By: _____
Michael McKinley, Chief of Police

Date: _____

APPROVED BY THE APOPKA CITY COUNCIL AT A
MEETING HELD ON THE _____ DAY OF
_____, 20__.

**BRECKENRIDGE LANDOWNERS ASSOCIATION, INC.
HOMEOWNERS ASSOCIATION, INC.**

By: Charles Conklin

Charles Conklin, President

Printed Name/Title

Date: 12/9/16

WITNESS:

Dale S Grieme

Signature

Date: 12/9/2016

Dale S Grieme

Name Printed

Richard D. Allen

Signature

Date: 12/9/2016

Richard D. Allen

Name Printed



Lee Ann Snipes 12/9/2016

County of Orange
State of Florida.

Backup material for agenda item:

2. Authorize the surplus, appraisal and bid advertisement for the sale of property.



CITY OF APOPKA CITY COUNCIL

- CONSENT AGENDA
- PUBLIC HEARING
- SPECIAL REPORTS
- OTHER:

MEETING OF: February 1, 2017
 FROM: Administration
 EXHIBIT(S): Site Maps (2)

SUBJECT: SURPLUS CITY PROPERTY

REQUEST: DECLARE TWO CITY OWNED PARCELS AS SURPLUS, PROCEED WITH AN OFFICIAL APPRAISAL FOR EACH AND ADVERTISE FOR SALE BIDS.

SUMMARY:

The City owns various properties that have been acquired in the past. As a result of new planning efforts, two of these properties have become surplus and according to staff, are no longer needed. One is located south of Marshall Lake just west of SR 451. The other is located at the SE corner of N. Park Ave. and E. Sandpiper Rd. Both of these sites would go be able to go back on the tax rolls and developed.

Once the City Council approves these properties as *surplus*, each site will need an official *appraisal* to determine the actual value of the sites, based on a number of items that include: location, land use & zoning, and other sales of similar sites in the area.

Estimated Appraisal costs:

| | |
|---|---------|
| Marshall Lake site (appraisal update): | \$2,000 |
| Southeast corner of N. Park Ave./E. Sandpiper Rd. site: | \$2,000 |

Once the appraisals are completed, *qualifying bids* would need to be completed for a sale to occur. A bid process has to be followed in order to sell City properties.

FUNDING SOURCE

General Fund - appraisals

RECOMMENDATION ACTIONS:

- Declare the Marshall Lake property and the Sandpiper Road/Park Ave. sites as surplus.
- Authorize City staff to acquire official appraisals for each property. \$4,000 total
- Approve for sale bidding for each property.

DISTRIBUTION

| | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

City of Apopka ~ surplus land

West of SR 451, south of Marshall Lake Rd. (and south of Marshall Lake), NE of the Breckenridge subdivision



Future Land Use: Residential Low
Zoning: PUD

Acres: 103.03 +/-

Address: Johns Rd. (not official access)

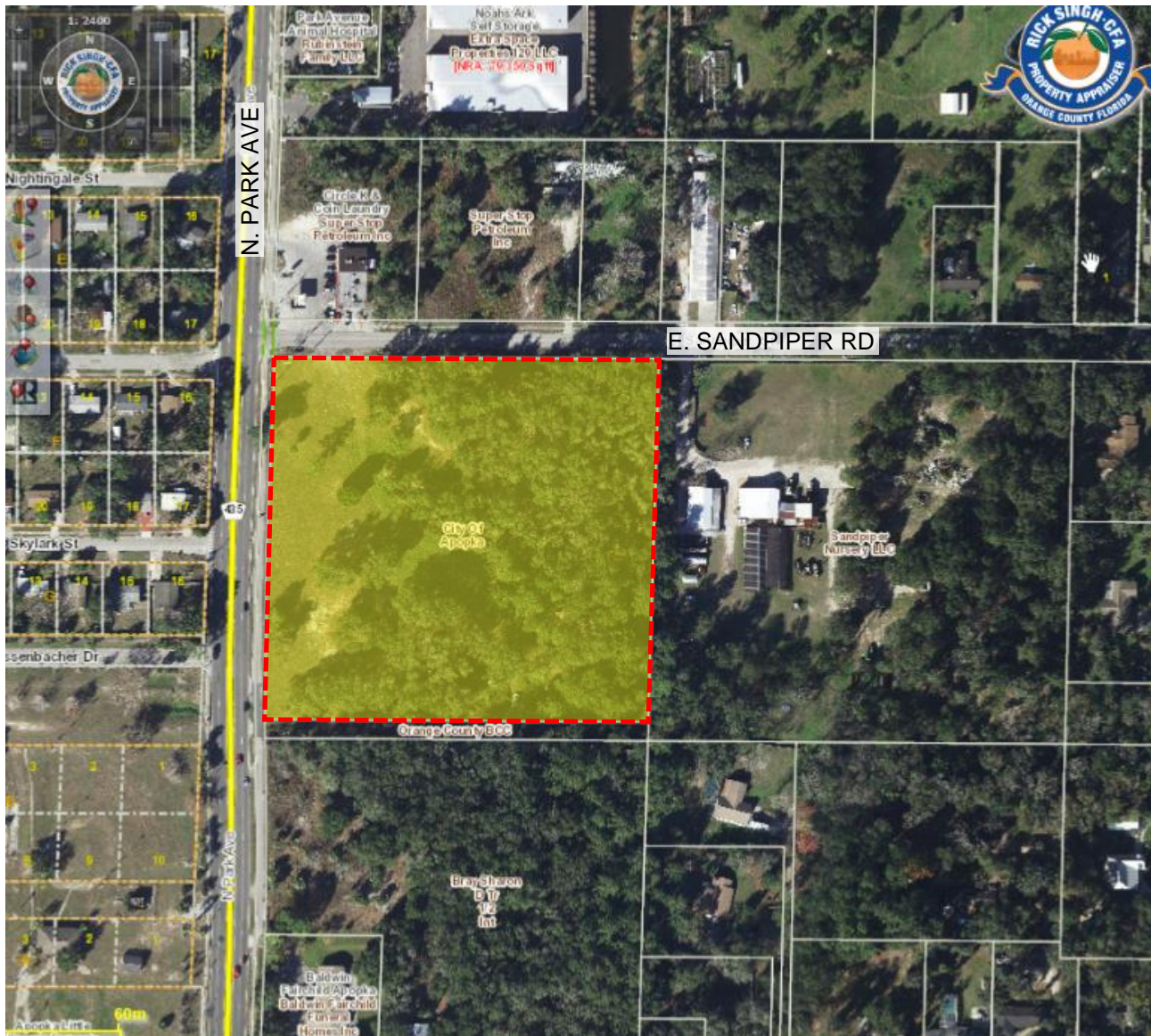
Property Tax ID: 08-21-28-0000-00-005

Assessed Value: \$1,221,463



City of Apopka ~ surplus land

SE corner of N Park Ave. (Rock Springs Road) & E. Sandpiper Rd.



Future Land Use: Commercial

Zoning: C-1

Acres: 8.45 +/-

Address: 751 N. Park Ave.

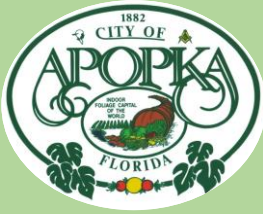
Property Tax ID: 03-21-28-0000-00-035

Assessed Value: \$306,735



Backup material for agenda item:

1. Impact Fee Assistance request from Qorvo. Glenn A. Irby



CITY OF APOPKA CITY COUNCIL

- CONSENT AGENDA
- PUBLIC HEARING
- BUSINESS

MEETING OF: October 5, 2016
 FROM: Administration
 EXHIBITS:

SUBJECT: QORVO EXPANSION AND IMPACT FEES

REQUEST: TO ABSORB IMPACT FEES ASSOCIATED WITH QORVO'S BUSINESS/BUILDING EXPANSION

SUMMARY:

Impact fees are due and payable for all new construction both commercial and residential. Qorvo is no exception. Said fees are based on anticipated water and sewer usage and building size. In Qorvo's case they will owe the following:

| | |
|-----------------------|--------------|
| Traffic | \$ 41,616.00 |
| Water | 10,208.00 |
| Sewer | 50,949.25 |
| Total Impacts Payable | \$102,773.25 |

Representatives of the company have expressed the desire to reduce overall costs of their project and have asked city staff about reducing these specific expenses. Unfortunately, impact fees cannot be reduced, financed by the city or waived. However, it makes no difference who pays the fees. This said, it is possible for the General Fund to pay the portion related to traffic impacts and the utility fund to pay associated water and sewer impacts.

Recently the City Council in cooperation with Orange County agreed to assist Qorvo on a tax abatement incentive whereby they would receive real estate rebates over a number of years equal to a maximum of \$120,000 [\$60,000 each]. The State of Florida will also participate by granting another \$480,000 in incentives.

FUNDING SOURCE:

N/A

RECOMMENDATION ACTION:

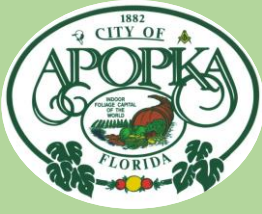
Staff recommends denial of the request by Qorvo to pay project impact fees required of Qorvo for their desired project expansion.

DISTRIBUTION

- | | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

Backup material for agenda item:

1. Ordinance No. 2546 – Second Reading – Annexation – 1109 S. Park Ave & 157 Rand Ct. – Legislative
Kyle Wilkes



CITY OF APOPKA CITY COUNCIL

CONSENT AGENDA
 PUBLIC HEARING
 SPECIAL REPORTS
 OTHER:

MEETING OF: February 1, 2017
FROM: Community Development
EXHIBITS: Exhibit "A" – Summary
Ordinance No. 2546
Vicinity Map

SUBJECT: 2017 ANNEXATION – CYCLE NO. 1

REQUEST: SECOND READING & ADOPTION OF ORDINANCE NO. 2546 – ANNEXATION - APOPKA HOLDINGS, LLC.

SUMMARY:

OWNER: Apopka Holdings, LLC
LOCATION: 1109 S Park Avenue & 157 Rand Court
LAND USE: Refer to Exhibit "A"
EXISTING USE: Refer to Exhibit "A"
TRACT SIZE: 0.82 +/- acre

ADDITIONAL COMMENTS: The proposed annexation shall be on the basis of the existing County Future Land Use and Zoning Designations. The assignment of a City Future Land Use and Zoning designation will occur at a later date, and through action by the City Council.

ORANGE COUNTY NOTIFICATION: The JPA requires the City to notify the County 15 days prior to the first reading of any annexation ordinance. The City provided notification to the County on December 30, 2016.

DULY ADVERTISED:

January 6, 2017 - 1/4 Page Public Hearing Advertisement
January 13, 2017 - 1/4 Page Public Hearing Advertisement
February 3, 2017 - Ordinance Headings Advertisement

PUBLIC HEARING SCHEDULE:

January 18, 2017 (7:00 pm) - City Council 1st Reading
February 1, 2017 (1:30 pm) - City Council 2nd Reading and Adoption

FUNDING SOURCE: N/A

DISTRIBUTION

Mayor Kilsheimer
Commissioners
City Administrator
Community Development Director

Finance Director
HR Director
IT Director
Police Chief

Public Services Director
Recreation Director
City Clerk
Fire Chief

RECOMMENDATION ACTION:

The **Development Review Committee** recommends approval of the annexation for properties owned by Apopka Holdings, LLC.

The **City Council**, at its regularly scheduled meeting on January 18, 2017, accepted the First Reading of Ordinance 2546 and held it over for Second Reading and Adoption on February 1, 2017.

Adopt Ordinance No. 2546.

EXHIBIT "A"
CITY OF APOPKA
2017 ANNEXATION CYCLE # 1

TOTAL ACRES: 0.82 +/-
ANNEXATION ORDINANCE NO.: 2546

Adopted this 1st day of February, 2017

| ORD. NO. | ITEM NO. | OWNER'S NAME | LOCATION | PARCEL NUMBER | ACRES +/- | EXISTING USE | FUTURE LAND USE (COUNTY) |
|-----------------|-----------------|---------------------|---------------------------------------|--|-----------------------------|-----------------------------|--|
| 2546 | 1 | APOPKA HOLDING, LLC | 1109 S. Park Avenue 157 Rand Court | 15-21-28-7540-00-771 15-21-28-7540-00-772 | 0.41 <u>0.41</u> 0.82 | SFR (1) Rooming House | Low Density Residential Max. 4du/ac |

G:\CommDev\PLANNING ZONING\ANNEXATIONS\2017\Cycle 1\CC Packets

ORDINANCE NO. 2546

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY APOPKA HOLDINGS, LLC LOCATED AT 1109 S PARK AVENUE and 157 RAND COURT; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, Apopka Holdings, LLC, owners thereof, have petitioned the City Council of the City of Apopka, Florida, to annex the properties located at 1109 S Park Avenue and 157 Rand Court; and

WHEREAS, Florida Statute 171.044 of the General Laws of Florida provide that a municipal corporation may annex property into its corporate limits upon voluntary petition of the owners, by passing and adopting a non-emergency ordinance to annex said property; and

WHEREAS, the City Council of the City of Apopka, Florida is desirous of annexing and redefining the boundaries of the municipality to include the subject property pursuant to Florida Statute 171.044.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Apopka, Florida, as follows:

SECTION I: That the following described properties, being situated in Orange County, Florida, totaling **0.82 +/- acre**, and graphically depicted by the attached Exhibit "A", is hereby annexed into the City of Apopka, Florida, pursuant to the voluntary annexation provisions of Chapter 171.044, Florida Statutes, and other applicable laws:

Legal Descriptions:

ROBINSON & DERBYS ADD TO APOPKA B/40 THE N1/2 OF LOT 77 & N1/2 OF LOT 78, Containing 0.41+/- acre; AND

ROBINSON & DERBYS ADD TO APOPKA B/40 THE S1/2 OF LOTS 77 & 78, Containing 0.41+/- acre.

SECTION II: That the corporate territorial limits of the City of Apopka, Florida, are hereby redefined to include said land herein described and annexed.

SECTION III: That the City Council will designate the land use classification and zoning category of these annexed lands in accordance with applicable City ordinances and State laws.

SECTION IV: That the land herein described and future inhabitants of the land herein described shall be liable for all debts and obligations and be subject to all species of taxation, laws, ordinances and regulations of the City.

SECTION V: That if any section or portion of a section or subsection of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or portion of a section or subsection or part of this ordinance.

ORDINANCE NO. 2546
PAGE 2

SECTION VI: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION VII: That this ordinance shall take effect upon passage and adoption, thereafter the City Clerk is hereby directed to file this ordinance with the Clerk of the Circuit Court in and for Orange County, Florida; the Orange County Property Appraiser; and the Department of State of the State of Florida.

READ FIRST TIME: January 18, 2017

READ SECOND TIME
AND ADOPTED: February 1, 2017

Joseph E. Kilsheimer, Mayor

ATTEST:

Linda Goff, City Clerk

DULY ADVERTISED FOR PUBLIC HEARING: January 6, 2017; January 13, 2017 & February 3, 2017

ANNEXATION
APOPKA HOLDINGS, LLC
1109 S PARK AVENUE & 157 RAND COURT



Exhibit "A"
Ord. # 2546

Parcel ID: 15-21-28-7540-00-771
15-21-28-7540-00-772

Total Acres: 0.82 +/-

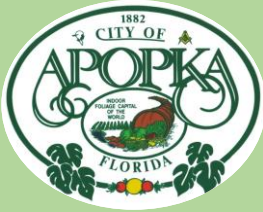
VICINITY MAP



Backup material for agenda item:

2. Ordinance No. 2547 – First Reading – Annexation – Fisher Plantation Subdivision – Legislative

James Hitt



CITY OF APOPKA CITY COUNCIL

- CONSENT AGENDA
- PUBLIC HEARING
- SPECIAL REPORTS
- OTHER:

MEETING OF: February 1, 2017
 FROM: Community Development
 EXHIBIT(S): Ordinance No. 2547

SUBJECT: FISHER PLANATION, ANNEXATION REFERENDUM

REQUEST: FIRST READING OF ORDINANCE NO. 2547 FOR ANNEXATION OF THE FISHER PLANTATION SUBDIVISION

SUMMARY:

Over the last year the City has received annexation requests from the residents of the Fisher Planation subdivision. Discussions and meetings with the residents and homeowners indicate the significant majority of the residents support annexation; however, staff has been unable to secure the unanimous consent necessary to annex under the voluntary annexation provisions within Florida Statutes.

On December 13, 2016, the Apopka City Council authorized staff to initiate the process for conducting an annexation referendum for the Fisher Plantation subdivision. Staff has coordinated with the Orange County Supervisor of Elections Office, and the annexation referendum is scheduled to be held on April 11, 2017. This will be a mail-in referendum rather than completed at a polling location.

As part of the process, the Apopka City Council must adopt an ordinance proposing the annexation of Fisher Plantation. The ordinance becomes effective April 21, 2017, ten (10) days after the referendum, providing that there is a majority vote for annexation.

LOCATION: Refer to Ordinance No. 2547, Exhibit “B” – Vicinity Map

EXISTING USES: 25.0 +/- Residential Acres (81 lots and 5 Tracts)

ADDITIONAL COMMENTS

- A. Annexation will be on the basis of existing Orange County land use and zoning designations, with the process for City land use and zoning to occur at a later date.
- B. Ordinance No. 2547 Public Hearing Schedule:
 City Council (First Reading) - January 18, 2017 at 7:00 P.M. & February 1, 2017 at 1:30 P.M.
 City Council (Second Reading & Adoption) – February 15, 2017 at 7:00 P.M.
- C. Duly advertised:
 January 8, 2017 – Public Hearing Notice
 January 27, 2017 – Ordinance Heading Ad
 February 3, 2017 – Ordinance Heading Ad

FUNDING SOURCE:

N/A

RECOMMENDATION ACTION:

Approve the Reading of Ordinance No. 2547 for the Annexation of Fisher Plantation subdivision, and hold for Second Reading and Adoption on February 15, 2017

DISTRIBUTION

- | | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

ORDINANCE NO. 2547

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, ANNEXING CERTAIN UNINCORPORATED PROPERTY GENERALLY KNOWN AS FISHER PLANTATION, AND MORE PARTICULARLY DESCRIBED HEREIN, INTO THE CORPORATE LIMITS OF THE CITY OF APOPKA; PROVIDING FOR A REFERENDUM FOR APPROVAL BY THE REGISTERED ELECTORS OF THE AREA PROPOSED TO BE ANNEXED; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City of Apopka has undertaken a study regarding the annexation of Fisher Plantation; and

WHEREAS, the City Council has determined that the total area to be annexed is contiguous to the City of Apopka boundary, is reasonably compact and is not included within the boundary of another municipality; and

WHEREAS, the City Council further determined that the area to be annexed is developed for urban purposes; and

WHEREAS, the City of Apopka is prepared to provide urban services to the area to be annexed; and

WHEREAS, this enabling ordinance and backup will be transmitted to the Board of County Commissioners for Orange County; and

WHEREAS, all prerequisites to annexation have been met.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA:

SECTION I: ANNEXATION OF UNINCORPORATED PROPERTY: The corporate limits of the City of Apopka are hereby extended, amended and modified so as to annex and include the area referred to as Fisher Plantation, generally located northwest corner of Schopke Road and Lester-Schopke Road, more particularly described in Exhibit "A" (attached hereto and incorporated herein by this reference) and depicted in the map in Exhibit "B" (attached hereto and incorporated herein by this reference).

SECTION II: REFERENCE BY REGISTERED ELECTORS: This ordinance proposing to annex the property herein described to the corporate limits to the City of Apopka shall be submitted to a vote of the registered electors of the area herein proposed to be annexed. The referendum for the annexation shall be held April 11, 2017, with a mail ballot in a form substantially similar to that set forth in Exhibit "C" (attached hereto and incorporated herein by this reference). Such election shall be held in conformity with the laws and ordinances now in effect and in conformance with the provisions of Chapter 171, Florida Statutes.

ORDINANCE NO. 2547

SECTION III: SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

SECTION IV: EFFECTIVE DATE: This ordinance shall become effective April 21, 2017 provided there is a majority vote for annexation within the area proposed herein to be annexed.

SECTION V: DIRECTIONS TO THE CITY CLERK: Immediately upon the effective date of this Ordinance, the City Clerk shall file a certified copy of this Ordinance, along with the certified referendum election results, with the Clerk of the Circuit Court in and for Orange County; the Orange County Property Appraiser; and the Department of State of the State of Florida.

PASSED AND ORDAINED this 1st day of February 2017, by the City Council of the City of Apopka, Florida.

READ FIRST TIME: January 18, 2017

READ SECOND TIME
AND ADOPTED: February 1, 2017

Joseph E. Kilsheimer, Mayor

ATTEST:

Linda G. Goff, City Clerk

APPROVED AS TO FORM:

Clifford B. Shepard, City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: January 8, 2017
January 27, 2017

FISHER PLANTATION ANNEXATION

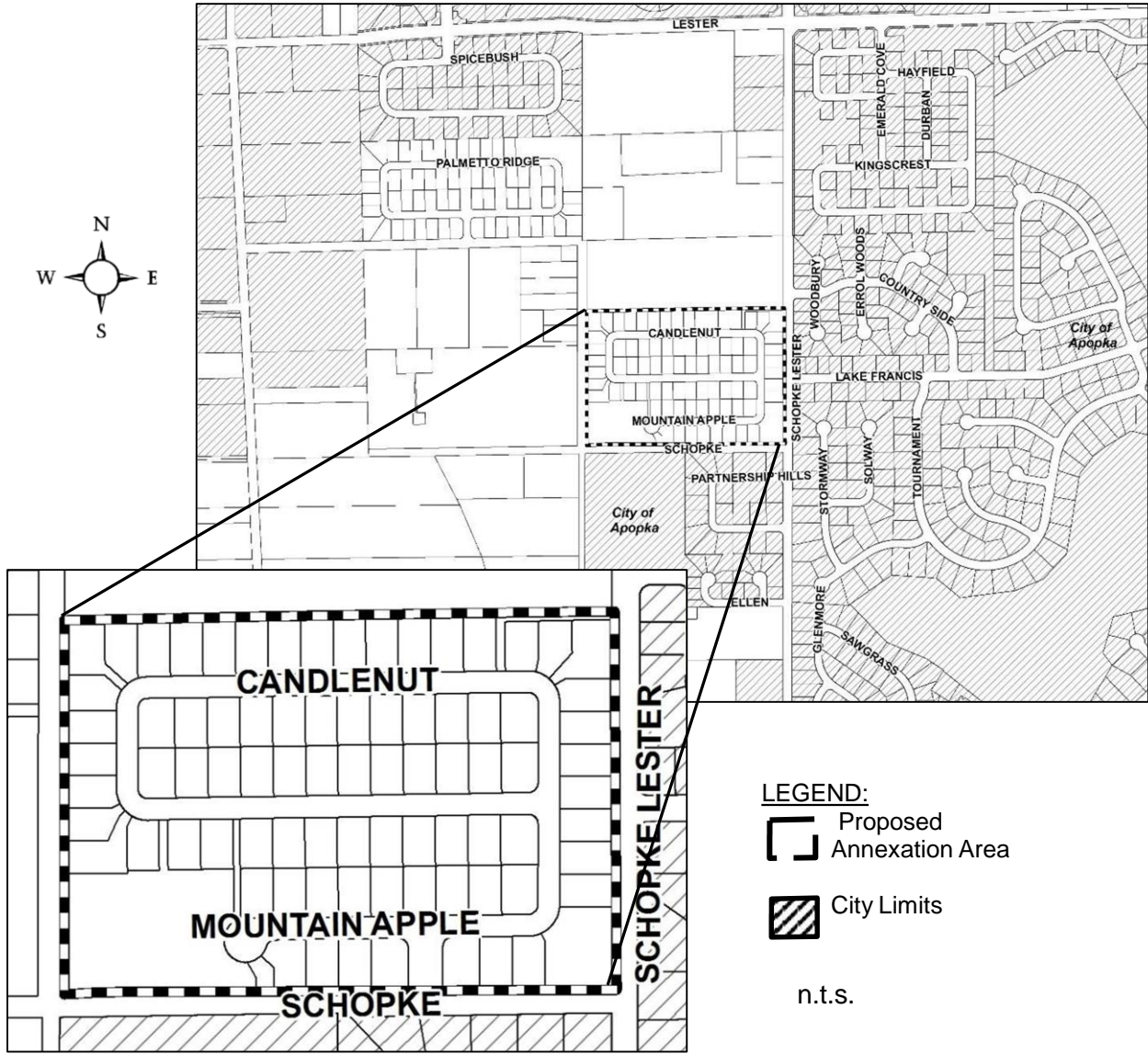
Legal Description including acreage:

That part of the Northeast $\frac{1}{4}$ of Section 31, Township 20 South, Range 28 East, Orange County, Florida, being described as follows:

Commence at the Southeast corner of said Northeast $\frac{1}{4}$, as a point of reference; thence run N88° 39' 44"W, along the South line thereof, 1350.00 feet to the intersection of the South line of the Northeast $\frac{1}{4}$ with the West right-of-way line of Schopke-Lester Road; Thence run N02° 14' 02"E, along said West right-of-way line of Schopke Road; Thence run N88° 39' 44"W, along said North line, 1259.99 feet to the East right-of-way line of Schopke Road; Thence run N02° 13' 57"E, along said East line, 864.39 feet; Thence run S88° 39' 44"E, parallel with the South line of the Northeast $\frac{1}{4}$, 1260.01 feet to the aforesaid West right-of-way line of Schopke-Lester Road; Thence run S02° 14' 02"W, along said West line, 864.39 feet to the point of beginning.

Containing 25 acres +/-

Fisher Plantation Annexation – Vicinity Map



SAMPLE BALLOT • PAPELETA DE MUESTRA

SAMPLE BALLOT • PAPELETA DE MUESTRA • SAMPLE BALLOT • PAPELETA DE MUESTRA

SAMPLE BALLOT • PAPELETA DE MUESTRA • SAMPLE BALLOT • PAPELETA DE MUESTRA

Official Special Annexation Referendum Election Ballot
April 11, 2017
Apopka, Florida

9904-0001

Papeleta Oficial Para la Elección Referendum Anexion Especial
11 de abril de 2017
Apopka, Florida

99040001



- Instructions: To vote, fill in the oval completely (●) next to your choice. Use black ballpoint pen.
- If you make a mistake, ask for a new ballot. Do not cross out or your vote may not count.
- Instrucciones: Para votar, llene completamente el óvalo (●) al lado de su selección. Use bolígrafo de tinta negra.
- Si comete un error, pida una nueva papeleta. No lo taches, o puede que su voto no cuente.

**Fisher Plantation Subdivision
Annexation Referendum**

The Apopka City Council has adopted Ordinance Number 2547 calling for annexation into the City of Apopka certain land located adjacent to the City and generally in the Fisher Plantation subdivision. The annexation will not occur unless a majority of registered electors in the area to be annexed casting ballots approve annexation.

- For annexation of property described in Ordinance Number 2547 of the City of Apopka.
Estoy de acuerdo con la anexión de las propiedades descritas en la Ordenanza Numero 2547 de la Ciudad de Apopka.
- Against annexation of property described in Ordinance Number 2547 of the City of Apopka.
Estoy en contra de la anexión de las propiedades descritas en la Ordenanza Numero 2547 de la Ciudad de Apopka.

**Subdivisión de Fisher Plantation
Referéndum de Anexión**

El Consejo Municipal de la Ciudad de Apopka ha aprobado la Ordenanza Numero 2547 que propone la anexión a la Ciudad de Apopka ciertos terrenos adyacentes a la Ciudad en la subdivisión de Fisher Plantation. La anexión no procederá a menos que una mayoría de votantes inscritos del área ha ser anexada emitan su voto y aprueben la anexión.

SAMPLE BALLOT • PAPELETA DE MUESTRA

Backup material for agenda item:

3. Ordinance No. 2548 – First Reading – Vacate Right of Way – West 2nd Street – Quasi-Judicial

James Hitt



CITY OF APOPKA CITY COUNCIL

- CONSENT AGENDA
- PUBLIC HEARING
- SPECIAL REPORTS
- OTHER: Ordinance

MEETING OF: February 1, 2017
 FROM: Community Development
 EXHIBIT(S): Ordinance No. 2548

SUBJECT: ORDINANCE NO. 2548 – VACATING A PORTION OF A PLATTED RIGHT-OF-WAY - WEST 2ND STREET

REQUEST: ACCEPT THE FIRST READING OF ORDINANCE NO. 2548 – VACATE A PORTION OF A PLATTED RIGHT OF WAY - WEST 2ND STREET; AND HOLD OVER FOR SECOND READING AND ADOPTION.

SUMMARY:

OWNER/APPLICANT: City of Apopka

LOCATION: West of S. Hawthorne Ave. and southwest of the CSX Railroad right-of-way; north of unimproved W. 3rd Street, south of W. 1st Street and east of Cooper Palms Parkway.

EXISTING USE: Vacant Land

AREA TO BE VACATED: 0.33 acres +/-

RELATIONSHIP TO ADJACENT PROPERTIES:

| <i>Direction</i> | <i>Future Land Use</i> | <i>Zoning</i> | <i>Present Use</i> |
|------------------|------------------------|---------------|--|
| North (City) | Industrial | I-1 | Vacant Industrial |
| East (City) | Commercial | C-2 and C-3 | CSX and S. Hawthorne Ave. |
| South (City) | Industrial | I-1 | Vacant Industrial – Cooper Palms Commerce Park, Lots 10 & 11 |
| West (City) | Industrial | I-1 | ROW (Cooper Palms Pkwy) |

FUNDING SOURCE:

N/A

DISTRIBUTION

| | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

ADDITIONAL COMMENTS: The City is seeking to vacate a portion of W. 2nd Street that is an existing public right of way that was established within the Bradshaw and Thompson’s Addition plat. Due to recent land acquisitions by Property Industrial Enterprises, LLC, it now owns all lands abutting the north, south and west sides of the right-of-way and has no public access to it. The CSX Railroad owns the rail right-of-way directly adjacent to the northeast. More so, the road to the west --- Cooper Palms Parkway – is a private street and CSX railroad right-of-way terminates the eastern end of this segment of W. 2nd Street, isolating the public road right-of-way and leaving it disconnected to any other public roadway. No public use or benefit remains by leaving the right-of-way for a public purpose.

The Public Services Department has evaluated the site and has no objection to the right-of-way being vacated. The City has letters on file from all utility providers indicating no objections to the proposed vacate. The current right of way was established through a plat, and no longer provides access to legal lots of record, and therefore the Development Review Committee is recommending the vacate. Any use of the land by the adjacent property owners would require a replat. A replat must be approved by the City Council.

PUBLIC HEARING SCHEDULE:

February 1, 2017 - City Council - 1st Reading (1:30 p.m.)
February 15, 2017 - City Council - 2nd Reading (7:00 p.m.)

DULY ADVERTISED:

January 20, 2017 - Public Hearing Notice
February 3, 2017 - Ordinance Heading Ad

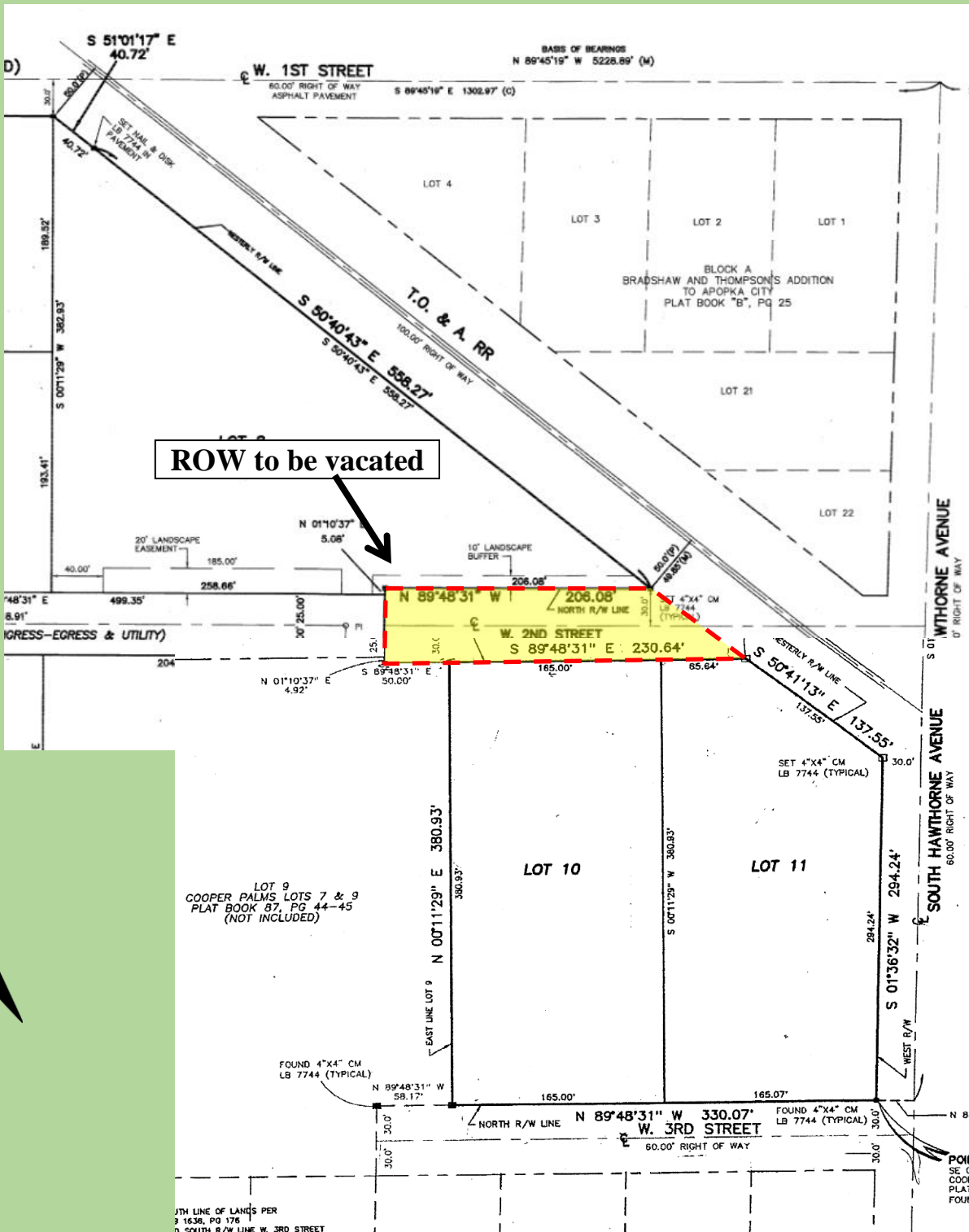
RECOMMENDATION ACTION:

The **Development Review Committee** recommends approval of the request by the City of Apopka to vacate a portion of the West 2nd Street platted right of way as described in the legal description, subject to the recording of a replat.

Accept the First Reading of Ordinance No. 2548 and hold it over for Second Reading and Adoption on February 15, 2017.

CITY COUNCIL – FEBRUARY 1, 2017
W. 2ND STREET VACATE
PAGE 3

Applicant: City of Apopka
Proposed Vacate: That portion of West 2nd Street west of S. Hawthorne Ave. and SW for the CSX Railroad right-of-way, north of the unimproved W. 3rd Street, and south of W. 1st Street.
Total Acres: 0.33 +/- Acre

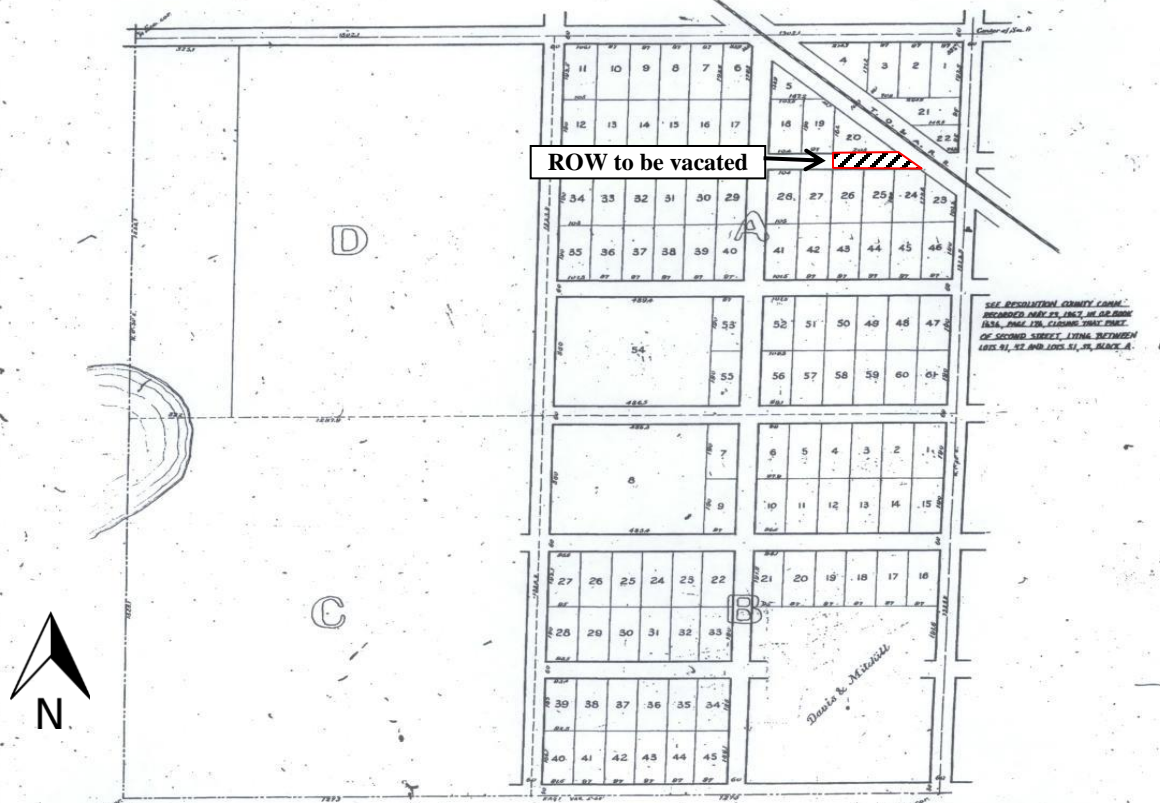


See: 20110624027 /
PB 76 PGS 108 - 109
Recorded: 12/1/2011

RESOLUTION Bd. of COUNTY COMM. VACATING
UNIMBED STREET BETWEEN LOTS 28 & 33 AND
LOTS 34 & 39, INC. BLOCK "B" RECORDED IN
DEED BOOK 847, PAGE 445, OCT. 27, 1960.
SEE SUNSET HEIGHTS PLAT FILED APR. 13, 1954
PLAT BOOK T PAGE 66 REPLACING LOTS 34 THRU 45
(LESS 5 50 FT. OF LOTS 40 TO 43 "LESS 5 50 FT. OF
W 66.5 FT. OF LOT 44.) BLK B.

B 25

SPRINGDALE
12/23/21



RESOLUTION CLOSING, VACATING ALL THAT PART
OF 7TH STREET LYING EAST OF BRADSHAW ROAD
AND WEST OF HAWTHORNE STREET, LYING IN SEC
9 TWP 21S R6 28E IN PLAT BOOKS 8 PG 25 AND
M PG 48. RECORDED IN O.R. BOOK 8799 PAGE 1316.
SEE RESOLUTION COUNTY COMM. RECORDED
10/10/06 IN O.R. BOOK PAGE 867 VACATING
LOTS 24 THRU 31 AND NORTH 1/2 OF VACATED
STREET SOUTH OF LOTS 28 THRU 31 BLOCK

Bradshaw and Thompson's Addition
of Popka City
Being the S 20 1/2 of Sec. 9 - T. 21 S. - R. 28 E.
Scale 500 P. to 1 in.

Surveyed by J.P. Shephard, Dm. Co. Surv. Sept. 4 1886
Drawn and colored by A.C. Albrecht

See Resolution County Comm. recorded Jan. 23, 1968 in O.R. Book 1689
Page 206, closing all that part of New Hampshire Street (also known as
Corydon Street) lying between First Street & South 21, Block A.

SEE BENTON'S REALTY SUBDIVISION PLAT 18 PAGE 99 A REPLAT OF LOTS 24-31 BLOCK "B"

Filed and Recorded Oct 20, 1966
J.P. Shephard
By J.M. Bradshaw PC

ORDINANCE NO. 2548

AN ORDINANCE OF THE CITY OF APOPKA, TO VACATE A PORTION OF RIGHT OF WAY OF WEST 2ND STREET, WEST OF SOUTH HAWTHORNE AVENUE. AND SOUTHWEST OF THE CSX RAILROAD RIGHT-OF-WAY; NORTH OF UNIMPROVED WEST 3RD STREET, SOUTH OF WEST 1ST STREET AND EAST OF COOPER PALMS PARKWAY.; IN SECTION 09, TOWNSHIP 21, RANGE 28 OF ORANGE COUNTY, FLORIDA; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to provisions of Florida Statutes, Section 336.10, a Petition has been filed by the City of Apopka., to vacate, abandon, discontinue, renounce and disclaim a section of alleyway, as shown in Exhibit "A"; and

WHEREAS, Century Link (f/k/a Embarq), Bright House Network (f/k/a Time Warner Cable), Duke Energy (f/k/a Progress Energy), and Lake Apopka Natural Gas District have no objection to the abandonment of a portion of the existing utility easement; and

WHEREAS, the City Council has determined that under the proposed circumstances there exists no public need for this existing right-of-way; and

WHEREAS, after public notice in accordance with Florida Statute 336.10, the City Council has determined that it is not contrary to public interest to vacate and abandon said existing easement.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Apopka, Florida, as follows:

Section 1. That the following lands, and graphically depicted by the attached Exhibit "A," shall be officially closed, discontinued, and vacated:

LEGAL DESCRIPTION:

That portion of the W. 2nd Street road right-of-way located west of S. Hawthorne Ave. and southwest of the westerly right-of-way of the CSX Railroad, east of Cooper Farms Parkway Tract A, and north of the unimproved W. 3rd Street, further described as follows:

Beginning at the northeast corner of Lot 9 of the Cooper Palms Lots 7-9 Plat Book 87, Page 44-45, proceed S 89°48'31" W 50 feet to the SW corner of the 2nd Street right-of-way; thence N 01°10'37" E 60 feet to the NE corner of the W. 2nd Street right-of-way; thence N 89°48'31"E 206.08 feet to the CSX Railroad westerly right-of-way line; thence southeasterly approximately 94 feet along said westerly CSX Railroad right-of-way line; thence S 89°48'31" W 230.64 feet to the point of beginning.

CONTAINING: +/- 0.33 Acres MORE OR LESS

Section II. NOTICE. That notice of the adoption of this Ordinance be published and the Ordinance be filed with the Clerk of the Circuit Court of Orange County, Florida, and duly recorded among the Public Records of Orange County, Florida.

ORDINANCE NO. 2548
PAGE 2

Section III. SEVERABILITY. That if any section or portion of a section or subsection of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or portion of section or subsection or part of this Ordinance.

Section IV. CONFLICT. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section V. EFFECTIVE DATE. That this Ordinance shall take effect upon the date of adoption.

READ FIRST TIME: February 1, 2017

READ SECOND TIME
AND ADOPTED: February 15, 2017

Joseph E. Kilsheimer Mayor

ATTEST:

Linda F. Goff, City Clerk

APPROVED AS TO FORM:

Cliff Shepard, Esq., City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: January 20, 2017
February 3, 2017

Backup material for agenda item:

4. Ordinance No. 2549 – First Reading – Vacate Right of Way – West 5th Street – Quasi-Judicial

James Hitt



CITY OF APOPKA CITY COUNCIL

- CONSENT AGENDA
- PUBLIC HEARING
- SPECIAL REPORTS
- OTHER: Ordinance

MEETING OF: February 1, 2017
 FROM: Community Development
 EXHIBIT(S): Ord. No. 2549

SUBJECT: ORDINANCE NO. 2549 – VACATING A PORTION OF A PLATTED RIGHT-OF-WAY – WEST 5TH STREET

REQUEST: ACCEPT THE FIRST READING OF ORDINANCE NO. 2549 – VACATE A PORTION OF A PLATTED RIGHT OF WAY - WEST 5TH STREET; AND HOLD OVER FOR SECOND READING AND ADOPTION.

SUMMARY:

OWNER/APPLICANT: City of Apopka

LOCATION: The south 30 feet of the 80 foot right-of-way of the unimproved W. 5th Street located between S. Hawthorne Ave. on the west and S. Washington Ave. on the east, and north of Alonzo Williams Park.

EXISTING USE: Vacant Land

AREA TO BE VACATED: 0.4049 acres +/-

RELATIONSHIP TO ADJACENT PROPERTIES:

| <i>Direction</i> | <i>Future Land Use</i> | <i>Zoning</i> | <i>Present Use</i> |
|------------------|---------------------------------|---------------|--|
| North (City) | Commercial | C-3 | W. 5 th Street ROW and Office buildings |
| East (City) | Commercial & Residential Medium | C-3 & R-3 | Warehousing & Single-family residential |
| South (City) | Parks/Recreation | PR and R-3 | Alonzo Williams Park |
| West (County) | Low Density Residential | R-2 | Single-family residential |

FUNDING SOURCE:

N/A

DISTRIBUTION

| | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

ADDITIONAL COMMENTS: The City is seeking to vacate a southern portion of the 80-foot wide, W. 5th Street, which is an un-improved right-of-way established within the Town of Apopka\Davis & Mitchell’s Addition plat. This 30-foot portion of W. 5th Street is located within city owned properties that comprise Alonzo Williams Park. The portion of right-of-way to be vacated will be absorbed into Alonzo Williams Park and will be used to increase the park lands available for recreation use. A fifty-foot right-of-way will remain for W. 5th Street after the vacate is implemented.

The Public Services Department has evaluated the site and has no objection to the right-of-way being vacated. The City has letters on file from all utility providers indicating no objections to the proposed vacate.

PUBLIC HEARING SCHEDULE:

February 1, 2017 - City Council - 1st Reading (1:30 p.m.)
February 15, 2017 - City Council - 2nd Reading (7:00 p.m.)

DULY ADVERTISED:

January 20, 2017 - Public Hearing Notice
February 3, 2017 - Ordinance Heading Ad

RECOMMENDATION ACTION:

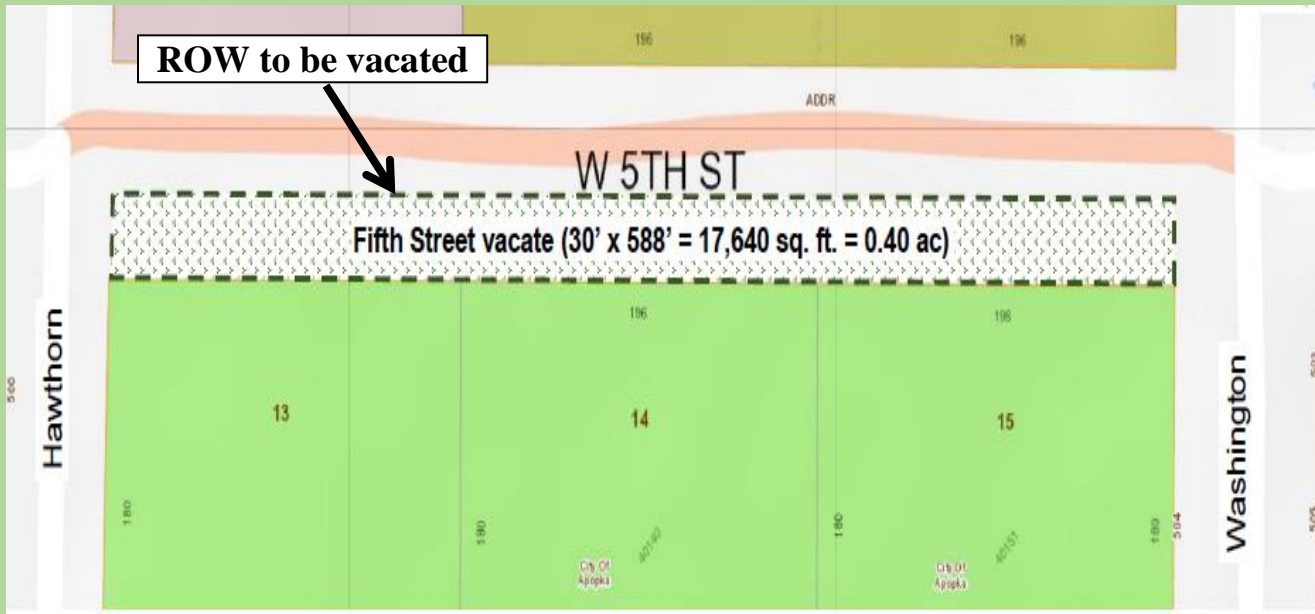
The **Development Review Committee** recommends approval of the request by the City of Apopka to vacate a portion of the West 5th Street platted right of way as described in the legal description.

Accept the First Reading of Ordinance No. 2549 and hold it over for Second Reading and Adoption on February 15, 2017.

Applicant: City of Apopka
Proposed Vacate: The south 30 feet of the 80 foot right-of-way of the unimproved W. 5th Street located between S. Hawthorne Ave. on the west and S. Washington Ave. on the east, and north of Alonzo Williams Park.
Total Acres: 0.4049 +/- Acre



VICINITY MAP



ORDINANCE NO. 2549

AN ORDINANCE OF THE CITY OF APOPKA, TO VACATE A PORTION OF RIGHT OF WAY FOR WEST 5TH STREET, SOUTH 30 FEET OF THE 80 FOOT RIGHT-OF-WAY OF THE UNIMPROVED WEST 5TH STREET LOCATED BETWEEN SOUTH HAWTHORNE AVENUE ON THE WEST AND SOUTH WASHINGTON AVENUE ON THE EAST AND NORTH OF ALONZO WILLIAMS PARK; IN SECTION 09, TOWNSHIP 21, RANGE 28 OF ORANGE COUNTY, FLORIDA; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to provisions of Florida Statutes, Section 336.10, a Petition has been filed by the City of Apopka., to vacate, abandon, discontinue, renounce and disclaim a section of alleyway, as shown in Exhibit “A”; and

WHEREAS, Century Link (f/k/a Embarq), Bright House Network (f/k/a Time Warner Cable), Duke Energy (f/k/a Progress Energy), and Lake Apopka Natural Gas District have no objection to the abandonment of a portion of the existing utility easement; and

WHEREAS, the City Council has determined that under the proposed circumstances there exists no public need for this existing right-of-way; and

WHEREAS, after public notice in accordance with Florida Statute 336.10, the City Council has determined that it is not contrary to public interest to vacate and abandon said existing easement.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Apopka, Florida, as follows:

Section 1. That the following lands, and graphically depicted by the attached Exhibit “A,” shall be officially closed, discontinued, and vacated:

LEGAL DESCRIPTION:

The south 30 feet of the 80 foot right-of-way of the unimproved W. 5th Street located between S. Hawthorne Ave. on the west and S. Washington Ave. on the east, and north of Alonzo Williams Park, further described as follows:

Beginning at the northwest corner of Lot 13 Block D of the Town of Apopka Plat Book A, Page 109; proceed north 30 feet along the east right-of-way line of S. Hawthorne Ave.; thence easterly 588 feet to the west right-of-way line of S. Washington Ave.; thence south 30 feet along said right-of-way line to the northeast corner of Lot 15 Block D; thence westerly 588 feet along the southern right-of-way line of W. 5th Street, to the point of beginning.

CONTAINING: +/- 0.4049 Acres MORE OR LESS

ORDINANCE NO. 2549

PAGE 2

Section II. NOTICE. That notice of the adoption of this Ordinance be published and the Ordinance be filed with the Clerk of the Circuit Court of Orange County, Florida, and duly recorded among the Public Records of Orange County, Florida.

Section III. SEVERABILITY. That if any section or portion of a section or subsection of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or portion of section or subsection or part of this Ordinance.

Section IV. CONFLICT. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section V. EFFECTIVE DATE. That this Ordinance shall take effect upon the date of adoption.

READ FIRST TIME: February 1, 2017

READ SECOND TIME
AND ADOPTED: February 15, 2017

Joseph E. Kilsheimer Mayor

ATTEST:

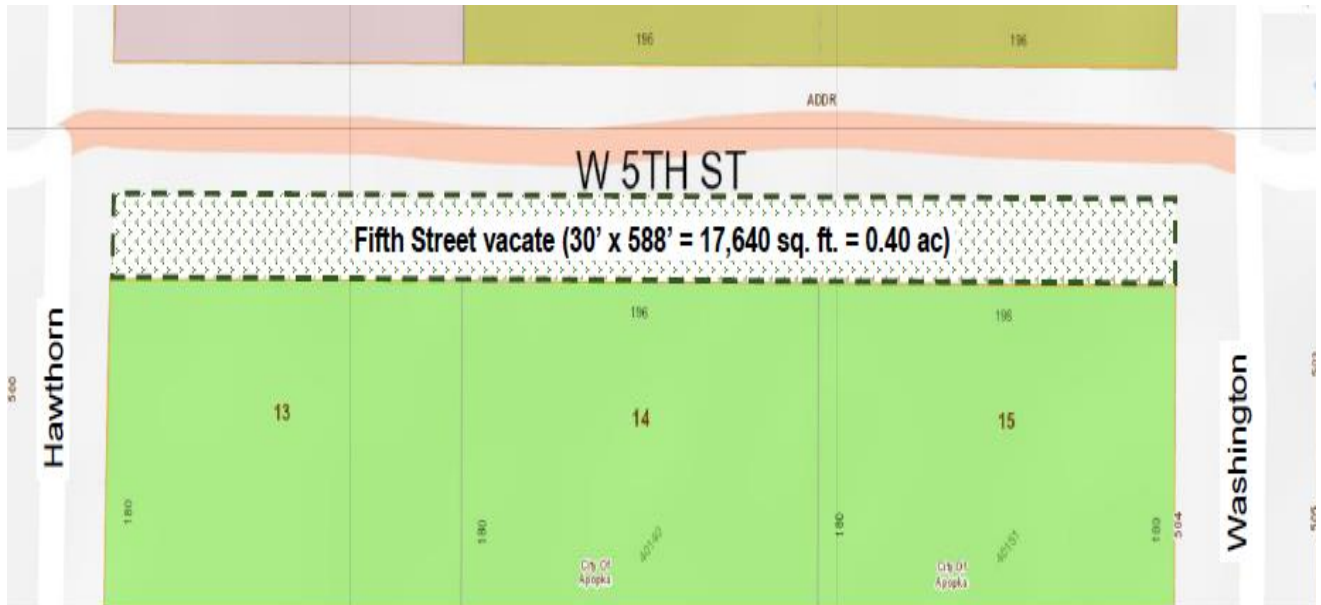
Linda F. Goff, City Clerk

APPROVED AS TO FORM:

Cliff Shepard, Esq., City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: January 20, 2017
February 3, 2017

**ORDINANCE NO: 2549
EXHIBIT "A"**



Backup material for agenda item:

5. Ordinance No. 2551 – First Reading – Large Scale Future Land Use Amendment – Legislative Kyle Wilkes



CITY OF APOPKA CITY COUNCIL

 CONSENT AGENDA
 X PUBLIC HEARING
 SPECIAL REPORTS
 X OTHER: Ordinance

MEETING OF: February 1, 2017
FROM: Community Development
EXHIBITS: Land Use Report
Vicinity Map
Adjacent Zoning Map
Adjacent Use Map
Existing Uses Map
Ordinance No. 2551

SUBJECT: ORDINANCE NO. 2551 – COMPREHENSIVE PLAN - LARGE SCALE - FUTURE LAND USE AMENDMENT – JOSEPH AND SWANA GATES & OAK ROYAL PROPERTIES, LLC

REQUEST: FIRST READING OF ORDINANCE NO. 2551 – COMPREHENSIVE PLAN - LARGE SCALE – FUTURE LAND USE AMENDMENT – JOSEPH & SWANA GATES & OAK ROYAL PROPERTIES, LLC, FROM OFFICE (MAX 0.3 FAR) AND RESIDENTIAL LOW (0-5 DU/AC) TO MIXED USE (PARCEL ID #s: 20-21-28-0000-00-021; 20-21-28-0000-00-024; 20-21-28-0000-00-025); AND AUTHORIZE TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

SUMMARY:

OWNER: Joseph & Swana Gates and Oak Royal Properties LLC
APPLICANT: Littlejohn Engineering
LOCATION: East of Ocoee Apopka Rd., north of Keene Rd.
EXISTING USE: Container nurseries and single-family residential home
CURRENT ZONING: PO/I (Professional Office/Institutional) & AG (Agriculture)
PROPOSED DEVELOPMENT: Residential and non-residential mixed-use development
PROPOSED ZONING: Mixed-EC (Note: this Future Land Use amendment request is being processed along with a request to change the zoning classification from PO/I & AG to Mixed-EC (Mixed Use-Employment Center).
TRACT SIZE: 22.4 +/- acres
MAXIMUM ALLOWABLE DEVELOPMENT: EXISTING: 518 Units
PROPOSED: 975,744 sq. ft. non-residential and 336 multi-family units

FUNDING SOURCE:
N/A

DISTRIBUTION

Mayor Kilsheimer
Commissioners
City Administrator
Community Development Director
Finance Director
HR Director
IT Director
Police Chief
Public Services Director
Recreation Director
City Clerk
Fire Chief

ADDITIONAL COMMENTS: The subject parcels were annexed into the City of Apopka on December 5, 2001 through Ordinance 1421. The applicant requests a future land use designation of Mixed Use. The request is compatible with surrounding future land use designations and adjacent uses. As a “Large-Scale” Future Land use Amendment (i.e., ten or more acres), this application will be transferred to State agencies for consistency review with State policies. Ocoee-Apopka Road will likely need to be widened to a four lane, divided road in the future, likely requiring land from the western edge of the subject site to accommodate the future improvements.

COMPREHENSIVE PLAN COMPLIANCE: The proposed use of the property is compatible with the character of the surrounding area, is within close proximity to the SR 429/Ocoee Apopka Road interchange, and is consistent with the Mixed Use Land Use designation. City planning staff supports the FLUM amendment given the consistency with the Comprehensive Plan policies listed below and the intent of the Ocoee Apopka Road Small Area Study (see Land Use Analysis below). Site development cannot exceed the intensity allowed by the Future Land Use policies.

Future Land Use Element

1. **Policy 3.1.r** The primary intent of the Mixed Use land use category is to allow a mixture of residential, office, commercial, industrial, recreation, institutional uses and public facilities uses...This mix of land uses may occur on a single parcel or multiple parcels in the form of: a permitted single use; a vertical combination of different permitted uses; or a horizontal mix of different permitted uses.

The applicant’s wish to develop the properties for a vertical mix or commercial and residential development is consistent with Policy 3.1.r.

2. **Policy 3.2** Development and redevelopment shall be integrated with the adjacent land uses through: (1) the creation of like uses; or (2) creation of complementary uses; or (3) mitigation of adverse impacts.

The proposed use for the subject properties as mixed use residential/non-residential development is consistent with the current and future proposed development of the surrounding area. Mixed Use future land use designation is immediately adjacent to the north (Emerson Park traditional neighborhood-style residential development), as well as High Density Residential across Ocoee Apopka Road to the west. In addition, the proposed development is consistent with the small study area recommendations for these uses.

Transportation Element

1. **Policy 4.2** The City of Apopka shall promote, through the implementation of programs such as mixed-use land development, projects that support reduced travel demand, shorter trip lengths and balanced trip demand.

The proposed Commercial future land use designation and subsequent mixed-use residential and non-residential development would support existing and proposed residential development, the future Florida Hospital Apopka campus, as well as ancillary professional office development within the Ocoee Apopka Road Small Area Study. The study area recommendations promote the development of walkable, village-style development within the area surrounding the new hospital campus. The applicant’s proposal would be consistent with Policy 4.2 by providing support office/retail for adjacent residential communities and employment and reduce trips by providing vertical mix of uses.

VISIONING AND SPECIAL STUDIES: The property is located within the boundaries of Ocoee-Apopka Road Small Area Study. Prepared in February 2015, this study recommends mixed-use town center or multi-family development for the subject site. A Mixed Use Future Land Use Designation supports this recommendation. A copy of the concept plan\vision plan for the Ocoee-Apopka Road Study is provided with the support material.

SCHOOL CAPACITY REPORT: An executed capacity enhancement agreement with Orange County Public Schools will be required prior to adoption of the future land use amendment. A final adoption hearing cannot be scheduled until the amendment is transmitted to the Florida Department of Economic Opportunity and

ORANGE COUNTY NOTIFICATION: The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on December 9, 2016.

PUBLIC HEARING SCHEDULE:
January 10, 2017 – Planning Commission (5:30 pm)
February 1, 2017 – City Council (1:30 pm) - 1st Reading & Transmittal

DULY ADVERTISED:
December 23, 2016 – Public Notice and Notification
TBD – Ordinance Heading & Public Notice ¼ Page Ad w/Map

RECOMMENDATION ACTION:

The **Development Review Committee** recommends approval to transmit a change in Future Land Use from Office (max 0.3 FAR) to Mixed Use for the property owned by Joseph & Swana Gates and Oak Royal Properties, LLC, subject to the information and findings in the staff report.

The **Planning Commission**, at its regularly scheduled meeting on January 10, 2017, unanimously recommended approval of the Large Scale Future Land Use Amendment from Office (max 0.3 FAR) and Residential Low (0-5 du/ac) to Mixed Use, for properties owned by Joseph & Swana Gates and Oak Royal Properties, LLC.

Recommended City Council Motion: Accept Ordinance No. 2551 on first reading and transmit to the Florida Department of Economic Opportunity.

Note: This item is considered Legislative. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

LAND USE REPORT

I. RELATIONSHIP TO ADJACENT PROPERTIES:

| <i>Direction</i> | <i>Future Land Use</i> | <i>Zoning</i> | <i>Present Use</i> |
|-----------------------|--|---------------------------|--|
| North (City) | Mixed Use | Mixed-EC | Emerson Park community |
| East (County) | Rural (0-1 du/10 ac) | R-CE-2 | Single-family residential |
| South (City & County) | “City” Office (max 0.3 FAR) & “County” Rural (0-1 du/ac) | “City” OFF & “County” A-1 | Vacant & County water reclamation facility |
| West (City) | Residential High (0-15 du/ac) | A-1 (ZIP) | Single-family home |

The property has access from west from Ocoee Apopka Road and to the south from Keene Road.

II. LAND USE ANALYSIS

The subject properties are located within an area with land uses that permit both residential and non-residential uses, which makes the request for a Mixed Use future land use designation consistent with the Comprehensive Plan policies listed above, as well as the general future land use character of the surrounding area.

To the north of the subject properties is the Emerson Park single-family and townhome community. Residential High and Industrial land uses are west of the subject sites across Ocoee Apopka Road, with Office land use to the south across Keene Rd.

In addition, the proposed land use designation is consistent with the conceptual land use plan, development scenario and recommendations of the Ocoee Apopka Road Small Area Study, which was completed in 2014. The Ocoee Apopka Rd SAS Conceptual Plan listed as Exhibit ‘A’ below shows the subject properties listed within the “New Market” character area, which is described in the final report as:

“The **New Market Zone** represents the area in the vicinity of Emerson Park and the hospital. It is anticipated that this area will contain the highest degree of pedestrian connectivity.” In addition, the report indicates that one scenario for the New Market Area includes the placement of the core (Village Center) of the New Market Character area includes the subject property (as shown in Exhibit ‘B’ below). The finds of the report suggest this scenario may be the most suitable for the Village Center:

“Scenario 1 shows the core area (Village Center) concentrated at the northeast corner of Ocoee-Apopka Road and Keene Road. This site was chosen as an ideal location for the Village Center because it is easily accessible from the existing and proposed residential neighborhoods to the east.

Therefore, the proposed Mixed Use future land use designation is consistent with the general future land use character and long-range planning goals of the surrounding area.

Wekiva River Protection Area: No
 Area of Critical State Concern: No
 DRI / FQD: No

JPA: The City of Apopka and Orange County entered into a Joint Planning Area (JPA) agreement on October 26, 2004. The subject property is located within the “Western Conceptual Master Plan” of JPA. Orange County government has been notified of the proposed FLUM amendment and has not

objected. The Western Conceptual Master Plan proposed Office for the subject Property but was proposed before the completion of the small area study and the study's recommendations. Further, the Western Conceptual Master Plan did not anticipate changes in land use patterns generated by the proposed medical campus along Ocoee Apopka Road. Orange County was notified and attend workshops on the Small Area Study.

Transportation: Road access to the site is from Ocoee Apopka Road to the west and Keene Road to the south. In addition, the subject proprieties are less than ½ mile from the S.R. 429 at Ocoee Apopka Road interchange, providing limited access highway access to and from the properties.

Wekiva Parkway and Protection Act: The proposed amendment has been evaluated against the adopted Wekiva Study Area Comprehensive Plan policies. The proposed amendment is consistent with the adopted mandates and requirements. The proposed Future Land Use Map (FLUM) amendment has been reviewed against the best available data, with regard to aquifer and groundwater resources. The City of Apopka's adopted Comprehensive Plan addresses aquifer recharge and storm water run-off through the following policies:

- Future Land Use Element, Policies 4.16, 14.4, 15.1, 16.2 and 18.2
- Infrastructure Element, Policies 1.5.5, 4.2.7, 4.4, 4.4.1, 4.4.2 and 4.4.3
- Conservation Element, Policy 3.18

Karst Features: The Karst Topography Features Map from the Florida Department of Environmental Protection shows that there are karst features on this property.

Analysis of the character of the Property: The current use of the properties are for container nurseries and single-family homes. The dominant soil, Cander Fine Sand, has a 5-12 percent slope.

Analysis of the relationship of the amendment to the population projections: These properties were annexed into the City on December 5, 2001. Based on the adoption of the JPA, the size of the property, and the proposed land use change, the amendment will increase the population if developed.

CALCULATIONS:

ADOPTED: N/A x 2.659 p/h = N/A

PROPOSED: 336 x 2.659 p/h = 893 persons

Housing Needs: This amendment is to change the future land use to a future land use designation that permits residential uses, and will increase the number of available housing units in the City of Apopka.

Habitat for species listed as endangered, threatened or of special concern: A habitat study is required for developments greater than ten (10) acres in size. At the time the Master Site Plan or Preliminary Development Plan is submitted to the City, the development applicant must conduct a species survey and submit a habitat management plan if any threatened or endangered species are identified within the project site.

Transportation: The City of Apopka is a Transportation Concurrency Exception Area. Refer to Chapter 3 of the City of Apopka 2010 Comprehensive Plan.

Sanitary Sewer Analysis

1. Facilities serving the site; current LOS; and LOS standard: None; 81 GPCD; 81 GPD

If the site is not currently served, please indicate the designated service provider: City of Apopka

2. Projected total demand under existing designation: 101,528 GPD
3. Projected total demand under proposed designation: 212,218 GPD
4. Capacity available: Yes
5. Projected LOS under existing designation: 81 GPD/Capita
6. Projected LOS under proposed designation: 81 GPD/Capita
7. Improved/expansions already programmed or needed as a result if proposed amendment: None

Potable Water Analysis

1. Facilities serving the site; current LOS; and LOS standard: None; 177 GPCD; 177 GPD

If the site is not currently served, please indicate the designated service provider:
City of Apopka

2. Projected total demand under existing designation: 108,780 GPD
3. Projected total demand under proposed designation: 265,709 GPD
4. Capacity available: Yes
5. Projected LOS under existing designation: 177 GPCD
6. Projected LOS under proposed designation: 177 GPCD
7. Improved/expansions already programmed or needed as a result of the proposed amendment: None
8. Parcel located within the reclaimed water service area: Yes

Solid Waste

1. Facilities serving the site: City of Apopka
2. If the site is not currently served, please indicate the designated service provider:
City of Apopka
3. Projected LOS under existing designation: 4 lbs./person/day
4. Projected LOS under proposed designation: 2 lbs./cap/day
5. Improved/expansions already programmed or needed as a result of the proposed amendment: None

This initial review does not preclude conformance with concurrency requirements at the time development approval.

Infrastructure Information

Water treatment plant permit number: CUP No. 3217

Permitting agency: St. John's River Water Management District

Permitted capacity of the water treatment plant(s): 21,981 mil. GPD

Total design capacity of the water treatment plant(s): 33,696 mil. GPD

Availability of distribution lines to serve the property: Yes

Availability of reuse distribution lines available to serve the property: Yes

Drainage Analysis

1. Facilities serving the site: Medicine Lake
2. Projected LOS under existing designation: 100 year - 24 hour design storm event.
3. Projected LOS under proposed designation: 100 year - 24 hour design storm event.
4. Improvement/expansion: On-site retention/detention pond

Recreation

1. Facilities serving the site; LOS standard: City of Apopka Parks System; 3 AC/1000 capita
2. Projected facility under existing designation: 4.131 AC
3. Projected facility under proposed designation: 2.679 AC
4. Improvement/expansions already programmed or needed as a result of the proposed amendment: None.

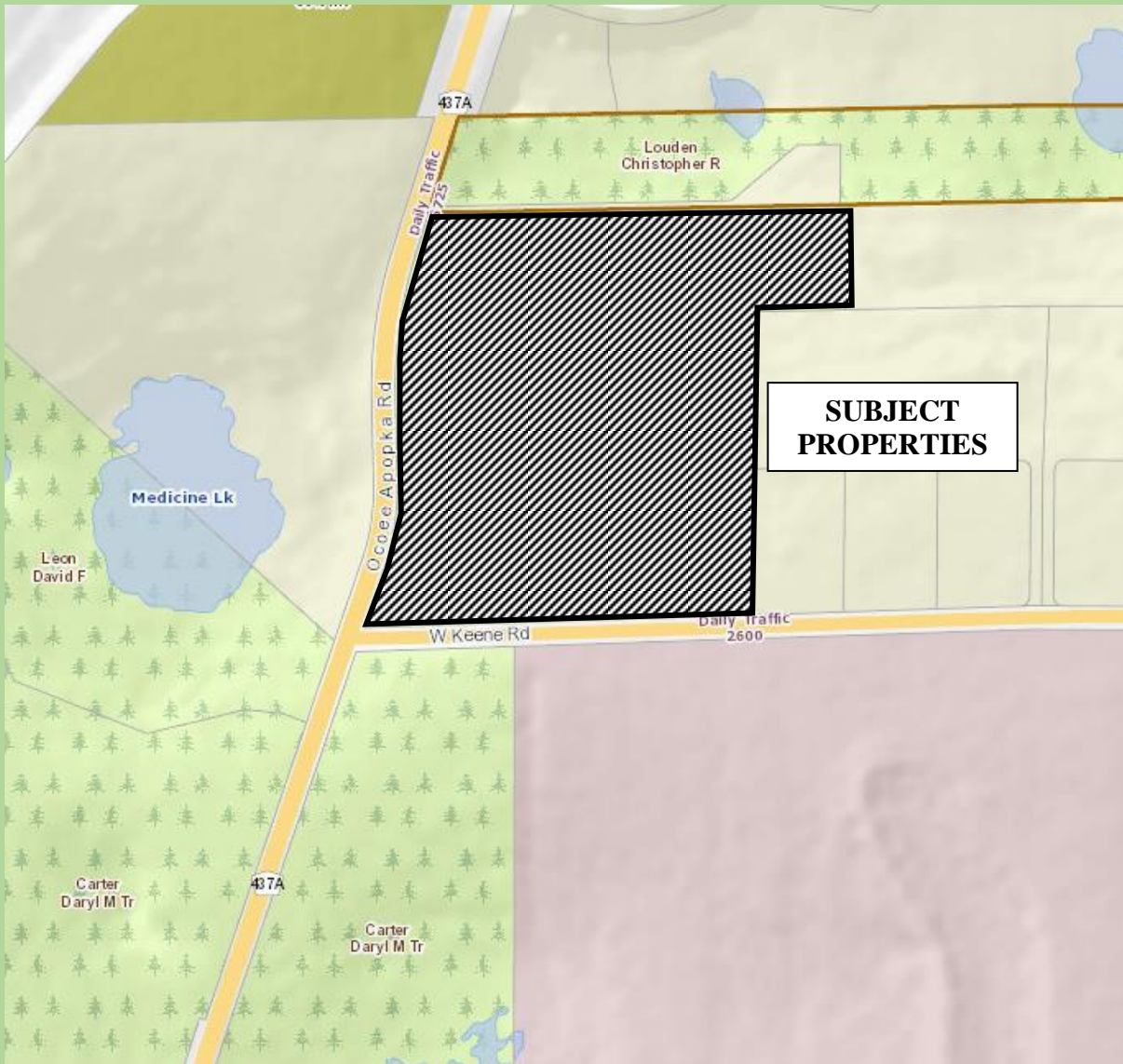
This initial review does not preclude conformance with concurrency requirements at the time of development approval.

Joseph & Swana Gates and Oak Royal Properties, LLC
Property Owner
22.4 +/- Acres
Proposed Large Scale Future Land Use Amendment:
From: Office (max. 0.3 FAR) & Residential Low (0-5 du/ac)
To: Mixed Use

Parcel ID #s: 20-21-28-0000-00-021; 20-21-28-0000-00-024; 20-21-28-0000-00-025

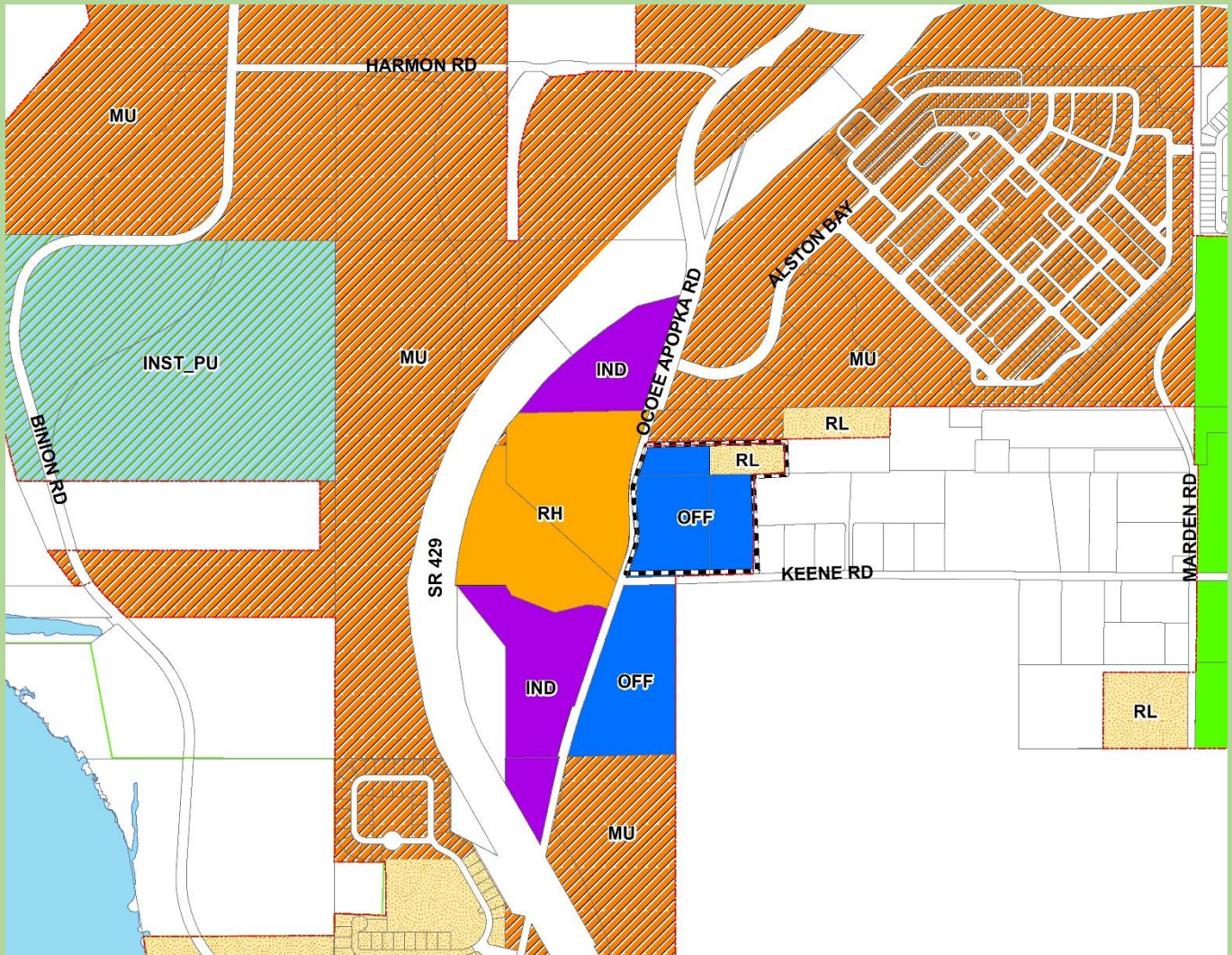


VICINITY MAP



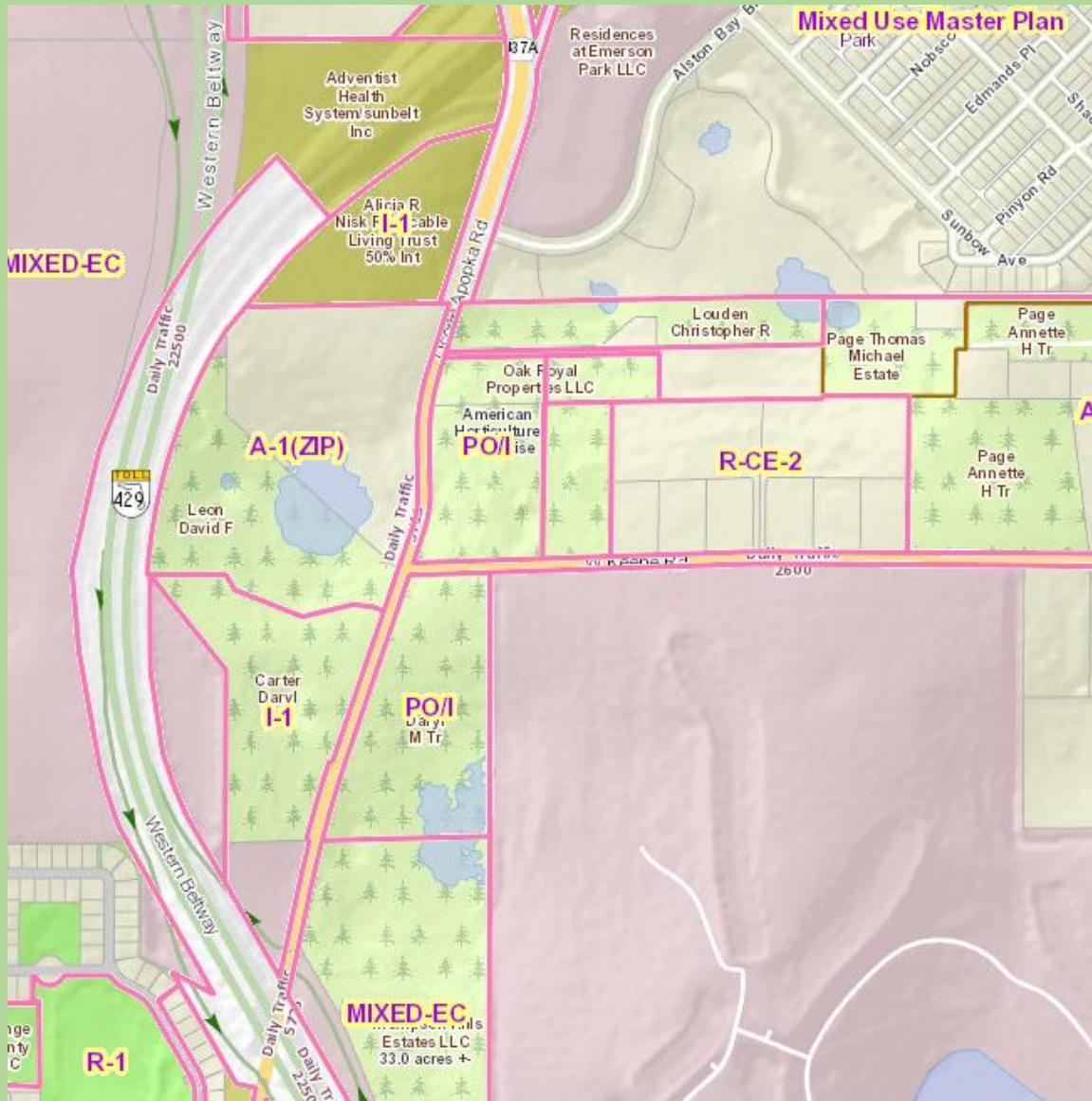


FUTURE LAND USE MAP



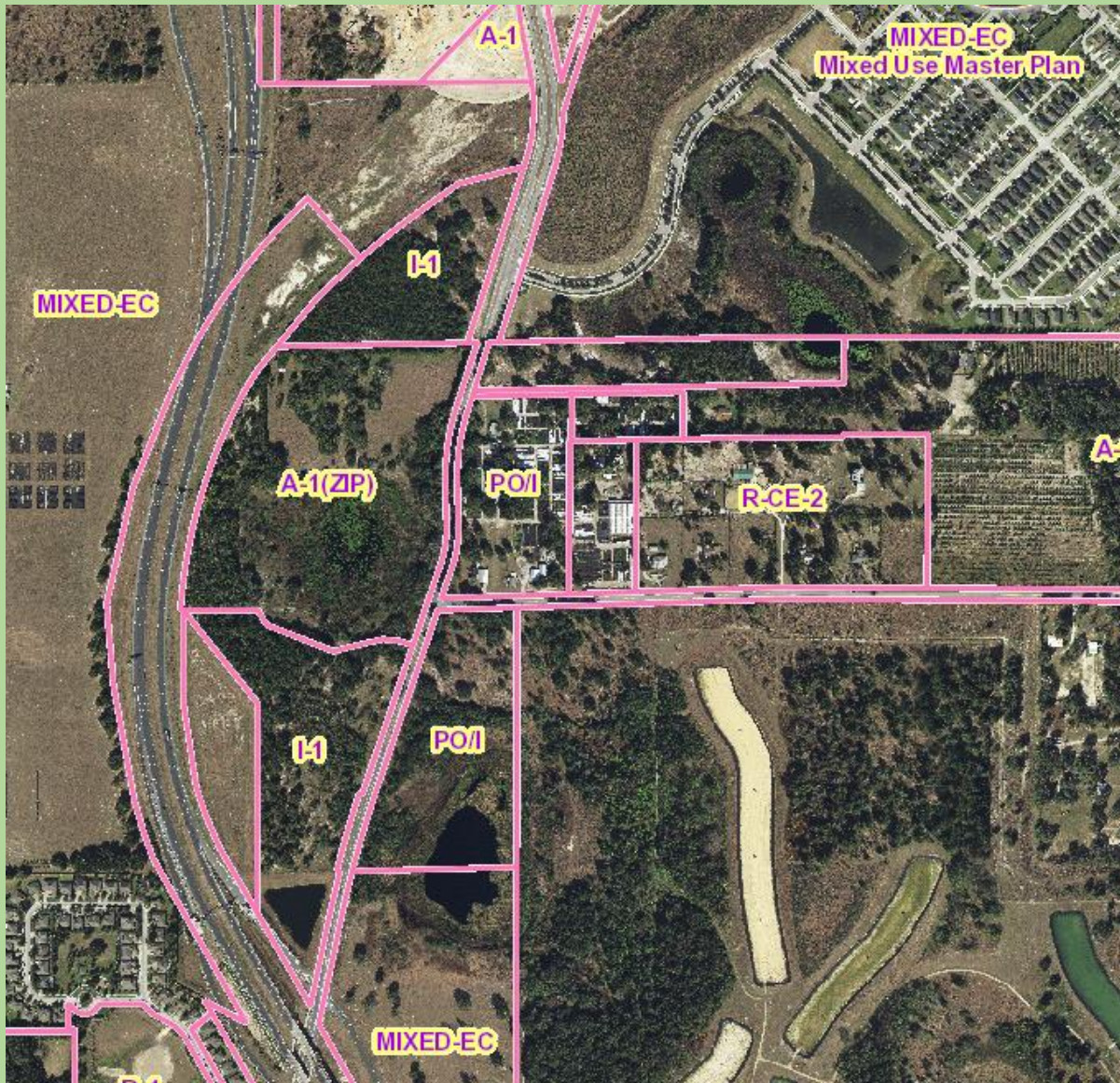


ADJACENT ZONING



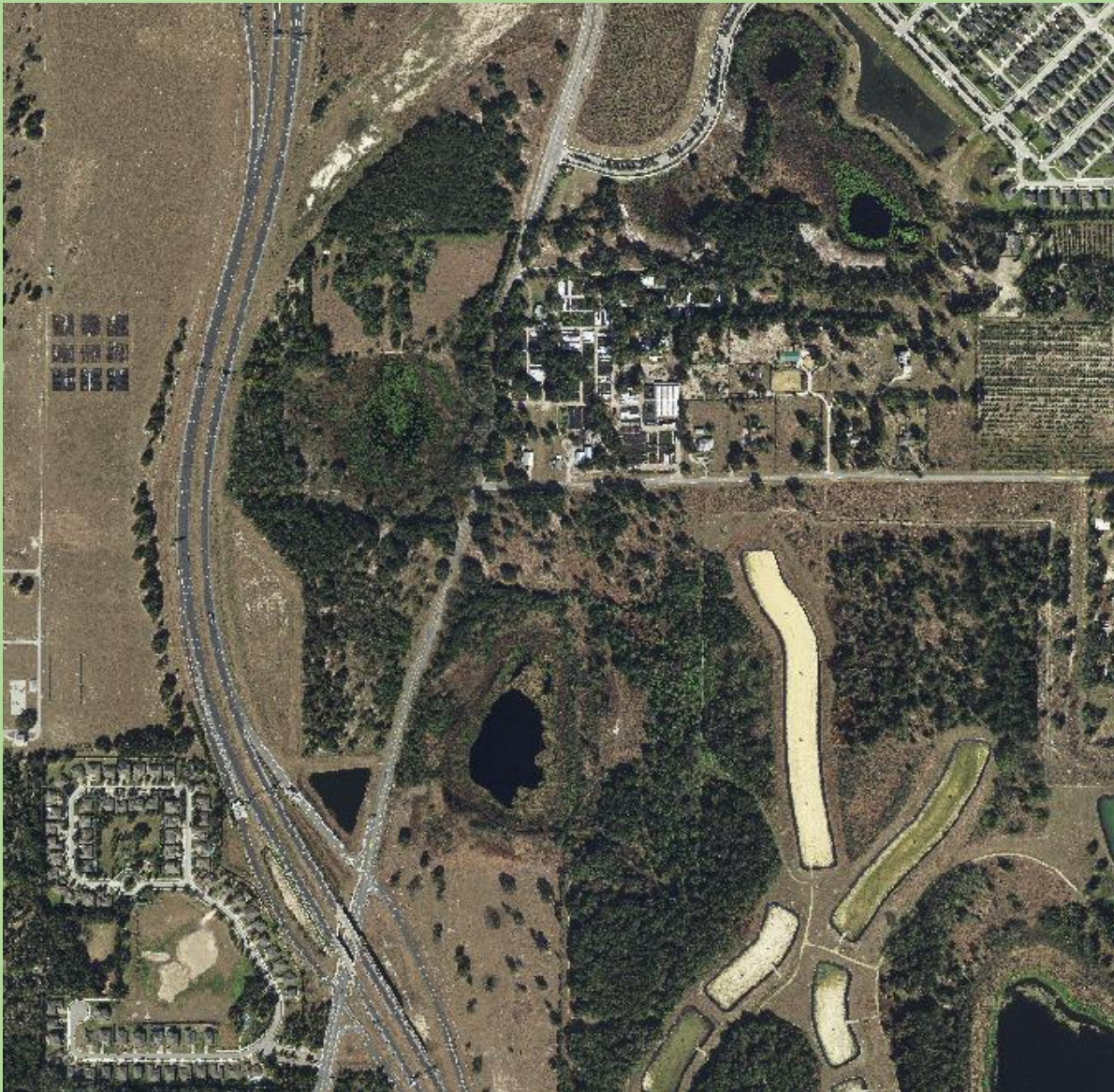


ADJACENT USES



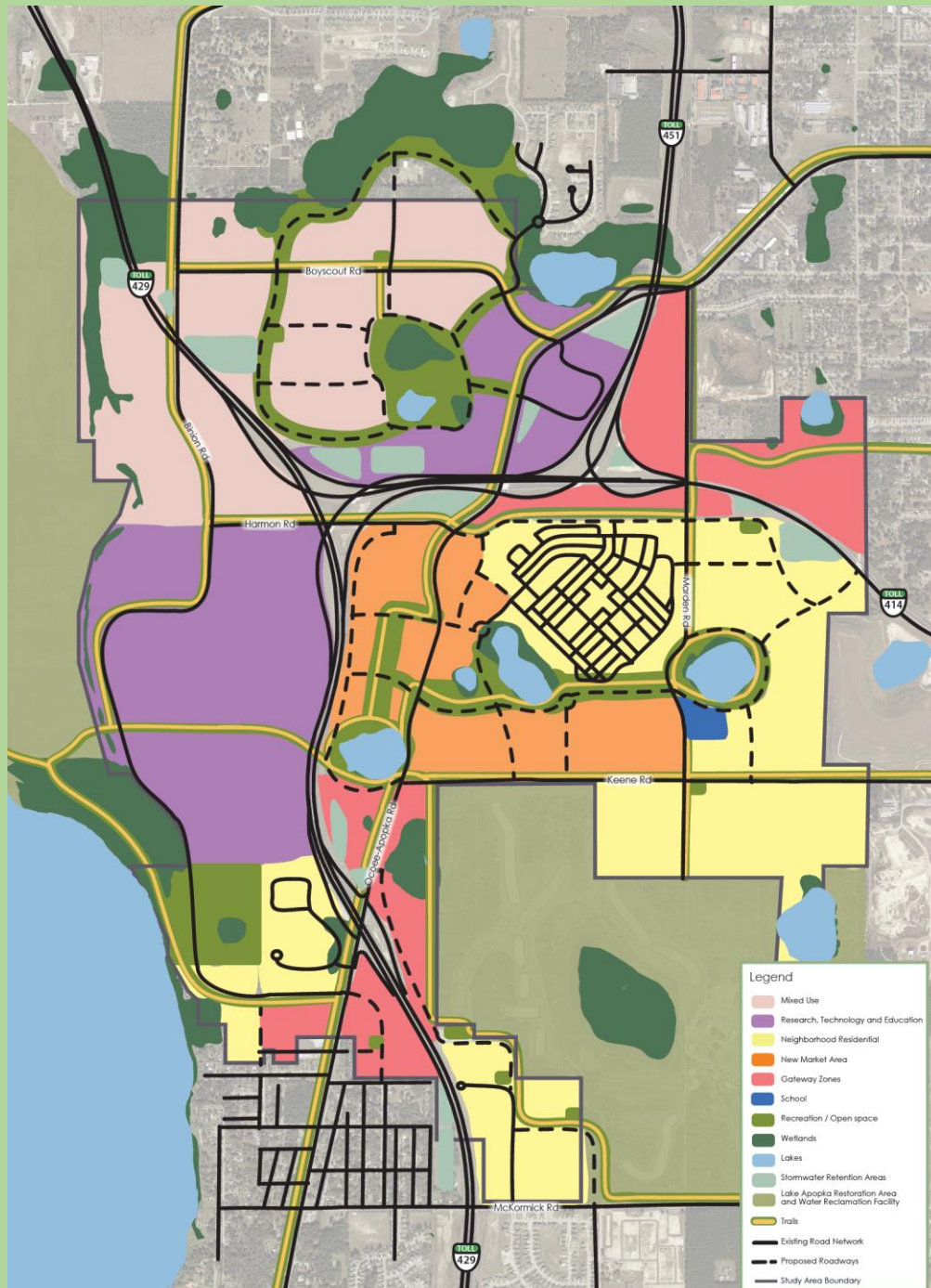


EXISTING USES





**OCOEE APOPKA ROAD SMALL AREA STUDY
 CONCEPTUAL LAND USE MAP #1**





OCOEE APOPKA ROAD SMALL AREA STUDY SCENARIO MAP #1



COMMERCIAL



MULTI FAMILY



TOWNHOUSE



OFFICE



TOWN CENTER





**OCOEE APOPKA ROAD SMALL AREA STUDY
SCENARIO MAP #2**



ORDINANCE NO. 2551

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM OFFICE (MAX 0.3 FAR) AND RESIDENTIAL LOW (0-5 DU/AC) TO MIXED USE FOR CERTAIN REAL PROPERTY GENERALLY LOCATED EAST OF OCOEE APOPKA ROAD AND NORTH OF KEENE ROAD, COMPRISING 22.4 ACRES, MORE OR LESS AND OWNED BY JOSEPH AND SWANA GATES & OAK ROYAL PROPERTIES, LLC; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Apopka, Florida, on October 2, 1991 adopted Ordinance No. 653 which adopted the Comprehensive Plan for the City of Apopka; and

WHEREAS, the City of Apopka has subsequently amended the Comprehensive Plan for the City of Apopka, most recently through Ordinance No. 2538; and

WHEREAS, the City of Apopka's Local Planning Agency and the City Council have conducted the prerequisite advertised public hearings, as per Chapter 163, Florida Statutes, relative to the transmittal and adoption of this ordinance and the requirements for amendment to the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Apopka, Florida, as follows:

SECTION I: The City of Apopka hereby amends the Future Land Use Element of the adopted Comprehensive Plan as follows:

The Future Land Use Map is hereby amended and replaced in its entirety by Exhibit "A" of this Ordinance, and incorporated herein by reference.

SECTION II: This Ordinance shall become effective following adoption and upon issuance by the Department of Community Affairs or the Administration Commission, as may be applicable, a final order finding the amendment to be in compliance in accordance with Chapter 163.3184.

SECTION III: If any section or portion of a section or subsection of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or portion of a section or subsection or part of this ordinance.

SECTION IV: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

ORDINANCE NO. 2551
PAGE 2

SECTION V: This Ordinance shall become effective upon issuance of a final order by the Florida Department of Economic Opportunity finding the plan amendment in compliance in accordance with s.163.3184 (2)(a), Florida Statute.

ADOPTED at a regular meeting of the City Council of the City of Apopka, Florida, this ____ day of _____, 2017.

READ FIRST TIME: February 1, 2017

READ SECOND TIME
AND ADOPTED: _____

Joseph E. Kilsheimer, Mayor

ATTEST:

Linda Goff, City Clerk

APPROVED AS TO FORM:

Clifford B. Shepard, City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: January 20, 2017

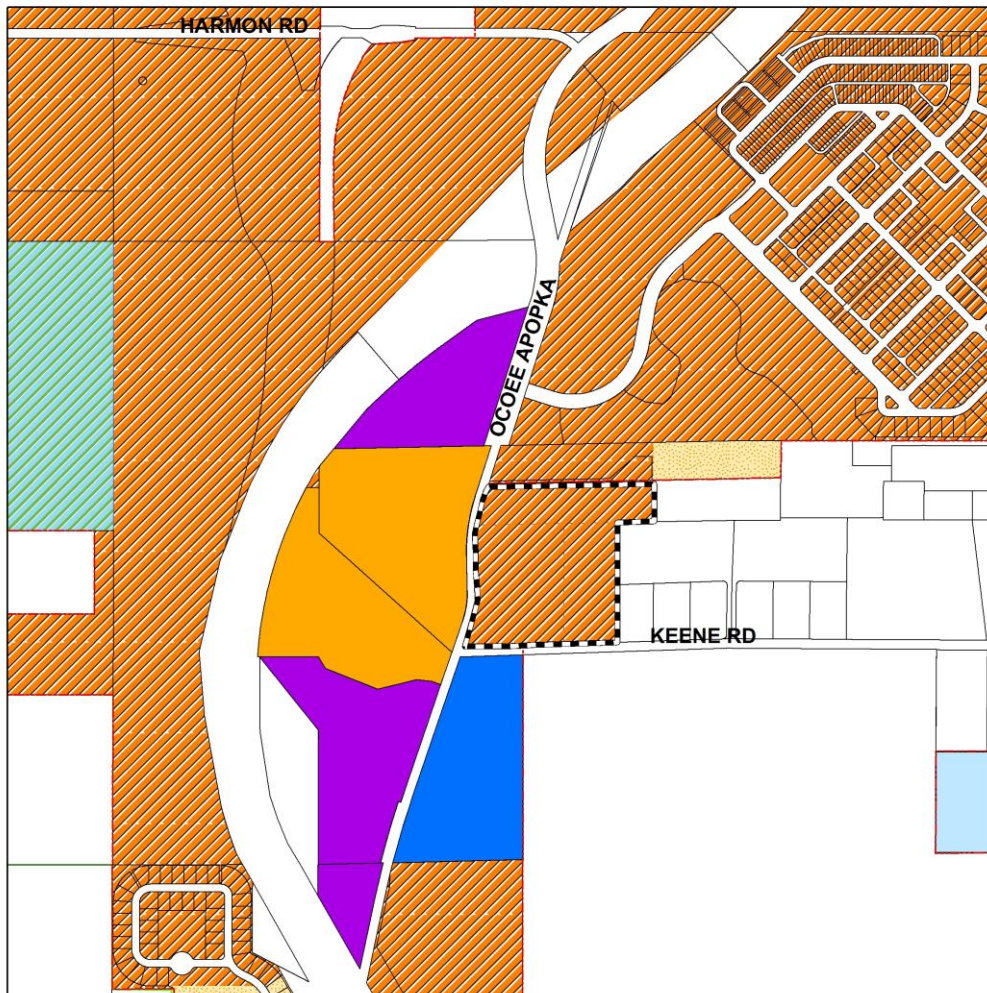


EXHIBIT "A"

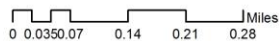
Joseph & Swana Gates, Oak Royal Properties, LLC
Property Owner
22.4 +/- Acres

Proposed Large Scale Future Land Use Amendment:
From: Office (max. 0.3 FAR) & Residential Low (0-5 du/ac)
To: Mixed Use

Parcel ID #s: 20-21-28-0000-00-021; 20-21-28-0000-00-024; 20-21-28-0000-00-025



City of Apopka
Future Land Use Map



Source: City of Apopka and Orange County Property Appaisor
Note: This map was compiled from the Geographic Information Service and does not reflect an actual survey.
The City of Apopka does not assume responsibilities for errors or omissions contained herein.

Legend

- | | |
|--------------------------------|--------------------------|
| Subject Sites | Res. Medium |
| City Boundary | Res. High |
| Apopka_Parcel_122116 selection | Mixed Use |
| JPA Boundary | Mixed Use* |
| Future Land Use | Office |
| Agriculture | Commercial |
| Agriculture Estates | Commercial* |
| Agriculture Homestead | Industrial |
| Rural Settlement | Industrial* |
| Res. Estates | Institutional/Public Use |
| Res. Very Low Suburban | Conservation |
| Res. Low Suburban | Parks/Recreation |
| Res. Low | ANNEX |
| Res. Medium Low | |



Backup material for agenda item:

6. Ordinance No. 2552 – First Reading – Small Scale Future Land Use Amendment – Legislative Kyle Wilkes



CITY OF APOPKA CITY COUNCIL

CONSENT AGENDA
 PUBLIC HEARING
 SPECIAL REPORTS
 OTHER: Ordinance

MEETING OF: February 1, 2017
 FROM: Community Development
 EXHIBITS: Land Use Report
 Vicinity Map
 Adjacent Zoning Map
 Adjacent Use Map
 Existing Uses Map
 Ordinance No. 2552

SUBJECT: ORDINANCE NO. 2552 – SMALL SCALE - FUTURE LAND USE AMENDMENT – ADAMS BROTHERS CONSTRUCTION

REQUEST: FIRST READING OF ORDINANCE NO. 2552 – SMALL SCALE – FUTURE LAND USE AMENDMENT – ADAMS BROTHERS CONSTRUCTION, LLC, FROM “COUNTY” INDUSTRIAL TO “CITY” INDUSTRIAL (MAX 0.6 FAR); AND HOLD IT OVER FOR SECOND READING & ADOPTION. (PARCEL ID #S: 15-21-28-0000-00-044; 15-21-28-0000-00-073; 15-21-28-0000-00-142; 15-21-28-0000-00-210).

SUMMARY:

OWNER/APPLICANT: Adams Brothers Construction
LOCATION: South of E 13th Street, west of Sheeler Avenue.
EXISTING USE: Modular office, single-family residential and vacant commercial
CURRENT ZONING: “County” C-3 (ZIP)
PROPOSED ZONING: “City” I-1 (Restricted Industrial) (Note: this Future Land Use Map amendment request is being processed along with a request to change the Zoning Map designation from “County” C-3 (ZIP) to “City” I-1 (Restricted Industrial).
PROPOSED DEVELOPMENT: Industrial, Commercial or Office Development consistent with I-1 (Restricted Industrial) zoning
TRACT SIZE: 3 +/- acres
MAXIMUM ALLOWABLE DEVELOPMENT: EXISTING: 78,408 Sq. Ft.
 PROPOSED: 78,408 Sq. Ft.

FUNDING SOURCE:
N/A

DISTRIBUTION

| | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

ADDITIONAL COMMENTS: The subject parcel was annexed into the City of Apopka on November 16, 2016, through the adoption of Ordinances No. 2528. The proposed Small-Scale Future Land Use Amendment is being requested by the owner/applicant. Pursuant to Florida law, properties containing less than ten acres are eligible to be processed as a small-scale amendment. Such process does not require review by State planning agencies.

A request to assign an I-1 (Restricted Industrial) zoning category to the Property is being processed in conjunction with this future land use amendment request for an Industrial designation. The FLUM amendment application covers approximately 3 acres, exceeding the minimum development site area of 15,000 sq. ft. The property owner owns the property immediately adjacent to the east of the subject properties, and intends to use the recently-annexed parcels for light industrial as part of their existing construction business.

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this land use change (see attached Land Use Report).

COMPREHENSIVE PLAN COMPLIANCE: The existing and proposed use of the property is consistent with the Industrial Future Land Use designation and the City’s proposed I-1 Zoning designation. Site development cannot exceed the intensity allowed by the Future Land Use policies.

SCHOOL CAPACITY REPORT: Because this Future Land Use Amendment represents a change to a non-residential designation, notification of Orange County Public Schools is not required.

ORANGE COUNTY NOTIFICATION: The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on December 9, 2016.

PUBLIC HEARING SCHEDULE:

January 10, 2017 – Planning Commission (5:30 pm)
February 1, 2017 - City Council (1:30 pm) - 1st Reading
February 15, 2017 – City Council (7:00 pm) - 2nd Reading

DULY ADVERTISED:

December 23, 2016 – Public Notice and Notification
February 3, 2017 – Ordinance Heading & ¼ Page w/Map Ad

RECOMMENDATION ACTION:

The **Development Review Committee** finds the proposed amendment consistent with the Comprehensive Plan and recommends approval of the change in Future Land Use from “County” Industrial to “City” Industrial (Max. 0.6 FAR) for the properties owned Adams Brothers Construction.

The **Planning Commission**, at its regularly scheduled meeting on January 10, 2017, unanimously recommended approval of the small scale future land use amendment from “County” Industrial to “City” Industrial (Max 0.60 FAR), for properties owned by Adams Brothers Construction.

Recommended City Council Motion: Accept the First Reading of Ordinance No. 2552 and Hold it Over for Second Reading and Adoption on February 15, 2017.

Note: This item is considered Legislative. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

LAND USE REPORT

I. RELATIONSHIP TO ADJACENT PROPERTIES:

| <i>Direction</i> | <i>Future Land Use</i> | <i>Zoning</i> | <i>Present Use</i> |
|-----------------------|------------------------|---------------|---|
| North (County) | Industrial | R-T-2 | Single-family homes |
| East (City) | Annex | A-1 (ZIP) | Warehousing |
| South (County & City) | Industrial | IND/4 & I-1 | Railway ROW & Warehousing/light industrial (Apopka Business Center) |
| West (City) | Industrial | I-1 | Warehousing |

II. LAND USE ANALYSIS

The general character of the area surrounding the subject property is industrial. Lands to the north, south and west are assigned either a City or County Industrial land use designation. Adjacent existing development to the east, west and south are light industrial in nature, making the proposed future land use designation of Industrial consistent and compatible with the land use designations in the surrounding area.

Wekiva River Protection Area: No
 Area of Critical State Concern: No
 DRI / FQD: No

JPA: The City of Apopka and Orange County entered into a Joint Planning Area (JPA) agreement on October 26, 2004. The subject property is located within the “Core Area” of the JPA. The proposed FLUM Amendment from “County” Industrial to City “Industrial” is consistent with the intent of the Core Area Area JPA.

Wekiva Parkway and Protection Act: The proposed amendment has been evaluated against the adopted Wekiva Study Area Comprehensive Plan policies. The proposed amendment is consistent with the adopted mandates and requirements. The proposed Future Land Use Map (FLUM) amendment has been reviewed against the best available data, with regard to aquifer and groundwater resources. The City of Apopka's adopted Comprehensive Plan addresses aquifer recharge and storm water run-off through the following policies:

- Future Land Use Element, Policies 4.16, 14.4, 15.1, 16.2 and 18.2
- Infrastructure Element, Policies 1.5.5, 4.2.7, 4.4, 4.4.1, 4.4.2 and 4.4.3
- Conservation Element, Policy 3.18

The Karst Topography Features Map from the Florida Department of Environmental Protection shows that there are no karst features currently known to occur on the subject property.

Analysis of the character of the Property: The subject property has access to a city local roadway (E 13th Street) and a freight rail line. The subject lots contain a single-family residential home and a modular office. The vegetative communities present are urban; the soils present are Candler Fine Sand with a 0-5 percent slope.

Analysis of the relationship of the amendment to the population projections: This property was annexed into the City on October 1, 2014. The Orange County Comprehensive Plan anticipated this property being developed with potential of up to sixty residential units. Because this proposed land use change accommodates non-residential development, this amendment will not impact the population projections in the City's Comprehensive Plan.

CALCULATIONS:

ADOPTED (County designation): 0 Unit(s) x 2.659 p/h = 0 persons
PROPOSED (City designation): 0 Unit(s) x 2.659 p/h = 0 persons

Housing Needs: Since the properties are currently non-residential and are being proposed for non-residential development, the proposed future land use designation will not adversely impact the City’s future needs.

Transportation: The City of Apopka is a Transportation Concurrency Exception Area. Refer to Chapter 3 of the City of Apopka 2010 Comprehensive Plan.

1. Roadways. The subject properties have access from E 13th Street, which is a designated a local street.

Habitat for species listed as endangered, threatened or of special concern: Per policy 4.1 of the Conservation Element, a habitat study is required for developments greater than ten (10) acres in size. This site is less than ten acres and is already developed and platted. A habitat study will not be required at the time of a development plan application.

Transportation: The City of Apopka is a Transportation Concurrency Exception Area. Refer to Chapter 3 of the City of Apopka 2010 Comprehensive Plan.

Sanitary Sewer Analysis

1. Facilities serving the site; current LOS; and LOS standard: None ; N/A GPD/Capita; 81 GPD / Capita

If the site is not currently served, please indicate the designated service provider: City of Apopka

2. Projected total demand under existing designation: 11,761 GPD
3. Projected total demand under proposed designation: 11,761 GPD
4. Capacity available: Yes
5. Projected LOS under existing designation: 81 GPD/Capita
6. Projected LOS under proposed designation: 81 GPD/Capita
7. Improved/expansions already programmed or needed as a result if proposed amendment: None

Potable Water Analysis

1. Facilities serving the site; current LOS; and LOS standard: City of Apopka ; 177 GPD/Capita; 177 GPD/Capita

If the site is not currently served, please indicate the designated service provider: City of Apopka

2. Projected total demand under existing designation: 15,682 GPD
3. Projected total demand under proposed designation: 15,682 GPD

4. Capacity available: Yes
5. Projected LOS under existing designation: 177 GPD/Capita
6. Projected LOS under proposed designation: 177 GPD/Capita
7. Improved/expansions already programmed or needed as a result of the proposed amendment: None
8. Parcel located within the reclaimed water service area: No

Solid Waste

1. Facilities serving the site: City of Apopka
2. If the site is not currently served, please indicate the designated service provider:
City of Apopka
3. Projected LOS under existing designation: 157 lbs./person/day
4. Projected LOS under proposed designation: 157 lbs./day/1000 SF
5. Improved/expansions already programmed or needed as a result of the proposed amendment: None

This initial review does not preclude conformance with concurrency requirements at the time of development approval.

Infrastructure Information

Water treatment plant permit number: CUP No. 3217

Permitting agency: St. John's River Water Management District

Permitted capacity of the water treatment plant(s): 21,981 mil. GPD

Total design capacity of the water treatment plant(s): 33,696 mil. GPD

Availability of distribution lines to serve the property: Yes

Availability of reuse distribution lines available to serve the property: No

Drainage Analysis

1. Facilities serving the site: None
2. Projected LOS under existing designation: 100 year - 24 hour design storm
3. Projected LOS under proposed designation: 100 year - 24 hour design storm
4. Improvement/expansion: On-site retention/detention pond

Recreation

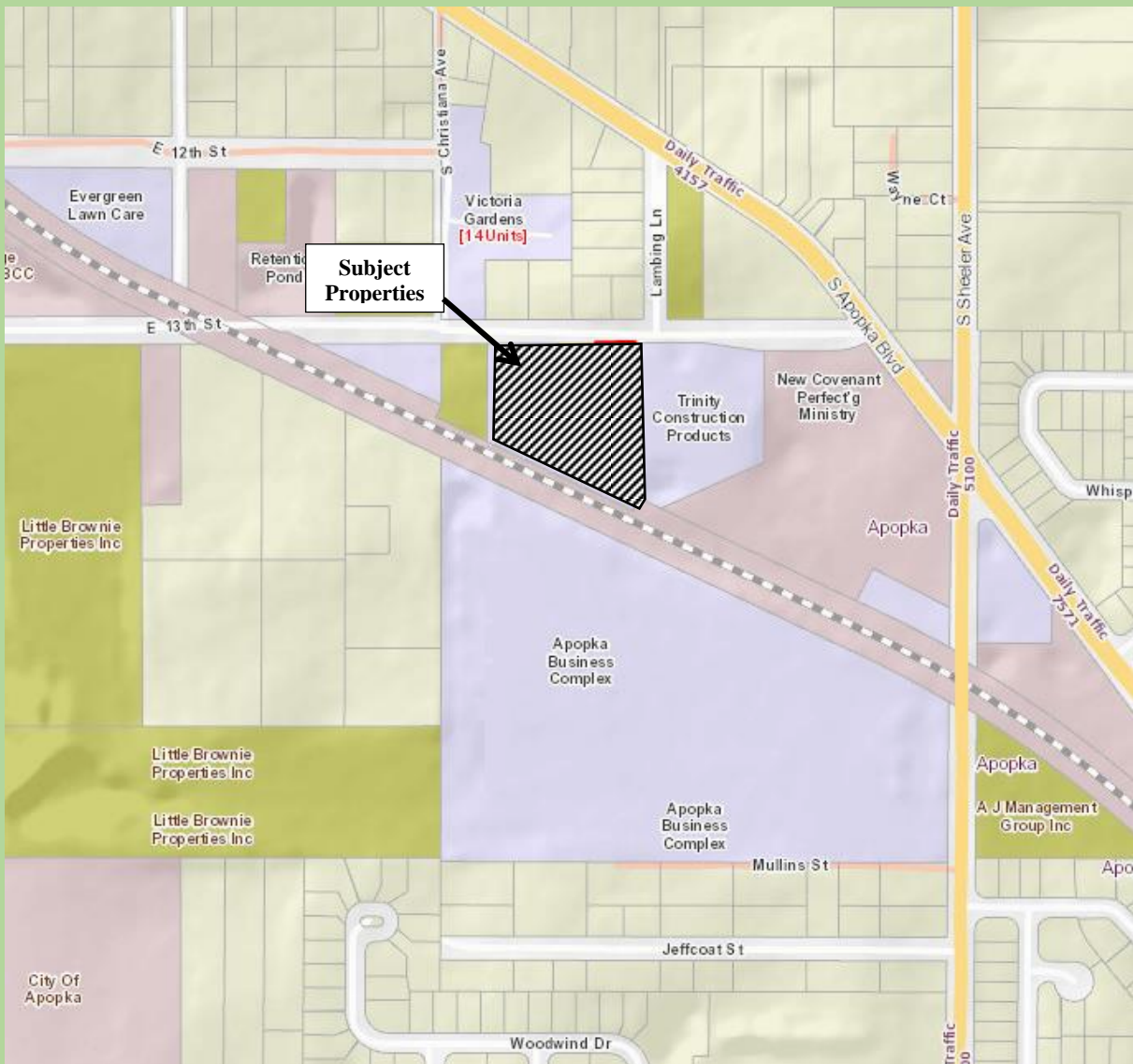
1. Facilities serving the site; LOS standard: City of Apopka Parks System; 3 AC/1000 capita
2. Projected facility under existing designation: N/A AC
3. Projected facility under proposed designation: N/A AC
4. Improvement/expansions already programmed or needed as a result of the proposed amendment: None

This initial review does not preclude conformance with concurrency requirements at the time of development approval.



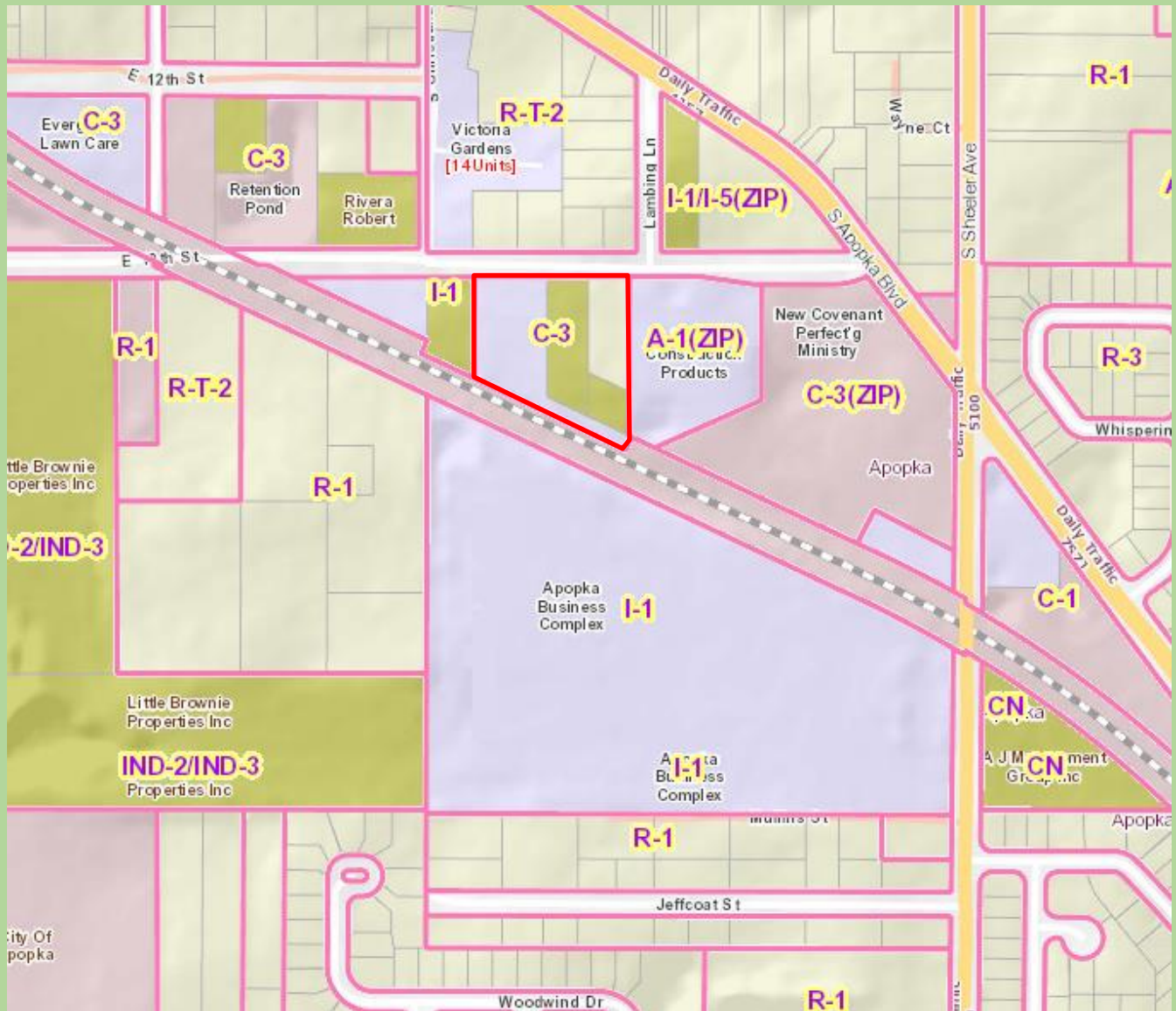
Adams Brothers Construction, Inc.
Property Owner
3 +/- Acres
Proposed Small Scale Future Land Use Amendment:
From: “County” Industrial
To: Industrial (max 0.6 FAR)
Proposed Change of Zoning:
From: “County” C-3 (Commercial)
To: “City” I-1 (Restricted Industrial)
PARCEL ID #S: 15-21-28-0000-00-044; 15-21-28-0000-00-073;
15-21-28-0000-00-142; 15-21-28-0000-00-210

VICINITY MAP



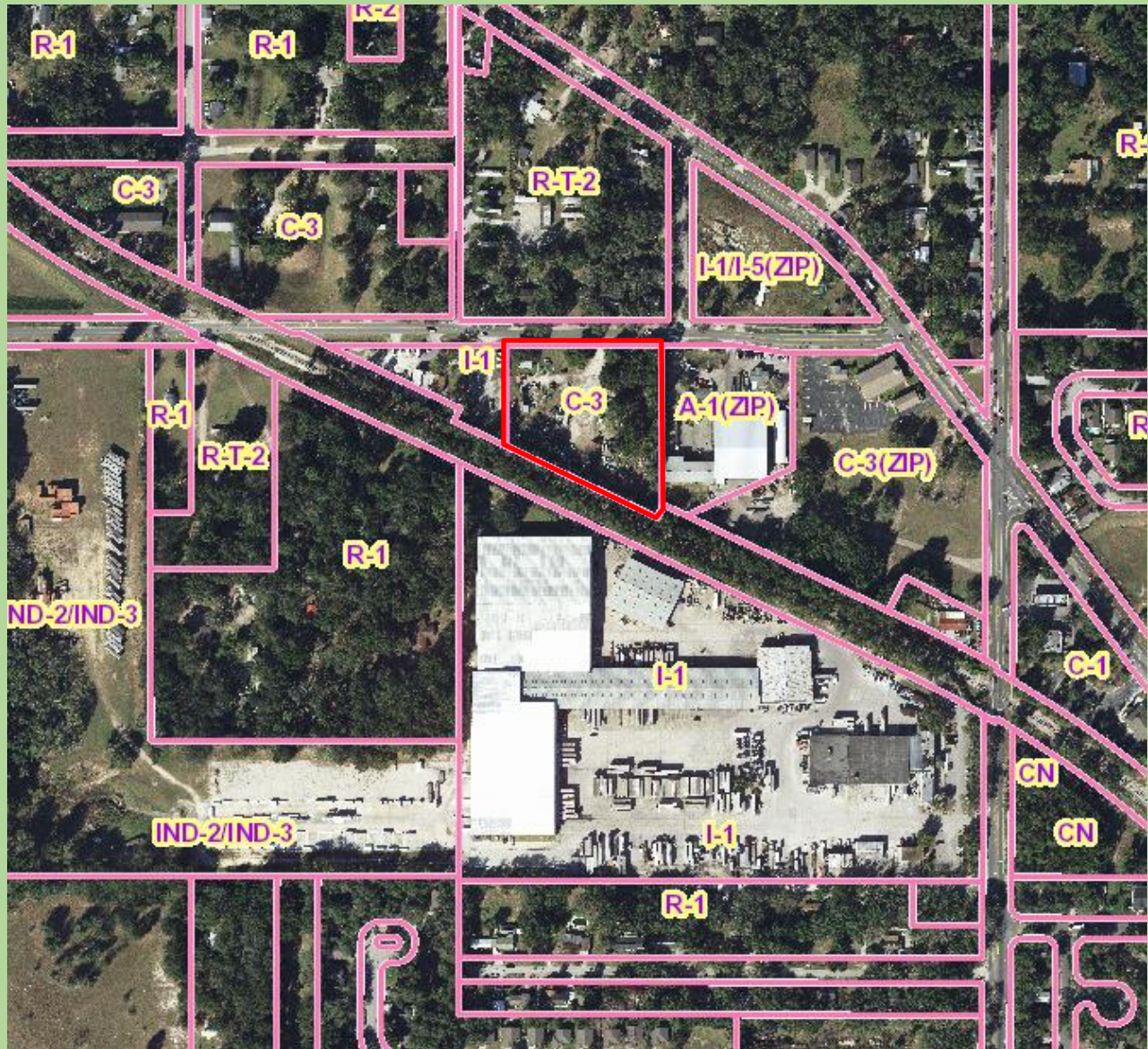


ADJACENT ZONING



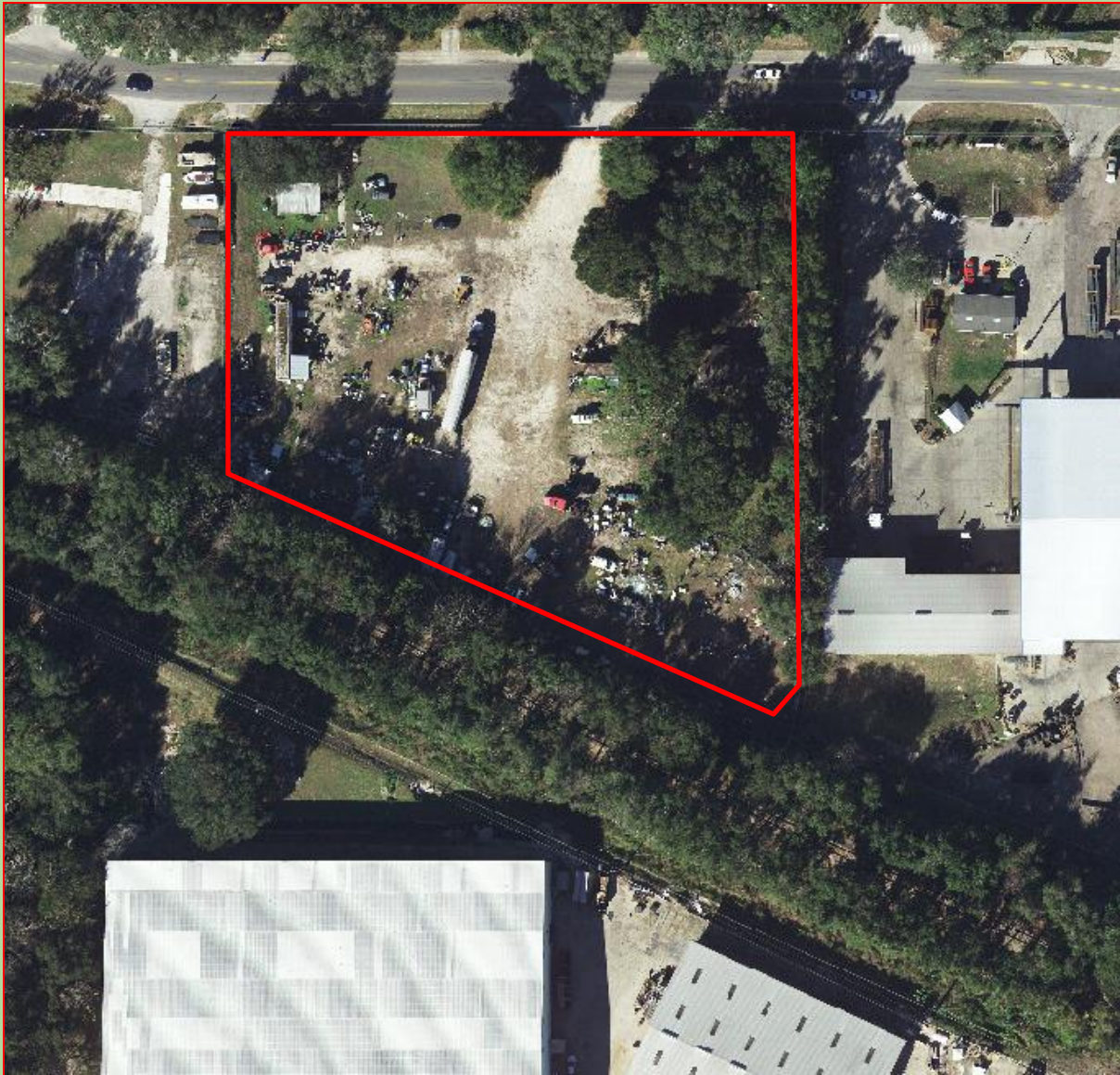


ADJACENT USES





EXISTING USES



ORDINANCE NO. 2552

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM “COUNTY” INDUSTRIAL TO “CITY” INDUSTRIAL (MAX 0.6), FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF E 13TH STREET AND WEST OF SHEELER AVENUE, COMPRISING 3 ACRES MORE OR LESS, AND OWNED BY ADAMS BROTHERS CONSTRUCTION LLC; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Apopka adopted the Apopka Comprehensive Plan by Ordinance No. 653 on October 2, 1991, pursuant to Section 163.3184, Florida Statutes and most recently amended it by Ordinance No. 2538 on December 21, 2016; and

WHEREAS, the City of Apopka’s local planning agency (Planning Commission) has, in preparation of the amended version of the Apopka Comprehensive Plan, analyzed the proposed amendment pursuant to Chapter 163, Part II, F.S., found it to be consistent with the intent of the Apopka Comprehensive Plan, and held public hearings providing for full public participation.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Apopka, Florida, as follows:

Section I. Purpose and Intent.

This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section II. Future Land Use Element.

Page 1-15 (Map 1-3) of the Future Land Use Element of the City of Apopka Comprehensive Plan, as most recently amended by Ordinance No. 2538, is amended in its entirety to change the land use from “County” Industrial to “City” Industrial (Max. 0.6 FAR), for certain real property located at 202 South Hawthorne Ave & 300 W West 2nd Street, comprising 0.74 acres more or less, (Parcel No. 15-21-28-0000-00-044;-073;-142; -210 & 36-20-27-0000-00-124); as further described in Exhibit “A” attached hereto.

Section III. Applicability and Effect.

The applicability and effect of the City of Apopka Comprehensive Plan shall be as provided by the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes.

Section IV. Severability.

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

ORDINANCE NO. 2552
PAGE 2

Section V. The Community Development Director is hereby authorized to amend the Future Land Use to comply with this ordinance.

Section VI. Effective Date.

This Ordinance shall become effective upon adoption.

ADOPTED at a regular meeting of the City Council of the City of Apopka, Florida, this _____ day of _____, 2017.

READ FIRST TIME: February 1, 2017

READ SECOND TIME
AND ADOPTED: February 15, 2017

Joseph E. Kilsheimer, Mayor

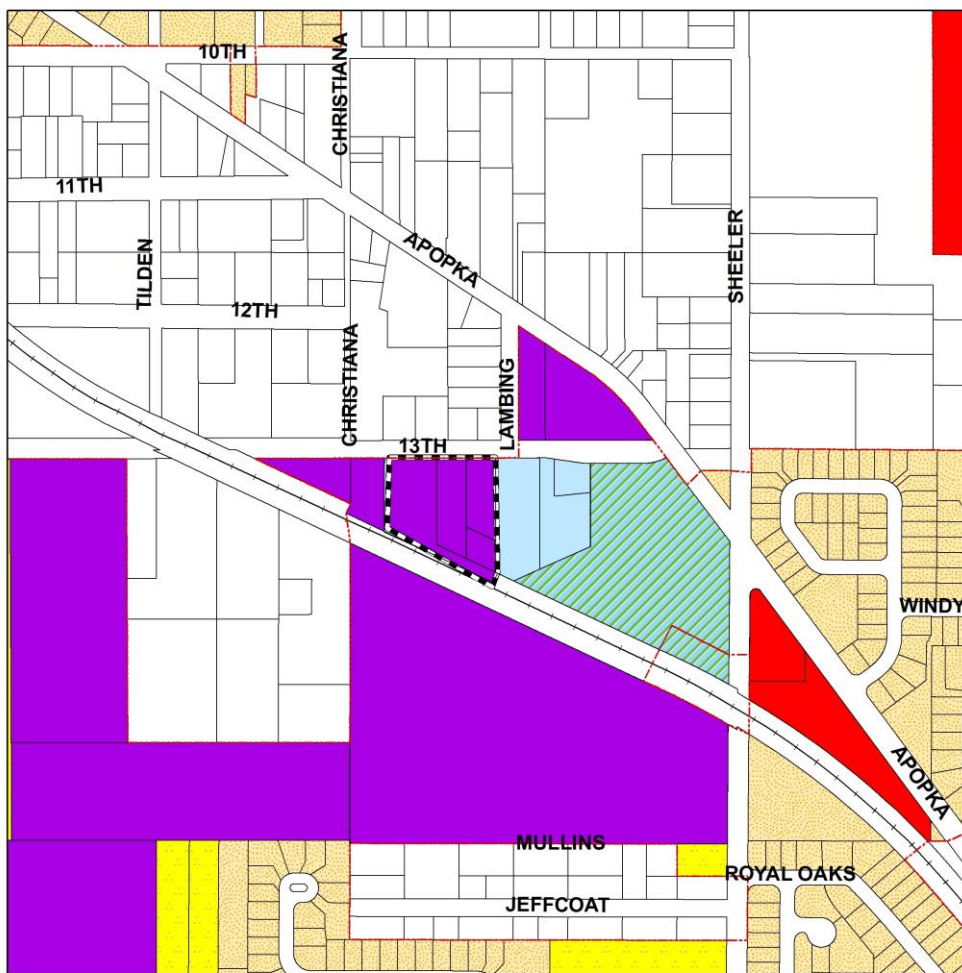
ATTEST:

Linda Goff, City Clerk

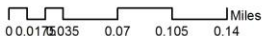
DULY ADVERTISED FOR HEARING: December 23, 2017
February 3, 2017

ORDINANCE NO. 2552

Adams Brothers Construction, Inc.
 Property Owner
 3 +/- Acres
 Proposed Small Scale Future Land Use Amendment:
 From: "County" Industrial
 To: Industrial (max 0.6 FAR)
 Proposed Change of Zoning:
 From: "County" C-3 (Commercial)
 To: "City" I-1 (Restricted Industrial)
 Parcel ID #s: 15-21-28-0000-00-044; 15-21-28-0000-00-073;
 15-21-28-0000-00-142; 15-21-28-0000-00-210



City of Apopka
 Future Land Use Map



Source: City of Apopka and Orange County Property Appraiser
 Note: This map was compiled from the Geographic Information Service and does not reflect an actual survey.
 The City of Apopka does not assume responsibilities for errors or omissions contained hereon.

Legend

- City Boundary
- Subject Sites
- Apopka_Street_122116
- Apopka_Parcel_122116_selection
- IPA Boundary
- Future Land Use
 - Agriculture
 - Agriculture Estates
 - Agriculture Homestead
 - Rural Settlement
 - Res. Estates
 - Res. Very Low Suburban
 - Res. Low Suburban
 - Res. Low
 - Res. Medium Low
 - Res. Medium
 - Res. High
 - Mixed Use
 - Mixed Use*
 - Office
 - Commercial
 - Commercial*
 - Industrial
 - Industrial*
 - Institutional/Public Use
 - Conservation
 - Parks/Recreation
 - ANNEX



Backup material for agenda item:

7. Ordinance No. 2553 – First Reading – Change of Zoning – Quasi-Judicial

Kyle Wilkes



CITY OF APOPKA CITY COUNCIL

 CONSENT AGENDA
 X PUBLIC HEARING
 SPECIAL REPORTS
 X OTHER: Ordinance

MEETING OF: February 1, 2017
FROM: Community Development
EXHIBITS: Zoning Report
Vicinity Map
Adjacent Zoning Map
Adjacent Use Map
Existing Uses Map
Ordinance No.2553

SUBJECT: ORDINANCE NO. 2553 – CHANGE OF ZONING – ADAMS BROTHERS CONSTRUCTION, LLC

REQUEST: FIRST READING OF ORDINANCE NO. 2553 – CHANGE OF ZONING – ADAMS BROTHERS CONSTRUCTION, LLC, FROM “COUNTY” C-3 (ZIP) TO “CITY” I-1 (RESTRICTED INDUSTRIAL); (PARCEL I.D. NOS. 15-21-28-0000-00-044;-073;-142;-210;-124); AND HOLD OVER FOR SECOND READING AND ADOPTION.

SUMMARY

OWNER/APPLICANT: Adams Brothers Construction
LOCATION: South of E 13th Street, west of Sheeler Avenue
EXISTING USE: Modular office, single-family residential and vacant commercial
PROPOSED LAND USE: Industrial (max 0.60 FAR)
CURRENT ZONING: “County” C-3 (ZIP)
PROPOSED DEVELOPMENT: Industrial, Commercial or Office Development consistent with I-1 (Restricted Industrial) zoning
TRACT SIZE: 3 +/- acres
MAXIMUM ALLOWABLE DEVELOPMENT: N/A (No max. FAR for “County” Industrial FLUM)
PROPOSED: 58,806 Sq. Ft.

FUNDING SOURCE:

N/A

DISTRIBUTION

| | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

ADDITIONAL COMMENTS: The subject parcels were annexed into the City of Apopka on November 16, 2016 through the adoption of Ordinances No. 2528.

The proposed change of zoning is being requested by the owner/applicant. Presently, the subject property has not yet been assigned a “City” zoning category. Applicant is requesting the City to assign a zoning classification of I-1 (Restricted Industrial) to the property.

A request to assign a change of zoning to I-1 (Restricted Industrial) is compatible to the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The property owner is requesting the I-1 zoning classification to accommodate the use of the property for light industrial, commercial or office development allowed under the I-1 zoning district. This use is consistent with the proposed Industrial Future Land Use Designation, proposed zoning district and compatible with the general character of surrounding zoning and uses. The change of zoning application covers approximately 3 acres.

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this land use change (see attached Zoning Report).

COMPREHENSIVE PLAN COMPLIANCE: The proposed use of the property is consistent with the Industrial (max 0.60 FAR) Future Land Use designation and the City’s proposed I-1 (Restricted Industrial) Zoning classification. Site development cannot exceed the intensity allowed by the Future Land Use policies.

SCHOOL CAPACITY REPORT: The proposed rezoning is to a non-residential zoning district and, therefore, a capacity enhancement agreement with OCPS is not necessary.

ORANGE COUNTY NOTIFICATION: The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on December 9, 2016

PUBLIC HEARING SCHEDULE:

January 10, 2017 – Planning Commission (5:30 pm)
February 1, 2017 - City Council (1:30 pm) - 1st Reading
February 15, 2017 – City Council (7:00 pm) - 2nd Reading

DULY ADVERTISED:

December 23, 2016 – Public Notice and Notification
February 3, 2017 – Ordinance Heading & ¼ Page w/Map Ad

RECOMMENDATION ACTION:

The **Development Review Committee** finds the proposed amendment consistent with the Comprehensive Plan and the Land Development Code recommends adoption of the change in Zoning from “County” C-3 (ZIP) to “City” I-1 (Restricted Industrial), subject to the adoption of the associated small scale future land use amendment, for the property owned by Adams Brothers Construction.

The **Planning Commission**, at its regularly scheduled meeting on January 10, 2017, unanimously recommended approval of the change of zoning amendment from “County” C-3 (ZIP) to “City” I-1 (Restricted Industrial), for properties owned by Adams Brothers Construction, LLC

City Council Recommended Motion: Accept the First Reading of Ordinance No. 2553 and Hold it Over for Second Reading and Adoption on February 15, 2017.

Note: This item is considered Quasi-Judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

ZONING REPORT

RELATIONSHIP TO ADJACENT PROPERTIES:

| <i>Direction</i> | <i>Future Land Use</i> | <i>Zoning</i> | <i>Present Use</i> |
|-----------------------|------------------------|---------------|---|
| North (County) | Industrial | R-T-2 | Single-family homes |
| East (City) | Annex | A-1 (ZIP) | Warehousing |
| South (County & City) | Industrial | IND/4 & I-1 | Railway ROW & Warehousing/light industrial (Apopka Business Center) |
| West (City) | Industrial | I-1 | Warehousing |

LAND USE &

TRAFFIC COMPATIBILITY: The subject property fronts and is accessed by a local roadway (E 13th Street) and a freight railway line. The proposed I-1 (Restricted Industrial) zoning district is consistent and compatible with the adjacent zoning classifications and uses within the surrounding area. Property owned by the same owner to east is used currently for light industrial use, and properties to the south and west have “City” I-1 (Restricted Industrial) zoning classifications, as well as existing uses consistent with light industrial.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed I-1 zoning is consistent with the City’s Industrial (max 0.60 FAR) Future Land Use designation and with the character of the surrounding area and future proposed development. The I-1 zoning classification is one of the acceptable zoning categories allowed within the Industrial Land Use category. Development Plans shall not exceed the density allowed in the adopted Future Land Use Designation.

I-1 DISTRICT REQUIREMENTS:

- Minimum Living Area: NA
- Minimum Site Area: 15,000 sq. ft.
- Minimum Lot Width: 100 ft.
- Setbacks:
 - Front: 25 ft.
 - Rear: 10 ft. (30 ft. to residential)
 - Side: 10 ft.
 - Corner: 25 ft.

Based on the above zoning standards, the subject parcels comply with code requirements for the I-1 district.

BUFFERYARD REQUIREMENTS:

1. Areas adjacent to all road rights-of-way shall provide a minimum 25-foot landscaped bufferyard.
2. Areas adjacent to agricultural uses or districts shall provide a minimum of ten feet abutting the property line with landscaping and a six-foot-high masonry wall.

3. Areas adjacent to residential uses or districts shall provide a six-foot-high masonry wall within a minimum of 50-foot landscaped bufferyard.
4. Industrial uses adjacent to nonresidential, nonindustrial uses or districts shall provide one of the following:
 - a. A minimum of 25 feet abutting the property with landscaping and an earth berm, measuring three feet with a 3:1 slope; or
 - b. A minimum six-foot-high masonry wall within a minimum of ten-foot landscaped bufferyard.

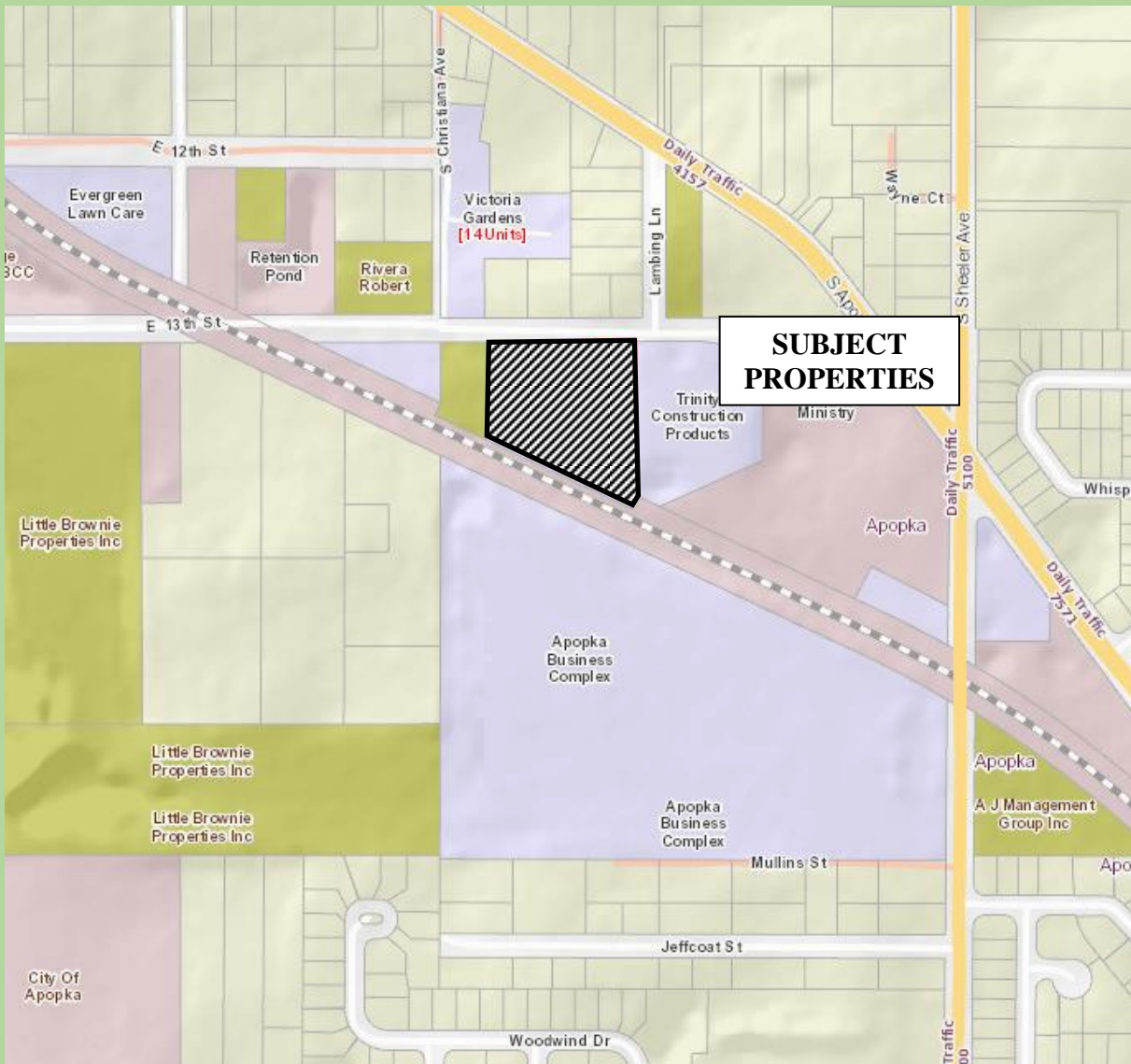
**ALLOWABLE
USES:**

Any C-3 Commercial District permitted use and wholesale distribution, storage and light manufacturing, including: manufacture and processing of novelties, bakery and confectionary products, garments, scientific, electrical, instruments or equipment. Bus, cab and truck repair. Dyeing, dry cleaning and laundering. Machinery sales and machine shops. Cold storage and frozen food lockers. All other uses not prohibited, and similar and compatible to those within the I-1 Restricted Industrial Zoning District.

Adams Brothers Construction, Inc.
Property Owner
3 +/- Acres
Proposed Small Scale Future Land Use Amendment:
From: "County" Industrial
To: Industrial (max 0.6 FAR)
Proposed Change of Zoning:
From: "County" C-3 (Commercial)
To: "City" I-1 (Restricted Industrial)
Parcel ID #s: 15-21-28-0000-00-044; -073; -142; -210; 124

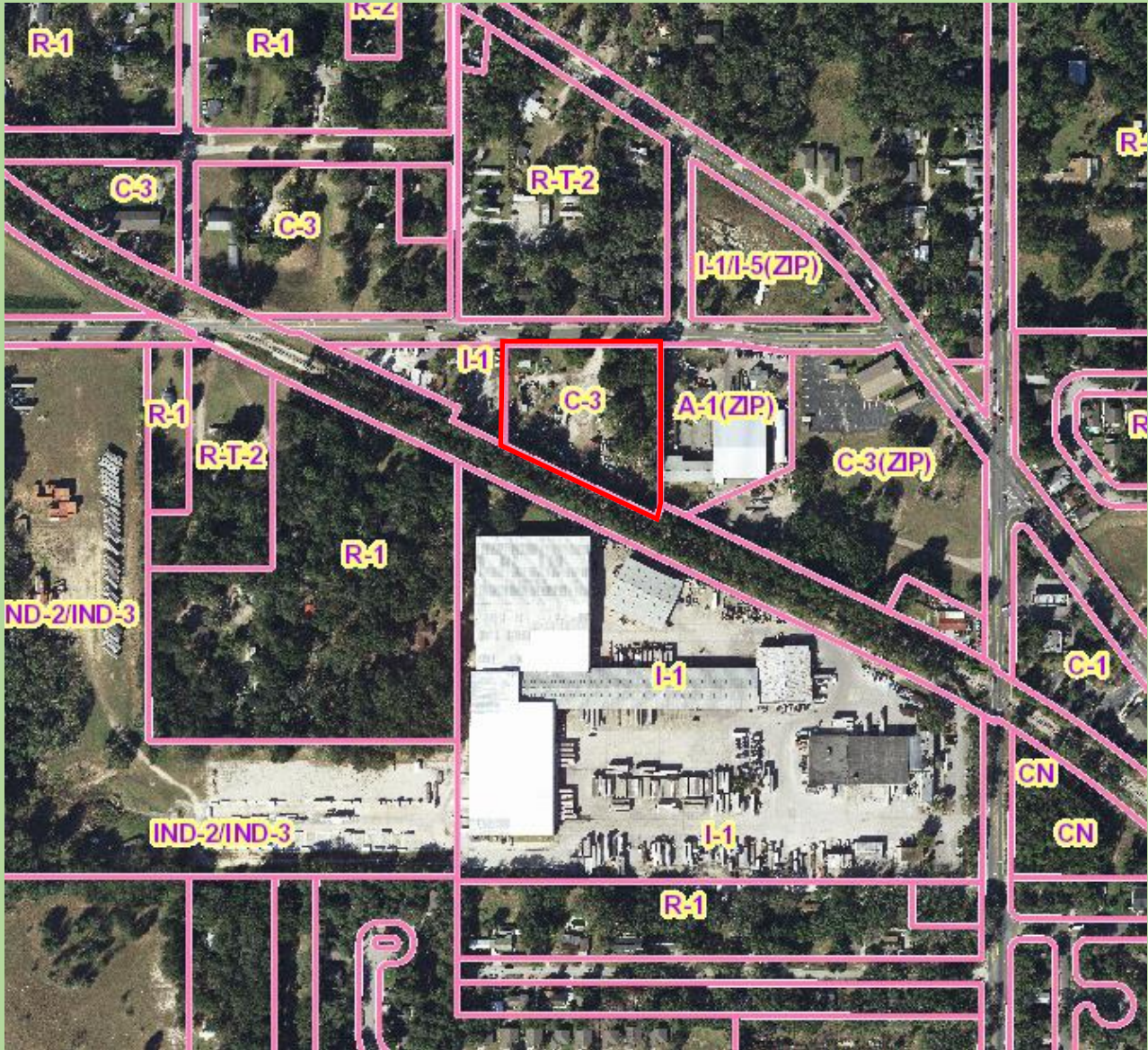


VICINITY MAP



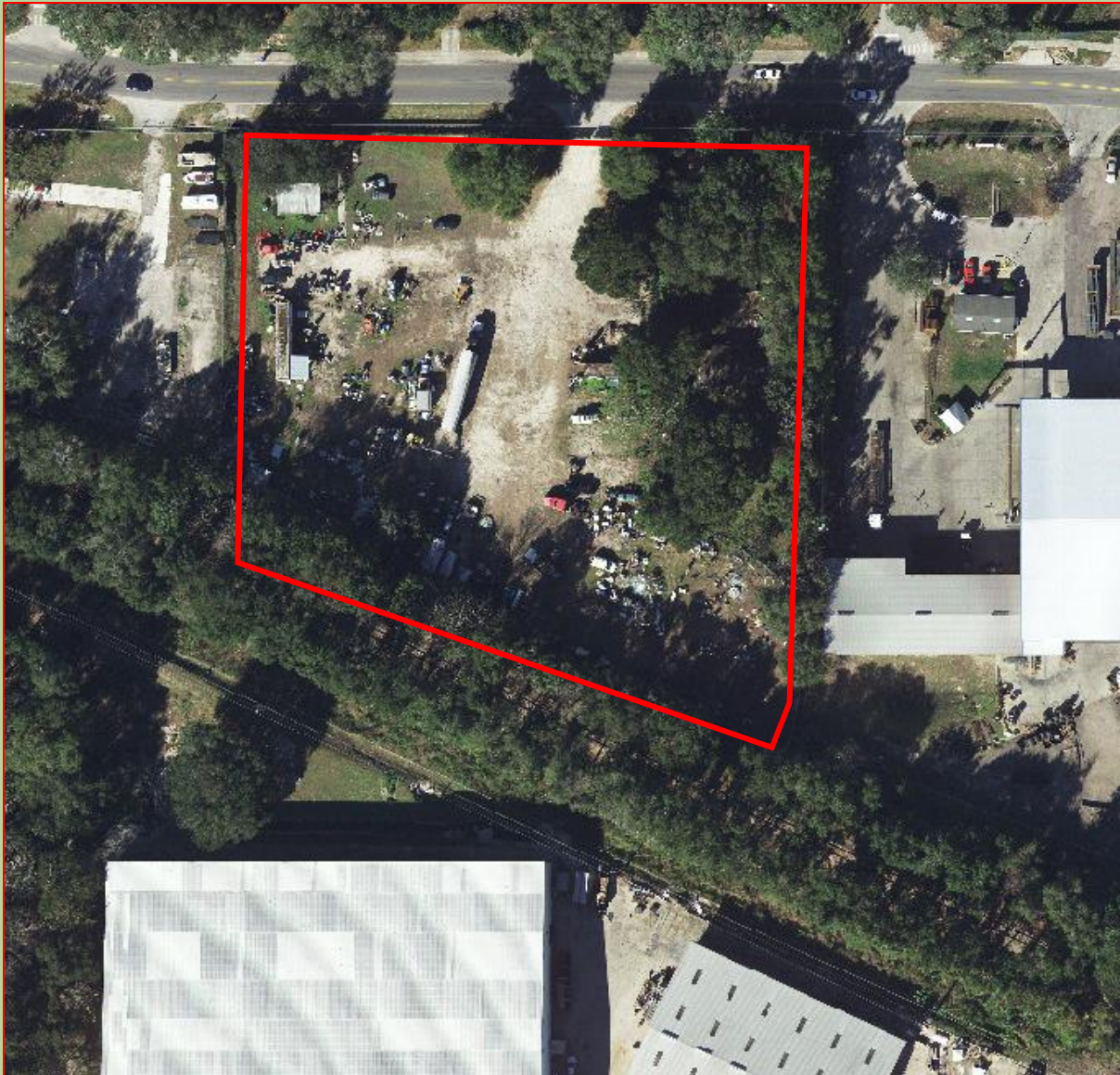


ADJACENT USES





EXISTING USES



ORDINANCE NO. 2553

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNT” C-3 (ZIP) TO “CITY” I-1 (RESTRICTED INDUSTRIAL) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF 13TH STREET, WEST OF SHEELER AVENUE, COMPRISING 3 ACRES MORE OR LESS, AND OWNED BY ADAMS BROTHERS CONSTRUCTION, LLC; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, to manage the growth, the City of Apopka, Florida, finds it in the best interest of the public health, safety and welfare of its citizens to establish zoning classifications within the City; and

WHEREAS, the City of Apopka has requested a change in zoning on said property as identified in Section I of this ordinance; and

WHEREAS, the proposed I-1 (Restricted Industrial) zoning has been found to be consistent with the City of Apopka Comprehensive Plan, and the City of Apopka Land Development Code.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Apopka, Florida, as follows:

Section I. That the zoning classification of the following described property, being situated in the City of Apopka, Florida, is hereby I-1 (Restricted Industrial), as defined in the Apopka Land Development Code.

Legal Description:

BEG 492.5 FT E & 310.51 FT S OF NW COR OF NE1/4 OF SE1/4 RUN S 108 FT TO SAL RR R/W NWLY ALONG SAID RR 110.65 N 108 FT SELY TO POB IN SEC 15-21-28; AND

FROM NW COR OF NE1/4 OF SE1/4 RUN E 392.5 FT FOR POB TH E 100 FT S TO SAL RR NWLY ALONG RR R/W 110.6 FT N TO POB (LESS N 30 FT FOR R/W) & (LESS BEG 492.5 FT E & 310.51 FT S OF NW COR OF NE1/4 OF SE1/4 S 108 FT TO SAL RR R/W NWLY ALONG RR 110.6 FT N 108 FT SELY TO POB) SEC 15-21-28; AND

BEG 292.5 FT E OF NW COR OF NE1/4 OF SE1/4 RUN E 100 FT S TO NLY R/W OF SCL RR R/W NWLY ALONG SAID RR R/W TO A PT S OF POB TH N TO POB (LESS N 30 FT FOR R/W) IN SEC 15-21-28; AND

BEG 115 FT E OF NW COR OF NE1/4 OF SE1/4 CONT E 177.50 FT S 299.54 FT S 64 DEG E 228.14 FT S 25 DEG W 35 FT TO CSX R/R R/W N 64 DEG W 406.57 FT N 278.31 FT TO POB (LESS N 30 FT RD R/W) IN SEC 15-21-28

Parcel ID #s: 15-21-28-0000-00-044; 15-21-28-0000-00-073;
15-21-28-0000-00-142; 15-21-28-0000-00-210

Contains: 3 +/- Acres

ORDINANCE NO. 2553

PAGE 2

Section II. That the zoning classification is consistent with the Comprehensive Plan of the City of Apopka, Florida.

Section III. That the Community Development Director, or the Director's designee, is hereby authorized to amend, alter, and implement the official zoning maps of the City of Apopka, Florida, to include said designation.

Section IV. That if any section or portion of a section or subsection of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or portion of section or subsection or part of this ordinance.

Section V. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section VI. That this Ordinance shall take effect upon adoption of Ordinance No. 2553.

READ FIRST TIME: February 1, 2017

READ SECOND TIME
AND ADOPTED: February 15, 2017

Joseph E. Kilsheimer, Mayor

ATTEST:

Linda Goff, City Clerk

DULY ADVERTISED: December 23, 2017
 February 3, 2017

Backup material for agenda item:

8. Resolution No. 2017-03 – Canterwood Bonds Glenn A. Irby



CITY OF APOPKA CITY COUNCIL

- CONSENT AGENDA
- PUBLIC HEARING
- SPECIAL REPORTS
- OTHER:

MEETING OF: October 5, 2016
 FROM: Administration
 EXHIBITS: Resolution 2017-03

SUBJECT: CANTERWOOD ASSISTED LIVING FACILITY BOND ISSUE

REQUEST: CONSIDERATION AND ACCEPTANCE OF RESOLUTION REQUIRED BY THE IRS TO ISSUE DEBT

SUMMARY:

On December 7, 2016 the City Council was addressed by Jim Swan of Stifel, Nicolaus and Company, a law firm from New York City concerning a desire by Canterwood Assisted Living Facility to issue debt to construct an Assisted Living facility on Old Dixie Highway. The debt Canterwood wishes to issue requires the assistance of the City of Apopka. This is only because of IRS regulations allowing them to borrow monies at governmental rates not normally afforded nongovernmental entities.

A part of the process requires the passage of the resolution following this report. Jim Swan will be in attendance at the meeting as will Mike Williams, bond counsel for the City of Apopka. Either or both will be able to address any and all concerns regarding this request and resolution. Lastly, the City of Apopka will share no responsibility for repayment of the debt and borrowing capacity by the city is not affected.

FUNDING SOURCE:

N/A – the City’s bond counsel is being paid by Canterwood.

RECOMMENDATION ACTION:

Consideration and passage of the following resolution.

DISTRIBUTION

- | | | |
|--------------------------------|------------------|--------------------------|
| Mayor Kilsheimer | Finance Director | Public Services Director |
| Commissioners | HR Director | Recreation Director |
| City Administrator | IT Director | City Clerk |
| Community Development Director | Police Chief | Fire Chief |

RESOLUTION NO. 2017-03

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF APOPKA, FLORIDA TO ISSUE REVENUE BONDS IN ONE OR MORE SERIES TO MAKE A LOAN TO CANTERWOOD APOPKA REAL ESTATE, LLC, TO ACQUIRE, CONSTRUCT, INSTALL AND EQUIP AN ADULT ASSISTED LIVING FACILITY CONSISTING OF A QUALIFIED RESIDENTIAL RENTAL PROJECT WITHIN THE MEANING OF SECTION 142(d) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; EXPRESSING SUCH INTENT SOLELY FOR PURPOSES OF COMPLIANCE WITH UNITED STATES TREASURY REGULATION SECTION 1.150-(2)(e) TO REIMBURSE WITH THE PROCEEDS OF SUCH BONDS, EXPENDITURES MADE WITH RESPECT TO THE CONSTRUCTION AND EQUIPPING OF SUCH IMPROVEMENTS; PROVIDING FOR THE ISSUANCE BY THE CITY OF BONDS OR OTHER OBLIGATIONS IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$38,000,000 TO PAY THE COST OF SUCH PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Apopka, Florida (the “City”) has been requested by Canterwood Apopka Real Estate, LLC, a Florida limited liability company (or an affiliate thereof) (the “Borrower”) as a “local agency” pursuant to Chapter 159, Part II, Florida Statutes (the “Act”) to issue revenue bonds (the “Bonds”) for the purpose of making a loan to the Borrower to finance an assisted living facility for the elderly which facility, constitutes a “health care facility” within the meaning of the Act and a “qualified residential rental project” with the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Project”); and

WHEREAS, the Borrower has informed the City that it expects to initially pay certain costs of the Project with funds other than proceeds of the Bonds (the “Advanced Funds”) and to reimburse itself for such expenditures with proceeds from the Bonds.

WHEREAS, THE BONDS SHALL NOT EVER REPRESENT OR CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE CITY OR ANY OTHER POLITICAL SUBDIVISION AND SHALL SOLELY BE SECURED AND PAYABLE FROM COLLATERAL PROVIDED BY THE BORROWER.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, THAT:

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to the Act, and other applicable provisions of law.

SECTION 2. FINDINGS. The City Council hereby finds, determines and declares as follows:

A. The City is authorized under law, including, without limitation, the Act, to issue the Bonds for the principal purpose of paying the cost of acquiring, constructing, installing and equipping of the Project.

B. The Borrower has represented to the City that it intends to finance certain of the costs of the design, permitting, construction, equipping and installation of the Project with the proceeds of its Bonds to be issued in the future.

C. The Borrower has represented to the City that it expects to pay certain costs of the Project with Advanced Funds before the issuance of the Bonds.

SECTION 3. EXPRESSION OF INTENT. Based on the Borrower's representations the City reasonably expects that the Borrower will use the proceeds of the Bonds to reimburse itself for Project expenditures described herein made with the Advanced Funds. This Resolution is a declaration of official intent, within the contemplation of Section 1.150-(2)(e) of the Income Tax Regulations promulgated by the United States Department of the Treasury.

SECTION 4. MAXIMUM AMOUNT OF DEBT. The maximum principal amount of the Bonds reasonably expected to be issued to finance the cost of the Project is \$38,000,000.

SECTION 5. APPROVAL PURSUANT TO SECTION 147(f) OF THE CODE. For the sole purpose of qualifying the interest on the Bonds for exclusion from the gross income of the owners thereof for federal income tax purposes pursuant to applicable provisions of the Code and satisfying the provisions of the Act, the issuance of the Bonds in the aggregate principal amount not to exceed \$38,000,000 and the construction and equipping of the Facility with the proceeds of the Bonds is approved.

SECTION 6. PRIOR ACTS. The prior acts of the City, the City Council, its officers, or employees, relating to this resolution in furtherance of the purposes and provisions set forth herein are hereby authorized, ratified and confirmed.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Apopka, Florida on the 1st day of February, 2017.

THE CITY OF APOPKA, FLORIDA

(SEAL)

By: _____
Joseph E. Kilsheimer, Mayor

ATTEST:

Linda F. Goff, City Clerk

Approved as to Form:

Clifford Shepard, City Attorney