America's Seaplane City™

AGENDA
TAVARES CITY COUNCIL

February 3, 2016
4:00 P.M.
TAVARES CITY HALL COUNCIL CHAMBERS

(Members of the public wishing to speak on an item that is on the agenda must fill out a Request to Speak from available from the City Clerk or at the Council Meeting prior to the meeting being called to order. In addition, the Mayor will ask for comment under the agendized item titled "Audience to be Heard" for matters not on the Agenda. For further information contact the City Clerk at (352) 742-6209 or nbarnett@tavares.org)

I. INVOCATION

Pastor Rick Fountain, First Baptist Church of Tavares

II. CALL TO ORDER — **Mayor Wolfe**

III. APPROVAL OF AGENDA — **Mayor Wolfe**

IV. APPROVAL OF MINUTES

Tab 1) Approval of Minutes for January 20, 2016 — **Mayor Wolfe**

V.PROCLAMATIONS/PRESENTATIONS

VI. SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX-PARTE CONTACTS

VII. READING OF ALL ORDINANCES/RESOLUTIONS INTO THE RECORD — **Nancy Barnett**

VIII. CONSENT AGENDA

Tab 2) Authorize City Attorney to Make Offer on Sparks Property — **Richard Keith**

Tab 3) Award of RFP for Debt Financing for FY 2016 Budgeted Capital Items — **Lori Houghton**

IX. ORDINANCES/RESOLUTIONS – PUBLIC HEARING

(All Ordinances under First Reading are not discussed, unless otherwise noted, until the Second Reading)

First Reading

Tab 4) Ordinance #2016-03 – Rezoning of 10.95 Acres between Disston & Dora Avenue, South of Lake Dora – Residential to Mixed Use	**Jacques Skutt**
Tab 5) Ordinance #2016-05 – Annexation & Rezoning to Highway Commercial – 1.77 Acres – 29774 & 29814 State Road 19 (East Side of SR 19)	**Jacques Skutt**
Tab 6) Ordinance #2016-06 – Small Scale Future Land Use Amendment to City Commercial – 1.77 Acres – 29774 & 29814 State Road 19 (East Side of SR 19)	**Jacques Skutt**

Second Reading

Tab 7) Ordinance #2016-01 – Annexation & Rezoning of Vacant Property – 9.9672 Acres, South of Woodlea, West of SR 19 – For Public School	**Jacques Skutt**
Tab 8) Ordinance #2016-02 – Small Scale Future Land Use Amendment – 9.9672 Acres, South of Woodlea, West of SR 19 – For Public School	**Jacques Skutt**

ADOPTION HEARING

Tab 9) Ordinance #2015-21 – Adoption of Amendment to Comprehensive Plan – Chapter 6 – Intergovernmental Element to Incorporate the ISBA	**Jacques Skutt**

RESOLUTIONS

Tab 10) Resolution #2016-01 – Special Use Permit for Public Elementary School – South of Woodlea, West of SR 19 – Paul Bryant Property	**Jacques Skutt**
Tab 11) Resolution #2016-03 – Authorization to Reimburse For Costs Associated with Constructing the Public Safety Complex	**Lori Houghton**

Tab 12) Resolution #2016-04 – Mass Mutual/Hartford 401 Retirement Plan Restatement — **Lori Houghton**

X. GENERAL GOVERNMENT

Tab 13) Request from Rotary Club for Change in Use of City Funds For Dragonboat Event from Fireworks to Event Operations — **Lori Houghton**

Tab 14) Tavares Square Improvements — **Bob Tweedie**

Tab 15) Authorization to Issue Notice to Proceed to Gator Sktch For Phase III of Public Safety Project – Design & Engineerig — **Richard Keith**

XI. OLD BUSINESS

XII. NEW BUSINESS

XIII. AUDIENCE TO BE HEARD

XIV. REPORTS

Tab 16) City Administrator — **John Drury**

Tab 17) Council Reports — **City Councilmembers**

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.

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 (352) 253-4546.

The Language of Local Government
Definition of Terms

agenda – A list of items to be brought up at a meeting.

annexation – The process by which a municipality, upon meeting certain requirements, expands its corporated limits.

bid – Formal quotation, based on common specifications, for the provision of goods or services. Opened at public for meeting consideration and award.

budget – A comprehensive financial plan to sustain municipal operations during a given year with related explanation

buffer – A strip of land, vegetation and/or opaque wall that sufficiently minimizes the physical or visual intrusion generated by an existing or future use.

call for the question – Term used to end the discussion and vote on the motion.

capital outlay – Expenditures made to acquire fixed assets or additions to them usually made from the general fund or utility fund where the assets are to be used.

conflict of interest – A term used in connection with a public official's relationship to matters of private interest or personal gain and which prohibits participation in the discussion under decision.

consent agenda – A policy of the governing body to approve, in one motion, routine and/or non-controversial items, which can be determined prior to the meeting

contiguous – Sharing a common boundary.

contingency – An appropriation of funds to handle unexpected events and emergencies which occur during the course of the fiscal year.

DCA – Department of Community Affairs

density – The number of families, individuals, dwellings units, or housing structures per unit of land.

development – A physical change, exclusive of new construction and substantial improvement, to improved or unimproved real estate, including, but not limited to mining, dredging, filling, grading, paving, excavating or drilling operations.

easement – An interest in land owned by another that entitles its holder to a specific limited use or enjoyment

emergency measure – An ordinance recognized by the legislative body as requiring immediate passage.

FDOT – Florida Department of Transportation

general fund – The general operating fund of the municipality used to account for all financial resources except those required to be accounted for in a special fund.

impact fees – Set aside fees collected from developers to pay for infrastructure improvements. Monies used as new development further impacts the municipalities.

infrastructure – The facilities and systems shared or used by all citizens such as transportation, water supply, wastewater and solid waste disposal systems.

intergovernmental agreements – Contract between two or more public agencies for the joint exercise of powers common to the agencies.

intergovernmental revenues – Revenues from other governments in the form of grants, entitlements, shared revenues, or payments in lieu of taxes.

line item – A specific item or group of similar items defined by detail in a unique account in the financial records. Revenue, expenditure and justifications are reviewed, anticipated and appropriated at this level.

non-conforming – A use which does not comply with present zoning conditions but which existed lawfully and was created in good faith prior to the enactment of the zoning provisions.

ordinance – An enforceable municipal law, statute or regulation which applies to all citizens within that municipality; penalty provisions may apply.

public hearing – Provides citizens the opportunity to express their position on a specific issue, both pro and con, as mandated by either statute or by order of proper authority after due notice.

PUD – Planned Unit Development

quasi-judicial – A governmental body that hears sworn testimony, obtains evidence and provides for cross examination of witnesses, with the decision based solely on the evidence presented.

quorum – The prescribed number of members of any body that must be present to legally transact business.

request for proposals – RFP – Notice and related information from a municipality requesting proposals for professional services.

resolution – A decision, opinion, policy or directive of a municipality expressed in a formally drafted document and voted upon.

right-of-way – Strip of land owned by a government agency over which the public has right of passage such as streets, parkways, medians, side walks, easements and driveways constructed thereon.

Sunshine Law – Legislation providing that all meetings of public bodies shall be open to the public (a/k/a open public meeting law).

vacate – To annul; to set aside; to cancel or rescind.

variance – Modification from the provisions of a zoning ordinance granted by a legislative body upon submission of an application and a hearing.

MINUTES
TAVARES CITY COUNCIL

January 20, 2016
4:00 P.M.
TAVARES CITY HALL COUNCIL CHAMBERS

COUNCILMEMBERS PRESENT | **ABSENT**

Robert Wolfe, Mayor
Lori Pfister, Vice Mayor
Bob Grenier, Councilmember
Lisa Johnson, Councilmember
Kirby Smith, Councilmember

STAFF PRESENT

John Drury, City Administrator
Robert Q. Williams, City Attorney
Nancy A. Barnett, City Clerk
Bob Tweedie, Economic Development Director
Brad Hayes, Utility Director
Lori Houghton, Finance Director
Lori Tucker, Human Resources Director
Tammey Rogers, Community Services Director
Richard Keith, Fire Department
Jacques Skutt, Director of Community Development
Stoney Lubins, Police Chief

I. INVOCATION — **Pastor Sandy Gamble, Church of God of Prophecy**

Pastor Sandy Gamble gave the invocation and led those present in the Pledge of Allegiance.

II. CALL TO ORDER — **Mayor Wolfe**

III. APPROVAL OF AGENDA — **Mayor Wolfe**

Mayor Wolfe asked if staff had changes to the agenda. Mayor Wolfe suggested moving Tab 12 to Tab 7A, in order to present together.

MOTION

Bob Grenier moved to approve the agenda with the change submitted, seconded by Kirby Smith. The motion carried unanimously 5-0.

IV. APPROVAL OF MINUTES

Tab 1) Approval of Minutes for December 2 & December 16, 2015 — **Mayor Wolfe**

MOTION

Kirby Smith moved to approve the minutes of December 2 and 15, 2015, seconded by Bob Grenier. The motion carried unanimously 5-0.

V.PROCLAMATIONS/PRESENTATIONS

Tab 2) Presentation to Michael Welch for Eagle Scout Service Project at the Tavares Nature Park — **Mayor Wolfe**

Mayor Wolfe presented a Certificate of Commendation to Michael Welch for the nature signs he developed and constructed for the Tavares Nature Park as part of his Eagle Scout project requirements.

VI. SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX-PARTE CONTACTS

None.

VII. READING OF ALL ORDINANCES/RESOLUTIONS INTO THE RECORD — Nancy Barnett

Ms. Barnett read the following ordinances and resolution by title only:

ORDINANCE 2016-01

AN ORDINANCE OF THE CITY OF TAVARES AMENDING THE BOUNDARIES OF THE CITY BY ANNEXING APPROXIMATELY 9.97 ACRES LOCATED ON THE SOUTH SIDE OF WOODLEA ROAD AND MORE ACCURATELY DESCRIBIED WITHIN THIS ORDINANCE; REZONING SAID PROPERTY FROM LAKE COUNTY AGRICULTURE DISTRICT (A) TO CITY OF TAVARES PUBLIC FACILITIES DISTRICT (PFD); SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2016-02

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, AMENDING THE TAVARES COMPREHENSIVE PLAN FUTURE LAND USE MAP 2020, PROVIDING FOR A CHANGE OF FUTURE LAND USE DESIGNATION ON APPROXIMATELY 9.97 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF WOODLEA ROAD AND MORE ACCURATELY DESCRIBED IN THIS ORDINANCE; FROM LAKE COUNTY URBAN LOW TO CITY OF TAVARES PUBLIC FACILITY / INSTITUTIONAL (PUB); PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2015-25

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 23, DIVISION 3, SECTION 23-14, IMPACT FEE WAIVERS BY RETITLING THE SECTION AS "IMPACT FEE WAIVERS AND DEFERRALS", BY DEFINING A "LARGE MULTI-FAMILY DEVELOPMENT", BY PROVIDING FOR A PARTIAL DEFERRAL OF PAYMENT OF IMPACT FEES FOR LARGE MULTI-FAMILY DEVELOPMENTS AS AN ECONOMIC INCENTIVE, BY PROVIDING FOR TERMS AND CONDITIONS FOR THIS DEFERRAL, BY PROVIDING APPROPRIATE SECTION RENUMBERING AND CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

RESOLUTION 2016-02

A RESOLUTION OF CITY OF TAVARES, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION FOR CONSTRUCTION RELATED ACTIVITIES FOR THE STORMWATER IMPROVEMENTS IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA (CRA); AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

VIII. CONSENT AGENDA

Tab 3) Application for Justice Assistant Grant for Special Equipment — **Stoney Lubins**

Mayor Wolfe asked if anyone in the audience wished to oppose this item.

MOTION

Lori Pfister moved to approve the Consent Agenda [Application for Justice Assistant Grant for Special Equipment}, seconded by Bob Grenier. The motion carried unanimously 5-0.

IX. ORDINANCES/RESOLUTIONS – PUBLIC HEARING

(All Ordinances under First Reading are not discussed, unless otherwise noted, until the Second Reading)

First Reading

Tab 4) Ordinance #2016-01 – Annexation & Rezoning of Vacant Property – 9.9672 Acres, South of Woodlea, West of SR 19 For Public School — **Jacques Skutt**

Tab 5) Ordinance #2016-02 – Small Scale Future Land Use Amendment – 9.9672 Acres, South of Woodlea, West of SR 19 for Public School **Jacques Skutt**

Second Reading

Tab 6) Ordinance #2015-25 – Amendment to Economic Incentives In Land Development Regulations – Deferral of Impact Fees For Large Multi-Family Rental Developments **Bob Tweedie**

Mr. Tweedie reported that this item was previously presented to Council on November 18. At that time Council directed staff to prepare a draft ordinance. This resulted from a request by Cagan Management Group for an impact fee deferral for a large scale multi-family apartment complex off Huffstetler Drive.

The ordinance encompasses a deferral that will be applicable to 100 unit or larger multifamily rental dwellings. It will require building permits to be issued simultaneously to qualify. Up front 50% payment of all impact fees at the time of building permit issuance will be required. The balance of the fees would be payable within a 24 month period. Applicable current federal interest rates will be applied to the balance and the developer would be required to post an irrevocable letter of credit to the city.

Mayor Wolfe invited Brian Cagan to speak. Mr. Cagan thanked Council and staff for their time and assistance in this matter and offered to answer any questions.

MOTION

Kirby Smith moved to approve Ordinance #2015-25, seconded by Bob Grenier. The motion carried unanimously 5-0.

RESOLUTIONS

Tab 7) Resolution #2016-02 – FDEP State Revolving Fund - Stormwater Project Application **Lori Houghton**

Tab 7A) Amendment to FDEP Grant S0568

Ms. Houghton advised the resolution is to apply to FDEP for Point Source Water Pollution Control for State Revolving Loan funds in the amount of $4,831,487 which includes capitalized interest and loan service fees. The estimated interest rate is 1.15%. This is for the Downtown Stormwater project. There ae currently three grants for the project that will offset the cost of the loan. The loan is for the full amount of the project. In addition to the resolution, there is an amendment to the DEP grant S0568 which extends the termination date of the grant.

Councilmember Smith discussed the presentation made by the city's water and sewer fees consultant who had reviewed the funding and noted this has been covered by the water and sewer rates.

MOTION

Lori Pfister moved to approve Resolution #2016-02 authorizing the application and execution of a loan in the amount of $4,831,487 from the State of Florida Department of Environmental Protection Revolving Loan program and to approve the amendment of the DEP Grant S5068 to extend the agreement and to modify the project task timelines as indicated, and to authorize the City Administrator to execute the amended documents. The motion was seconded by Bob Grenier. The motion carried unanimously 5-0.

X. GENERAL GOVERNMENT

Tab 8) Chamber of Commerce Follow Up Discussion & Information **John Drury**

Mr. Drury stated that previously Council had asked for an opportunity to discuss the current funding situation and the $7500 earmarked for the Chamber and some additional information on the difference between Chambers, Welcoming Centers, and Visitors Centers. He said he had provided definitions for those functions and that each one has a different mission. He said the Chamber is planning to open up on the weekends but have indicated that they would like to hire their Executive Director first and once that person is hired, he or she will develop a plan for being open on the weekends and will present that plan to the City Council. Council also asked that the issue be brought back on whether or not the $7500 should continue to be held.

Mr. Drury noted the Chamber President and Board members were present.

Mayor Wolfe spoke in support of releasing the funds. Vice Mayor Pfister and Councilmember Grenier agreed.

Councilmember Smith said he is the Chamber of Commerce liaison. He said the reason the funds were held back was to have them be open on Saturdays for 6 hours a day. He said this is the citizens' money.

Councilmember Johnson asked if it was going to be a Welcoming Center and was the Chamber planning to change their vision.

Chamber President Janet Noack said the Chamber is trying to put together a plan of action in order to move forward and become better partners with the City. She asked the Vice President Davis Talmage to give an update as to the status of the focus group. This group was put together to review resumes and to also discuss the issues of a Welcome Center and a Visitors Center.

Mr. Talmage said the Chamber has a presentation but will provide that a future meeting. He said one question was the vision and mission of the Chamber. He said they are making an effort to laser focus the Chamber in order to take on some other initiatives such as a Visitors Center. He said they are developing a business plan, brand, and image which is to be one and the same with the City; i.e. to promote the City's values, economic development, to partner with large corporations within the City, and to develop a new relationship which could open up possible funding opportunities. He said they are still accepting resumes and then will offer an opportunity to meet the candidates.

Mr. Talmage said the funding is important to assist in recruiting the right kind of candidate and

he requested that Council reconsider providing that now and then possibly look at some alternatives moving forward.

Councilmember Smith asked the Chamber to guarantee that this year the Chamber will be open on Saturdays with a director to support the citizens. Mr. Talmage said the Chamber will be open March 2nd whether or not the director is ready and from that Saturday on it will be open. Councilmember Smith offered his assistance. Vice Mayor Pfister asked if the Chamber also had in its plans a Visitors Center. Mr. Talmage said that is the Chamber's plan but for their first step is to focus on the City and from there to look at taking on another endeavor. Vice Mayor Pfister said although she thinks it is important to be open on Saturdays, after doing her homework she has begun to understand that it is not the responsibility of the Chamber to be a Visitors' Center and in some cities the Chamber is not both but in some cities they do provide the additional responsibility. She said the money was to be given for the Chamber's operations and now the City is asking the Chamber to be a Visitors Center. Councilmember Smith said after hearing Mr. Talmage's presentation he is in agreement with releasing the funds.

MOTION

Lori Pfister moved to release the $7500 to the Chamber immediately, seconded by Bob Grenier. The motion carried unanimously 5-0.

Mr. Talmage requested to be on the agenda at the next Council meeting to give an update. Ms. Noack thanked Council for their approval of the request.

Tab 9) Approval of Library Board Appointments **Mayor Wolfe**

Mayor Wolfe recommended the appointment of Ms. Sheppard to fill the mid-term vacancy until June 2016; reappointment Linda Clutts from 2015-2017; and David Clutts to the MPO Citizens Advisory Committee for another three year term.

Consensus to ratify the Mayor's appointments 5-0.

Tab 10) Library Youth Services Aide Position **Tammy Rogers**

Ms. Rogers said this is a proposal to upgrade the existing part-time Youth Services Specialist to a full time position. In years past there was a full time and part time youth position and over time through attrition, those positions became reduced to a 25 hour per week employee. The current specialist has resigned from the city due to a family move. In addition another full time employee will be retiring in February. The proposal is to upgrade the Youth Service position by using the difference in the long term employee's salary. The Library Budget would contribute the difference of $1,800 to cover additional hours and the benefits.

Vice Mayor Pfister said she is in support of this proposal as she has been happy to see the number of youth in the library recently.

Councilmember Smith he has also observed the youth using the library and he is in support.

MOTION

Kirby Smith moved to approve the plan to make the part-time position, a full-time position, seconded by Bob Grenier. The motion carried unanimously 5-0.

Tab 11) Update on Wooton Park Improvements Project **Bob Tweedie**

Mr. Tweedie stated this is in response to a request by Council at the December 16th meeting. He said the project consists of two components: 1) a base project which is construction of a parking lot and entrance road, boat ramps, open area and some park amenities; and 2) the Tav-Lee Trail extension. Each of these two components are funded by different sources. The base project utilizes city funding through bond funding and some Lake County Tourism Development capital project grant funds and the second component involves FDOT Local Area Program funding.

Mr. Tweedie said that Rick Baldocchi was present from AVCON (the project manager) to address Council. Mr. Baldocchi stated the project was split into two components primarily because of the funding. Through application to the DOT the city was able to get the expansion of the trail, the relocation of the trail, the restrooms and some of the utilities into a Local Agency Project grant. The first project should be ready to go out to bid shortly with the gazebo and fishing pier as bid alternates. The second project, which is primarily the trail and the restroom, will follow on in a separate project funded by DOT which will be available July 1, 2016.

Councilmember Smith asked if once the bid is received and the contractor is accepted what would be the timeline to complete the project. Mr. Baldocchi said the estimate is about 150 days for the first phase and the trail project would be about 120 days with a 30 day lead time for shop drawings on the restroom.

Mayor Wolfe requested that consideration be made of building zip lines in the park noting it would be a unique feature. Councilmember Smith expressed caution regarding the cost implications and possible interference with seaplanes. Vice Mayor Pfister said she would like to receive further information.

Mr. Baldocchi noted the current master plan shows it as being planned for open space but that he would be happy to provide further information. Mr. Drury said staff could look into the value of zip lines. He asked if there was a councilmember who would like to participate on a Horizon Team to review the entertainment value of a zip line in the downtown. Once it has been workshopped with staff, a presentation could come back to Council with costs, both operational and capital, and the return on the economic impact.

Mayor Wolfe volunteered to participate on the Horizon Team.

Mr. Drury summarized the update by stating that within the next three months, Council should receive the award of the contract for approval.

Tab 12) Amendment to FDEP Grant SO568 to Extend Grant Period for Stormwater Improvements (moved to Tab 7A) **Lori Houghton**

Tab 13) Tavares Square – "Step into the Limelight"- Public Art Project **Tammy Rogers**

Ms. Rogers said while doing research into public art projects she had come upon the "Limelight Project" which is a spot light trained on the ground somewhere in the downtown to encourage passersby to perform in the spotlight. Staff is requesting support for this project. Ms. Rogers said there are only 13 other cities in the world who have a Limelight project and Tavares would be the 14th. Staff have identified a location and power source which is across the street on the new Tavares Square property project.

Mr. Drury said he believed this would further the Entertainment District.

Vice Mayor Pfister spoke in support. Councilmember Smith spoke in support noting it should not be an expensive venture and he would want to see an explanation of the project at the site. He said if it is successful it could be moved to another location when the Tavares Square is constructed.

MOTION

Lori Pfister moved to support the project [fiscal impact $3000.00 from TIF and $500 from art show budget], seconded Bob Grenier. The motion carried unanimously 5-0.

Tab 14) Update on Annual Community Black Tie Gala **Tammy Rogers**

Ms. Rogers showed the invitation to the Black Tie Gala which is on a Beatles music CD, the theme music for the event. She listed some of the menu items: "Let it Be Sliders"; "Strawberry Fields Shortcake", etc.

Ms. Rogers said she had received a call from a lady in Brevard County who had attended a city event and subsequently contacted her to buy two tickets for the Gala event.

XI. OLD BUSINESS

XII. NEW BUSINESS

Councilmember Johnson requested Council support to agendize a vote for the removal of Councilmember Robert Wolfe as mayor. She said she has brought this up because of recent publicity about Mr. Wolfe's personal situation which she felt was adverse publicity for the City. She said it is not meant to be personal but she is concerned and believes that the citizens need reassurance of the City's core values.

Discussion followed. No action was taken.

XIII. AUDIENCE TO BE HEARD
Betty Burleigh, 214 N. New Hampshire

Ms. Burleigh stated in 1957 in the Tavares Citizen the headlines read "Tavares Ranks 5th." The article stated:

"Tavares ranks 5th among the towns in Lake County in growth and development. Tavares had $895,000 worth of new buildings repairs and remodeling reported by Ken Sears, President of the Tavares Chamber of Commerce and Realtors CB Treadway and Herman Dykes. Groves

and farmland sales totaled $1,400,000; other real estate transactions were $921,000 for a total of $2,321,000. CL Lanier project adjoining Banning Beach, one of the next important developments in the area involves $1,000,000."

Councilmember Smith stated that $950,000 in 1957 would be worth $7,485,277 today.

Vance Joachim
Ms. Joachim said he wanted to provide an update on Three Palms Mobile Home Park that Council approved for land use and zoning changes in December. He said he met with 15 of the residents. He discussed investigation files that he said exist regarding the owner.

Mr. Joachim discussed the owner, the state relocation program, and that he would be proposing a number of changes for mobile home parks to the legislature. He advised that the City should research the background of any future applicants.

Mayor Wolfe thanked Mr. Joachim for the information.

XIV. REPORTS

Tab 15) City Administrator **John Drury**

Mr. Drury noted Babe Ruth softball registration will be starting and the Senior Shakedown is going strong. In addition the Father-Daughter Dance will be held at the pavilion. He reminded Council of the MPO annual dinner on January 27th.

Utilities Director

Mr. Hayes said a pre-bid was held yesterday on the stormwater project; seven large contracting companies sent representatives. The goal is to recommend an aware of bid at the second meeting in March.

Community Services Director

Ms. Rogers thanked Council for their support. She said there will be a kick off for the African American Heritage Festival on February 5th starting at 6:00 p.m. with a gospel choir performing from 6 to 7:00 and from 7:00 to 8:30 there will be a local jazz band.

City Attorney - Attorney Williams spoke in support of the Limelight project.

Tab 16) Council Reports **City Councilmembers**

Vice Mayor Pfister

Vice Mayor Pfister expressed her support of the Senior Shakedown and invited others to attend. She noted the Tavares resident Jack King had passed away recently. She said he was a wonderful gentleman and a good Tavarean.

Councilmember Grenier

- Noted that Robert E. Lee's birthday was February 1st

- Commended the department who pressure washed the cemetery walls (Perry Ragan, Parks Department)
- Noted he had been invited on January 7th to the Polk County History Center as they were doing an exhibit opening for Spessard L. Holland, the Governor of Florida [1941-1945]. He spoke about meeting Governor Holland's daughter who told him she has heard about the events in Tavares.
- He said there is a bill going to the State to ban the Confederate flag from public spaces. He said he did not think the bill would go anywhere but two of the events listed in a sample letter to be sent to the legislature were the Battle of Olustee and Rifles, Rails and History and that if the bill were passed it would impact both events.
- Noted that former Library Director Beth Sindler passed away today.
- Spoke in favor of the public safety building project

Councilmember Smith

- Councilmember Smith stated Jack King and his father were friends for a long time, and that Jack King was a member of the Highway Patrol and was a pilot. He said Jack King was a Tavares fixture and everyone knows the King building. He offered his condolences to the family.
- Stated on this day in 1945 Franklin D. Roosevelt was sworn in to office as the President for the 4th time (the last time presidents could serve more than two terms)
- Stated today is National Cheese Lovers Day

Mayor Wolfe

- Mayor Wolfe stated that Jack King was a good man. He graduated from Tavares High School in 1945 and was a member of the football team that year that went undefeated and unscored upon. He said Mr. King had told him a story about having an 8 ft. alligator come into the machine shop that he pushed out with a broom. He said Mr. King will be missed.
- Babe Ruth: He said two years ago he had noticed that a lot of teams were without sponsors and he had been asked if he would sponsor a team with his business which he did. He challenged any of the business owners present to sponsor a team.

Scott Aldrich stated that the sponsorships are sent out in the spring to 30 businesses and that they will increase the mailings. He said the goal is to get every team sponsored. The cost of a sponsorship is $325.00. He said the city could use the support of the Chamber in getting the letters out to the businesses.

ADJOURNMENT

There was no further business and the meeting was adjourned at 5:22 p.m.

Respectfully submitted,

Nancy A Barnett

Nancy A. Barnett
City Clerk

AGENDA SUMMARY
TAVARES CITY COUNCIL
DATE OF MEETING: February 3, 2016

AGENDA TAB NO. 2

SUBJECT TITLE: Request to Authorize City Attorney Robert Williams to Negotiate Land Purchase of Sparks Property.

OBJECTIVE:

The objective of this agenda item is to present City Council with an opportunity to authorize City Attorney Williams to negotiate with Mr. Jesse Sparks for purchase of a parcel of land he owns. The purchase of this property will be in conjunction with the proposed City of Tavares Public Safety Facility.

SUMMARY:

For several years, the Horizon Project Team for the Public Safety Facility, and Staff, have been working to develop this new "Gateway" feature for the City. This public safety facility will include a City of Tavares Emergency Operations Center (E.O.C.), a Police Station, and a replacement Fire Station.

A parcel of land was acquired from Lake County School Board and identified by City Council as the "Gateway" site for the proposed Public Safety Facility. Immediately adjacent to the Gateway site is a small parcel of land that is owned by Mr. Jesse Sparks of Winter Park, Florida. The Sparks property contains a small, vacant building that includes a portion of a Quonset hut structure. This property has been many things over the years, but the facility has been most recently an automotive repair shop. The structure has been vacant for more than a year.

In the spring of 2015, Mr. Sparks contacted City Attorney Williams and indicated a willingness to negotiate for the sale of his property to the City. The City and Mr. Sparks each had an appraisal report generated. The City Appraisal report (by Walter B. Price), dated June 3, 2015, gave the Sparks property a current market value of $75,000. The appraisal report (by Robert D. Poynter) provided by Mr. Sparks for the same property, dated September 29, 2014, gave the Sparks property a market value of $185,000.

Given the wide differential between the two appraised values, the City entered into an agreement with a third-party appraiser (Richard K. MacMillan) for a Review Appraiser's Report (copy attached).

The Review Appraiser's Report (dated December 21, 2015), gave a recommended compensation fee review of $136,800.

This agenda item is seeking City Council authorization for City Attorney Williams to negotiate with the property owner for a purchase of his property at a price up to $136,800.00, and identify a funding source for that amount.

OPTIONS

Option 1:
City Council may move to authorize City Attorney Williams to negotiate with Mr. Jesse Sparks for the purchase of his Quonset hut property for up to $136,800.00, with the funds generated as detailed in the Fiscal Impact section of this agenda summary.

Option 2:
City Council may take no action and provide Staff with alternate direction.

Option 3:
City Council may move to reject the Review Appraiser's Report and provide Staff with alternate direction.

Staff Recommendation:
Staff recommends that City Council move (Option 1) to authorize City Attorney Williams to negotiate with Mr. Jesse Sparks for the purchase of his Quonset hut property for up to $136,800.00, with the funds generated as detailed in the Fiscal Impact section of this agenda summary.

FISCAL IMPACT:

Staff is currently preparing an RFP for an Infrastructure Revenue Bond for the Public Safety Complex financing. The Infrastructure Sales Tax renewal was approved by Referendum on November 6, 2015. Bond Council has prepared a reimbursement resolution (see Tab 11) to allow for reimbursement of funds from debt proceeds to the City for funds expended prior to the debt issuance. Staff will be requesting authorization for RFP for the debt issuance within the next few months.

LEGAL SUFFICIENCY:

City Attorney Robert Q. Williams has reviewed the issue for legal sufficiency.

REVIEW APPRAISER'S REPORT

Location	Description	Project	County	Client
SEC of W. Alfred St. and W. Ianthe St. Tavares, FL	J.F. Sparks, Sr.	Tavares Public Safety Facility	Lake	City of Tavares

Part A.

I certify that, to the best of my knowledge and belief:

- The facts and data reported by the reviewer and used in the review process are true and correct.
- The analyses, opinions, and conclusions in this review report are limited to only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions and conclusions. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- I have no present or prospective interest or bias in the property that is the subject of this report, and no personal interest or bias with respect to the parties involved.
- My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review or from its use. My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have not performed any appraisal services regarding the property that is the subject of the work under review within the previous three years.
- I or my associate inspected the subject property and comparable sales used for direct comparison in the reports under review.
- Value estimates of items compensable under state law have been clearly identified below, as appropriate. The appraiser's value estimate and my recommended compensation are as stated.
- The appraisal review was made in conformity with the Uniform Standards of Professional Appraisal Standards.
- Jamee S. Barfield, State Certified General Real Estate Appraiser #RZ2264, provided significant appraisal review assistance to the person signing this certification.

PURPOSE*	City of Tavares/ Negotiation	Owner's Appraisal/Market Value		
APPRAISER	Walter B. Price, Sr., MAI, SRA, CFP	Robert D. Poynter, GAA		
DATE OF REPORT	June 11, 2015	September 29, 2014		
TYPE OF APPRAISAL	Appraisal Report	Appraisal Report		
DATE OF VALUE	June 3, 2015	September 23, 2014		
AREA OF TAKE Whole Acquisition	5,000 SF	7,000 SF		
APPRAISAL TOTAL	$75,000	$185,000		
LAND USE**	Public Facility Use	Commercial/Light Industrial Use		
REVIEWER	Richard K. MacMillan, MAI	Richard K. MacMillan, MAI		

*Purpose: Negotiation, Order of Taking, Date of Deposit, Surplus.

**Land Use: Identify the highest and best use as reported by the appraiser.

RECOMMENDED COMPENSATION (fee review): $136,800

Reviewer Signature:	Date: 12/21/2015
Reviewer Name: Richard K. MacMillan, MAI; State Certified General Real Estate Appraiser # RZ353	
Comments:	
City of Tavares Concurrence: Date:	

Part B. Reviewer's Statement of reasoning in conformance with current Standards:

I. INTRODUCTION

The client for the Review Appraiser's Report (RAR) is the City of Tavares. The intended use is for negotiation purposes by the City of Tavares. The intended users are various City of Tavares employees that require the RAR to insure that the appraisal reports that are the subject of this review, comply with State Guidelines. The purpose of this RAR is to report a credible opinion as to the quality of the appraiser's work and compliance with USPAP and State Guidelines.

The appraisal reports that are the subject of this appraisal review are prepared utilizing an appraisal format, providing an opinion of value for the subject property. The real property interest being appraised is fee simple value of the 5,000 square foot site and improvements.

Appraiser Walter B. Price, Sr., MAI, SRA, CFP, prepared his appraisal for the City of Tavares on June 11, 2015, with an effective date of value of June 3, 2015. This appraisal will be referred to as the "Price" Appraisal. Appraiser Robert D. Poynter, GAA, prepared his appraisal for the property owner on September 29, 2014, with an effective date of value of September 23, 2014. This appraisal will be referred to as the "Poynter" Appraisal. The primary differences between the two reports will be discussed for the purposes of this review. The effective date of the appraisal review and the review appraisal report is December 21, 2015.

NATURE, EXTENT AND DETAIL OF REVIEW UNDERTAKEN

A technical review of the appraisal reports was conducted. The scope of this review included an initial desk review to insure conformance with USPAP and FDOT appraisal standards. The reports were also checked for mathematical accuracy and completeness. A field inspection of the subject property and comparable sales was conducted by Richard MacMillan, MAI, State Certified General Real Estate Appraiser #RZ353. The factual data presented in the report was confirmed with public record data available. Jamee S. Barfield, State Certified General Real Estate Appraiser #RZ2264, has provided assistance in the appraisal review.

II. SYNOPSIS OF APPRAISAL DATA

Property Type:	Commercial/Industrial
Existing Use:	Automotive Repair Shop
Zoning:	PFD, Public Facilities District, Tavares
Future Land Use:	PUB, Public
Highest and Best Use "As Vacant":	Public Use Development

III. COMPLETENESS OF REPORT IN LIGHT OF REQUIREMENTS

Appraisers Price and Poynter have prepared thorough appraisal reports which meet Uniform Standards of Professional Appraisal Practice (USPAP).

IV. ADEQUACY AND RELEVANCE OF THE DATA AND PROPRIETY OF ANY ADJUSTMENTS TO THE DATA

Both appraisal reports provided adequate information concerning taxes, assessments, local and area discussion. The two appraisals have varying land areas. The Price appraisal states the land area as having 5,000 square feet with the Poynter appraisal stating the land area as 7,000 square feet. The Price appraisal states that the subject is encumbered by a 100 foot right of way for Alfred Road (DB 192/464) and estimates an unencumbered a land area of 5,000 square feet. The reviewer has reviewed the referenced deed which describes a 100 foot easement that was recorded in 1940 as part of improvements to what is now referred to as Alfred Road. As of the date of this report, this easement area is not used for road improvement purposes and has been continuously utilized by the property owner for on-site parking and additional ancillary uses.

The reviewer has contacted the Florida Department of Transportation, Lake County and City of Tavares officials in order to determine if the underlying fee owner, Mr. Sparks, or the condemning authority would have rights to the 100 foot easement area that encumbers approximately 2,000 square feet along the east right of way of Alfred Street. According to officials with the State and Lake County, the easement area was transferred from the State to Lake County in 1989. Further, the Lake County attorney's office has stated that their opinion is that the current owner, Mr. Sparks, does not have unencumbered fee simple ownership of the easement area and that the County has the right to add improvements to the area as needed. Supporting data from the County Attorney's office is attached for reference to this Review Appraiser Report. Based on the legal opinion from the County Attorney's office, the easement area is considered to be Right of Way and could be utilized in a variety of capacities by the County. Therefore, this review will consider the subject as a 5,000 square foot site without the benefit of the 100 foot easement area.

The highest and best use of the site, both as vacant and as improved, vary slightly between the two appraisals. The Price appraisal states the highest and best use as vacant is for assemblage with the adjacent property and as improved for an interim use of the current improvements. There is no further discussion or support for the estimated interim time frame of the improvements. The highest and best use for the subject stated in the Poynter appraisal is for commercial-auto related uses as vacant and its continued use as an automotive service building as improved.

As previously mentioned, the Poynter appraisal states the subject has 7,000 square feet of land area. Based on the legal opinion from Lake County, the site is considered to have 5,000 square feet of land area which would limit the utility and marketability of the subject property. Therefore, the value of the subject stated in the Poynter appraisal is not considered to be reliable.

The Price appraisal states the site has 5,000 square feet of land area and further recognizes that the site has limited parking in the Sales Comparison Approach. Four, striped parking spaces are located within the 100 foot easement area. An additional seven striped spaces area located along the north part of the building and are all partially located within the existing right of way for West Ianthe Street. The Price appraisal does appear to adequately address the limited parking available for the subject improvements located on the 5,000 square foot subject site in the appraisal. The Price appraisal also makes adjustments for Age/Condition with no supporting discussion or documentation.

V. APPRAISAL METHODS AND TECHNIQUES USED

The Sales Comparison and Income Approaches to value were utilized in the Price appraisal. Only the Sales Comparison Approach was utilized in the Poynter appraiser. Given the age of the subject and the substantial depreciation present, the Cost Approach was not considered a reliable approach to valuation of the subject. The Sales Comparison Approach is considered appropriate for the subject.

This review will discuss the valuations used in the Price appraisal first. The Sales Comparison Approach utilized three sales with varying sales prices and land to building ratios. The valuation was based on a whole-to-whole comparison which is not typical utilized in valuing commercial property. Typically a price per square foot unit indicator would be utilized to value the subject commercial property. The Price appraisal also considers the subject to have a land area of 5,000 square feet and recognizes that site as having limited parking available and is inferior to the three sales in age and condition. Mr. Price provides no discussion or supporting data for these adjustments and consistency could not be determined. The Income approach discussed in the Price appraisal is not well supported and does not provide any rental data. Appraiser Price states that the rental range for similar properties is between $6 to $12 per square foot. There is no reference to any rental data supporting these rates. The analysis provided in the Price appraisal is not considered reliable due to the limited amount of data provided in the report. Therefore the Income Approach is not deemed appropriate due to the paucity of data.

The Poynter appraisal utilized three sales and analyzed the subject based on a 7,000 square foot land area with adequate parking available. This appraisal does not discuss or considered the 100 foot wide easement not owned in fee by Mr. Sparks nor does it consider that the existing parking located within the existing right of way for W. Ianthe Street and within the easement area. The analysis provided in the Poynter appraisal is not considered valid as it does not recognize the encumbered land area and limited parking for the subject.

VI. ANALYSIS, OPINIONS AND CONCLUSIONS

In order to determine a value for the subject site, this appraiser has reviewed the sales utilized in both reports and has also researched current sales of properties considered most similar to the subject within the Lake County area. The appraiser has located three sales that are considered most comparable to the subject and will be discussed in the following paragraphs. A market data grid and discussion of adjustments, if any, will also be provided.

<u>Sale 4513/1002</u> is located along the south side of W. Lemon Street, about 100 feet east of U.S. Highway 27/441 within the city limits of Lady Lake, Florida and is addressed as 124 W. Lemon Street. This sale was also utilized in the Price appraisal. On August 1, 2014, Randall S. Trett, Terri Farler and Cheryl Jenkins sold this site to Sharon S. Braden for a recorded purchase price of $120,000. According to the Lake County Property Appraiser Records, the site contained 9,066 square feet of land area. The site was improved with a mobile home, used as an office, and warehouse/automotive area for a combined building area of 1,708 square feet. The appraiser verified with the broker that the improvements were considered to be in poor condition at the date of sale

with limited on-site parking available. The grantee also paid the 6% commission, or $7,200, and closing costs. The site has a land to building ratio of 5.31:1 and an unadjusted unit indicator of $70.26 per square foot of building area.

Sale 4490/2366 is located along the east side of N. Dixie Avneue, about 100 feet north of E. Fountain Street within the city limits of Fruitland Park, Florida and is addressed as 203 N. Dixie Avenue. On June 10, 2014, Thomas E. Bailey and Jamie D. Tinkham sold this site to Egner Exterior Cleaning, Inc. for a recorded purchase price of $185,000. According to the Lake County Property Appraiser Records, the site has a combined land area of 10,313 square feet of land area. The site was improved with a 3,200 square foot building with warehouse and office areas and adequate on-site, paved parking. The appraiser verified with the broker that the improvements were in good condition at the date of sale. The site has a land to building ratio of 3.22:1 and an unadjusted unit indicator of $57.82 per square foot of building area.

Sale 4433/447 is located at the southeast corner of N. Highland Street and E. 3rd Avenue within the city limits of Mount Dora, Florida and is address as 222 N. Highland Street. On January 24, 2014, Wheel Estate, LLC sold this site to John A. Henns and Christine T. Henns for a recorded purchase price of $168,000. According to the Lake County Property Appraiser Records, the site has a land area of 5,016 square feet. The site was improved with a 2,406 square foot building utilized for automotive repairs and no on-site parking. The appraiser verified with the broker that the improvements were considered to be in poor condition at the date of date. The site has a land to building ratio of 2.08:1 and an unadjusted unit indicator of $69.83 per square foot of building area.

The sales are compared to the subject on the following market data grid.

	SUBJECT	Sale 4513/1002	Sale 4490/2366	Sale 4433/447
Grantor/Grantee		Trett;Farler;Jenkins/ Braden	Bailey;Tinkham/ Egner Exterior Cleaning	Wheel Estate/ Henns
Property Rights		Fee Simple	Fee Simple	Fee Simple
Sales Price SP/SF		$120,000 $70.26/SF	$185,000 $57.82	$168,000 $69.83
Financing Terms		Cash to Seller	Cash to Seller	Cash to Seller
Adjustment		-0-	-0-	-0-
Conditions of Sale	Normal/Mkt	6% commission pd by grantee	Normal/Mkt	Normal/Mkt
Adjustment		+$7,200	-0-	-0-
Date of Sale		August 1, 2014	June 10, 2014	January 24, 2014
Adjustment		-0-	-0-	-0-
Adjusted Sales Price/SF		$127,200 $74.47	$185,000 $57.82	$168,000 $69.83
Location	SEC of W. Alfred St. & W. Ianthe St.; Tavares	S/S Lemon Street; Lady Lake	E/S N. Dixie Ave.; Fruitland Park	SEC N. Higland St. & E. 3rd Ave; Mount Dora
Adjustment		-0-	-0-	-0-
Land Size	5,000 SF	9,066 SF	10,313 SF	5,016 SF
Adjustment		-0-	-0-	-0-
Bldg. Size	1,882 SF (P.A.)	1,708 SF	3,200 SF	2,406 SF
Adjustment		-0-	+15%	-0-
LBR Ratio	2.65:1	5.31:1	3.22:1	2.08:1
Adjustment		-0-	-0-	-0-
Highest & Best Use	Existing Commercial Use	Similar	Similar	Similar
Adjustment		-0-	-0-	-0-
Condition	Average	Poor	Good	Poor
Adjustment		+10%	-10%	+10%
Parking Amenities	Limited	Limited	Typical	Limited
Adjustment		-0-	-10%	-0-
Net Adj.		+10%	-5%	+10%
Adj. Sale Price/SF		$81.92/SF	$54.93	$76.81

Sale 4513/1002 was adjusted by $7,200 for Conditions of Sale since it was verified that the grantee paid the real estate commission which is typically paid by the grantor. This sale was also adjusted upward by 10% for its inferior condition when compared to the subject. The adjusted unit price of Sale 4513/1002 is $81.92 per square foot of building area.

Sale 4490/2366 was adjusted upward by 15% for its larger building area since smaller building typically seller for a higher unit price. This sale was adjusted downward for its superior condition and parking amenities when compared to the subject. The adjusted unit price of Sale 4490/2366 is $54.93 per square foot of building area.

Sale 4433/447 was adjusted upward by 10% for its inferior condition when compared to the subject. The adjusted unit price of Sale 4433/447 is $79.83 per square foot of building area.

All three sales are considered to be reliable indicators of value for the subject. It is the appraiser's opinion that the subject would have a unit value of $75 per square foot of building area, or $136,800 for the subject property, based upon the reported building size of 1,824 square feet, per the Lake County Property Appraiser.

SUPPLEMENT TO CERTIFICATE

The reported analysis, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of the Professional Appraisal Practice of the Appraisal Institute.

The use of this report is subject to the requirement of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, I, Richard K. MacMillan, MAI have completed the continuing education program of the Appraisal Institute.

ASSUMPTIONS AND LIMITING CONDITIONS:

1. This is a Review Appraiser's Report, which is intended to comply with the reporting requirements of the Uniform Standards of Professional Appraisal Practice. As such, it does not include detailed discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.

2. No responsibility is assumed for legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated in this report.

3. The property is appraised free and clear of any or all liens and encumbrances unless otherwise stated in this report.

4. Responsible ownership and competent property management are assumed unless otherwise stated in this report.

5. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.

6. All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.

7. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.

8. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless otherwise stated in this report.

9. It is assumed that all required licenses, certificates of occupancy, or other legislative or administrative authority from any local, state, or national governmental, or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.

10. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.

11. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report.

12. The appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. The appraiser's descriptions and resulting comments are the result of the routine observations made during the appraisal process.

13. Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.

14. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event, only with proper written qualification and only in its entirety.

15. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news sales, or other media without prior written consent and approval of the appraiser.

16. Extraordinary Assumption – As stated in the report, the subject is encumbered by a 100-foot wide easement for right of way purposes along the west property line. The easement area is currently being utilized by the property owner for parking. The appraiser has consulted the Lake County Attorney's Office in order to determine if the easement area could be utilized by County for road improvement purposes. The County Attorney provided the appraiser with an opinion that since the County is the easement owner, it could be utilized for right of way purposes. Therefore, this easement area is not considered to be owned in fee by the underlying owner, Mr. Sparks. For the purposes of this report, the extraordinary assumption is made that the easement area can be utilized by the County for right of way purposes and would severely limit the utility of the area by the owner. A copy of the opinion provided by the Lake County Attorney's office is attached to the RAR. In addition, this appraisal is based upon the assumption of unencumbered land area of ±5,000 square feet per the Price appraisal and is subject to survey.

MEMORANDUM

TO:	**Melanie Marsh, County Attorney**
FROM:	**Diana Johnson, Assistant County Attorney**
DATE:	**11-13-15**
RE:	**RIGHT OF WAY FOR SPARKS**

You emailed me a copy of a 1940 Right of Way Easement that was given to the State for "public road uses and purposes, forever." The Easement states it was given "[p]rovided, that if said right of way is abandoned for road purposes, all rights thereunder shall revert to parties of the first part, his (their) successors and assigns." You asked me to research what "road purposes" meant in the 1940s. You also clarified that although classified as a ROW, the property has never actually been used for a road.

FSU has archived statutes available online back to 1941. I read through the 1941 Florida Statutes and was unable to find a provision specifically regarding abandonment or clearly defining "road purposes". F.S. 341.56 (1941) does define "road" and "public road" as roadbed, right of way and all culverts, drains, sluices, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the maintenance of travel, dispatch of freight and communication between individuals and communities. F.S. 341.66(1) (1941) references when a road is presumed to be dedicated for public.

I then turned to case law and I agree that the property would be considered a County ROW (rather than an easement never development for ROW). In *Dean v. MOD Properties, Ltd*, 528 So. 2d 432 there was a Road Right of Way Easement executed in 1974 that conveyed land to City "for the full purpose of road right-of-way". The Easement had reverter language in the event the road right-of-way was "abandoned or discontinued." The City never used the ROW. Dean constructed a car dealership on the property and MOD sued for possession of the ROW claiming it reverted back to by virtue of the City's abandonment. Lower court found that City had abandoned the property and the property had reverted to MOD. The 5th DCA reversed finding Dean as the owner of the strip of property. The Court found the reversion language was "overwhelmed" by the interest of the "public right-of-way purposes".

It is likely a Court would make a similar opinion regarding the 1940 Easement.

See also Dickson v. St. Lucie County, 67 So. 2d 662 (1953) and *Feather v. Donaldson*, 481 So. 2d 937 (Fla. DCA 5th 1985), attached.

F.S. 1941

341.65 Renumbering state roads.—

(1) That the state road department be and it is hereby authorized to renumber any or all state roads of the connecting system of state roads, including municipal connecting link roads, and in renumbering such roads, to reduce the total numbers of same as far as practicable and follow a systematic plan of renumbering so that so far as possible roads extending in the general direction of east and west, and roads extending in the general direction of north and south shall be given odd and even numbers respectively, and roads forming parts of the U. S. highway routes shall be given the same state numbers as the U. S. highway numbers; provided that the department shall not renumber any road wherever the department considers that such renumbering would result in misdirecting or confusing traffic.

(2) As soon as practicable, and within the limitation of funds available to it for such purpose the state road department shall erect suitable road signs and markers showing the state highway numbers assigned to each road in the state maintained system.

(3) The renumbering of state roads provided hereunder shall in nowise disturb the preferential status of any road which is renumbered. *(Comp. §§1-3, ch. 20720, 1941).*

341.66 Dedication of certain roads to the public.—

(1) Whenever any road or portion thereof heretofore or hereafter constructed by any of the several counties of this state or by the state road department of Florida, shall have been maintained, kept in repair or worked continuously and uninterruptedly for a period of four years by any such county or by said department, or by either or both, such road shall be deemed to be dedicated to the public to the extent in width which has been actually maintained, kept in repair and worked for the period aforesaid, whether the same has ever been formally established as a public highway or not, and such dedication shall be conclusively presumed to vest in the particular county in which the road is located or situated, if it be a county highway, or in the state road department of Florida, if it be a state road, all right, title, easements and appurtenances therein and thereto to the extent in width that has been maintained, kept in repair and worked for the period of time as aforesaid, whether there be any record of conveyance, dedication or appropriation to the public use or not; provided, however, that any person, firm or corporation having or claiming any interest in and to any property which shall at the time this section becomes a law, or within three months thereafter, be deemed dedicated to the public pursuant to the terms of this section, shall have and is hereby allowed a period of one year from the time this section becomes a law to bring suit against such governing authority assuming control over such property to recover any damages which might have accrued to such person, firm or corporation by virtue of the occupancy of such property by such particular governing authority. This proviso shall not apply to any such road dedications which become effective after the expiration of said three months period. The foregoing provisions of this section shall not disturb or open up any road dedications which have heretofore been perfected pursuant to the provisions of §§341.59-341.61.

(2) Whenever any road or portion thereof heretofore or hereafter constructed by any of the several counties or municipalities of this state shall become a state road by legislative enactment or otherwise, the state road department of Florida shall automatically by operation of law, become vested with all the right, title, easements and appurtenances therein and thereunto held by, or vested in such county or municipality, or dedicated to the public use, prior to the time any such road shall have become a state road as aforesaid.

(3) The words or terms "road," "public road" or "highway" as used in this section shall be deemed to include the roadbed, right of way and all culverts, drains, sluices, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the maintenance of travel, dispatch of freight and communication between individuals and communities.

(4) This section shall not be construed to repeal §§341.59-341.61, or to affect any rights accruing thereunder; but shall be construed as supplemental thereto. *(§§1-4, ch. 20781, 1941).*

341.67 Roads within the boundaries of the state park system.—

(1) The state road department is hereby authorized to expend state road funds to construct, reconstruct, improve, repair, and maintain as a part of the state road system, roads within the boundaries of any lands embraced within the state park system.

(2) The said state road department is hereby further authorized and empowered to locate, relocate, construct, reconstruct, improve, repair and maintain as a part of the state road system suitable roads leading from a state road to any lands or other property embraced within the state park system.

(3) Such roads shall be located, relocated, constructed, reconstructed, improved, repaired and maintained in such manner as shall be agreed upon between the said state road department and the state board of forestry and parks, and said board and said state road department are hereby authorized and empowered to enter into such agreements.

(4) The state road department is hereby authorized to designate by appropriate numbers all such roads as a part of the state road system. *(Comp. §§1-4, ch. 20782, 1941).*

⚠ Caution
As of: November 13, 2015 2:52 PM EST

Dean v. MOD Properties, Ltd.

Court of Appeal of Florida, Fifth District

June 16, 1988, Filed

Case No. 87-1816

Reporter
528 So. 2d 432; 1988 Fla. App. LEXIS 2534; 13 Fla. L. Weekly 1422

Roger H. Dean, Appellant/Cross Appellee, v. MOD Properties, Ltd., etc., Appellee/Cross Appellant

Subsequent History: [**1] Petition for Review Denied October 10, 1988.

Prior History: Appeal from the Circuit Court for Seminole County, S. Joseph Davis, Judge.

Case Summary

Procedural Posture

Appellee grantor and appellant grantee both challenged an order of the Circuit Court for Seminole County (Florida), which entered a money judgment in favor of appellee and ordered appellee to convey property to appellant.

Overview

Appellee grantor, which owned a parcel of land, conveyed an easement consisting of an 80-foot strip of that land to the city for use as a **road right-of-way**, but the entire parcel of land, excepting the easement, was eventually conveyed to appellant grantee. After the city **abandoned** the **road right-of-way**, appellant constructed a car dealership on the parcel, including the easement. Appellee sued appellant for possession of the land described in the **right-of-way**, and the trial court found that the city's abandonment caused the land to revert to appellee. The trial court thus entered a money judgment in favor of appellee and ordered appellee to convey the land to appellant. On review, the court held that the fee title passed by conveyance to appellant and that appellee failed to reserve any reversion of the easement. The court concluded that once the city **abandoned** the **road right-of-way**, appellant held a fee title that was no longer encumbered by the easement. Therefore, the court reversed both the money judgment in favor of appellee and the order that appellee convey the 80-foot strip to appellant.

Outcome

The court reversed the money judgment in favor of appellee grantor and remanded the case because the conveyances had passed the fee title to appellant grantee; once the city **abandoned** the easement, appellant's title was no longer encumbered by the easement.

LexisNexis® Headnotes

Real Property Law > Encumbrances > Limited Use Rights > General Overview

Real Property Law > ... > Limited Use Rights > Easements > General Overview

Real Property Law > ... > Easements > Easement Creation > General Overview

HN1 Ownership of land, or an ownership interest in land, constitutes an estate as distinguished from an easement, which is the right in one other than the owner of the land to use land for some particular **purpose** or **purposes.** An easement, or right to use land not owned, is more in the nature of a claim or encumbrance against the title to the land than it is in the nature of title to, or an estate in, the land itself.

Real Property Law > Estates > General Overview

Real Property Law > Estates > Present Estates > Fee Simple Estates

Real Property Law > Encumbrances > Limited Use Rights > General Overview

Real Property Law > ... > Limited Use Rights > Easements > General Overview

Real Property Law > ... > Easements > Easement Creation > Express Easements

Real Property Law > ... > Transfer Not By Deed > Dedication > General Overview

Real Property Law > ... > Transfer Not By Deed > Dedication > Elements

Real Property Law > ... > Transfer Not By Deed > Dedication > Procedure

HN2 The owner of land as grantor may (1) convey to a grantee the full unconditional fee simple absolute title to the land or some lesser estate therein; (2) convey to another the title to the land and reserve to the grantor some easement in, or right to use, the land conveyed; or (3) convey to another some easement in, or right to use, the land. However, it is an anomaly to convey the fee simple absolute title to land to another, and at the same time to also convey to the same grantee or to dedicate the conveyed land to some specific use of the same land, because the ownership interest so conveyed includes the right to make all uses of the land in the absence of some express limitation on the estate conveyed.

Counsel: Dykes C. Everett of Winderweedle, Haines, Ward & Woodman, P.A., Winter Park, for Appellant-Cross Appellee.

Joseph E. Foster of Akerman, Senterfitt & Eidson, Orlando, for Appellee/Cross Appellant.

Judges: Cowart, J. Sharp, W., C.J., and Cobb, J., concur.

Opinion by: COWART

Opinion

[*432] Appellee, MOD Properties, Inc., was the owner of a trapezoidal shaped parcel of land fronting about 400 feet on the east side of Highway 17 and 92 and running back east about 852-984 feet when, in 1974, it executed to the City of Sanford a "**Road Right-of-Way** Easement" eighty feet wide, described by metes and bounds, running from the highway easterly through the parcel of land. The document is titled an easement and expressly provides that the described land was conveyed "for the full **purpose of road right-of-way**," stating:

> The Grantor does hereby dedicate the herein above described property for public **road right-of-way purposes** to The City of Sanford, general public, however, reserving at all times to MOD Properties, Ltd., a Florida Limited Partnership, its successors or assigns the reversion [**2] or reversions thereof whenever said **road right-of-way** shall be **abandoned** or discontinued by law.

The City of Sanford never opened, improved, or otherwise used this **right-of-way** easement.

In 1984, appellee MOD conveyed to Donald J. Bales by warranty deed the entire parcel "less and except the following described *easement*," (emphasis added) specifically describing the land described in the easement given the City of Sanford. In [*433] a similar manner, Donald J. Bales and wife conveyed to Horne Properties, Inc., which company on January 15, 1985, in like manner conveyed to appellant Roger H. Dean.

In September 1985, the City of Sanford by ordinance formally expressed its intention to **abandon the road right-of-way** in question. The City may have in fact **abandoned** the easement prior to the ordinance. In September, 1985, appellant Dean constructed a car dealership on said parcel, much of the improvements being in the area described in the easement to the City of Sanford.

Appellee MOD sued appellant Dean for possession of the land described in the **right-of-way**, alleging in effect that MOD had reserved to itself the eighty foot strip from its conveyance to Bales and that by virtue [**3] of the reservation language in its conveyance to the City and the City's abandonment, MOD was the owner in fee of said eighty foot strip of land.

The trial court found (1) that the City of Sanford had, not by ordinance but in fact, **abandoned** the easement which abandonment caused the fee simple title to the eighty foot strip to revert to appellee MOD and not to appellant Dean as adjoining land owner; (2) that MOD owned the fee simple title to the eighty foot strip; and (3) that appellant Dean constructed his improvements in the belief that he owned the eighty foot strip, which constituted an equitable basis for ordering MOD to convey the strip to Dean for its fair market value which the court found to be $128,000. Accordingly, the trial court entered a money judgment in favor of MOD and against Dean for $128,000 and ordered MOD to convey the eighty foot strip to Dean. Both parties appeal.

HN1 Ownership of land, or an ownership interest in land, constitutes an "estate" as distinguished from an

easement, which is the right in one other than the owner of the land to use land for some particular **purpose** or **purposes**. An easement, or right to use land not owned, is more in the nature of a [**4] claim or encumbrance against the title to the land than it is in the nature of title to, or an estate in, the land itself. Land, an estate in which is being created or conveyed, is often legally described by metes and bounds, and, likewise, the area of land *the use of which* is being created, granted, or reserved as an easement is often described by metes and bounds. Similarly, the same words of limitation generally used to create or convey an estate in land, although not necessarily required, are commonly used to create or convey an easement. ***HN2*** The owner of land as grantor may (1) convey to another (grantee) the full unconditional (fee simple absolute) title to the land or some lesser estate therein; (2) convey to another the title to the land and reserve to the grantor some easement in, or right to use, the land conveyed; or (3) convey to another some easement in, or right to use, the land. However, it is an anomaly to convey the (fee simple absolute) title to land to another, and at the same time to also convey to the same grantee (or to "dedicate" the conveyed land to) some specific use of the same land, because the ownership interest so conveyed includes the right to make all [**5] uses of the land in the absence of some express limitation on the estate conveyed.

When an estate in land is conveyed subject to a condition subsequent (conditional fee) or subject to an estate in the land returning to the grantor upon the termination of some existing condition, event, or use (a determinable or qualified fee) it is, of course, necessary to expressly reserve that right to the grantor; otherwise the unqualified, unconditional conveyance will be of the whole estate (fee simple absolute). However, this is not true as to the creation or granting by the fee owner of an easement to another because if the easement or right of use is limited by time or the occurrence of some event (such as abandonment) or is otherwise terminated for any reason, no title or interest in the land is returned to the title holder from the prior easement holder. The mere termination of the outstanding easement results in the owner's title becoming free of, and no longer encumbered or burdened by, the easement. This is the reason easements are merely terminated or **abandoned** somewhat in the [*434] manner other encumbrances, such as liens, on or against the legal title to land are not reconveyed [**6] to the title holder but merely cancelled or satisfied.

The draftsman of the "**road right-of-way** easement" to the City of Sanford in 1974 was certainly not clear as to the legal differences and distinctions as to landed estates, easements, and licenses. However, the implication of a conveyance of the fee simple title raised by the inept words "the reversion or reversions thereof" is, in our opinion, clearly overwhelmed by the repeated qualified phrases limiting the interest conveyed to be for the "**purpose** of **road right-of-way**" and "for public **road right-of-way purposes**," as well as the title of the document, and constituted the creation and granting to the City of Sanford of an easement for a **right-of-way** for a public **road** and did not convey the fee simple title, nor did it convey a conditional, qualified, or determinable fee estate subject to any right of reverter in the grantor MOD. This construction is consistent with common practice and common sense in that, while certainly a governmental agency can acquire title to and construct a **road** on the land to which it has title, only an easement is needed to lawfully construct and maintain a **road right-of-way** on and over land. Also, the [**7] language in the conveyance from MOD to the intervening grantees-grantors to Dean "less and except the following described *easement*" (emphasis added) did not serve to reserve to MOD any right of reversion as to the fee simple title but served simply to exclude the recorded *easement* in favor of the City from the title interest being conveyed and to prevent the recorded easement from constituting a breach of the covenants of warranty in each deed.

The fee title to the eighty foot strip having passed by mesne conveyances to appellant Dean upon the City's abandonment of the public **right-of-way** easement, either in fact or by ordinance, Dean's title to the underlying fee was no longer encumbered by the easement. [1] This disposition of this case eliminates the need to review the correctness of the trial court's award of a money judgment to MOD in lieu of possession of the land it claimed and of the other issues raised on the cross appeal.

---

[1] *See United States v. 16.33 Acres of Land in County of Dade*, 342 So.2d 476 (Fla. 1977); *Smith v. Horn*, 70 Fla. 484, 70 So. 435 (1915); *Florida Southern Railway Company v. Brown*, 23 Fla. 104, 1 So. 512 (1887); *Servando Building Co. v. Zimmerman*, 91 So.2d 289, 291 (Fla. 1956); *Emerald Equities, Inc. v. Hutton*, 357 So.2d 1071 (Fla. 2d DCA 1978). *See also* 2 G. Thompson, Thompson on Real Property § 381 p. 513 (1980):

[**8] The final judgment below is reversed and the cause remanded with directions to enter judgment in favor of appellant Dean.

REVERSED and REMANDED.

Sharp, W., C.J., and Cobb, J., concur.

A transfer of the land subject to or even excepting the **right-of-way** passes title to the underlying fee to the grantee. So when the **right-of-way** is **abandoned** the then owner of the property out of which the easement was carved and not the original grantor or his heirs takes the undergoing fee free of the burden of the easement.

Neutral
As of: November 13, 2015 2:53 PM EST

Dickson v. St. Lucie County

Supreme Court of Florida, Division A

October 23, 1953; Rehearing Denied November 20, 1953

[NO DOCKET NUMBER]

Reporter
67 So. 2d 662; 1953 Fla. LEXIS 1694

DICKSON et al. v. ST. LUCIE COUNTY

Case Summary

Procedural Posture

Appellant property owners challenged a final decree from the trial court (Florida), which enjoined them from maintaining a concrete building that encroached upon the **right of way** of a public **road**.

Overview

A **right of way** was formerly a part of state highways. Until the new **road** was constructed and open to traffic, the old **road** was maintained as a part of the arterial highway. It had been a public highway for more than 20 years. Many curves existed on the old **road** which were eliminated by the construction of the new **road**. The **right of way** to that part of the old **road** involved in this action was acquired by deed to the state **road** department. Appellants, knowing of the **right of way**, purchased land adjacent to the old highway. The **road** was in actual use at the time of the purchase. Appellants contended that the state **road** department **abandoned** the **right of way** as a public highway and, therefore, the title reverted to and was revested in them. The court rejected this contention. Appellants were warned that the construction of their building was a trespass on the **right of way**. The original **right of way** made room for widening the highway and, therefore, appellants' building could be considered an encroachment. Appellants' assignment of error was rejected because objection was not made at trial. The decree was affirmed.

Outcome

Trial court's decree that enjoined appellant property owners from maintaining their building on the **right of way** of a public **road** was affirmed because they were notified of the **right of way** when they purchased the property and the building encroached on the **right of way**.

LexisNexis® Headnotes

Governments > Public Improvements > Financing

Real Property Law > ... > Limited Use Rights > Easements > General Overview

Real Property Law > ... > Limited Use Rights > Easements > Interference With Easements

Transportation Law > Bridges & **Roads** > General Overview

HN1 In acquiring **rights of way** public officials are no longer confined to acquiring only so much land as is necessary for pavement today but they may look to the future and acquire **rights of way** sufficient to take care of the needs of the foreseeable future.

Counsel: [**1] J. M. Sample and Charles E. Becht, Fort Pierce, for appellants.

Fee, Parker & Sample, Fort Pierce, for appellee.

Judges: MATHEWS, Justice, ROBERTS, C.J., and TERRELL and SEBRING, JJ., concur.

Opinion by: MATHEWS

Opinion

[*663] MATHEWS, Justice.
This is an appeal from a final decree enjoining the appellants from maintaining on the **right of way** of a public **road** a concrete building which encroached upon the **right of way** about 11 feet.

The **right of way** involved was formerly a part of State **Roads** No. 4 and No. 5, and part of U.S. Highway No. 1.

Until the new **road** was constructed and open to traffic, the old **road** was maintained as a part of the arterial highway from Fort Pierce, north, and it appears from the record that it had been a public highway for more than 20 years. Many curves existed on the old **road** which were eliminated by the construction of the new **road**. The **right of way** to that part of the old **road** involved in this action was acquired by deed to the State **Road** Department in 1926. The deed contained the following clause:

"This deed is made for the **purpose** of giving and granting to the party of the second part, its successors, legal representatives and assigns, a **right** [**2] **of way** and easement in and to the said lands for public highway **purposes**; and is made, executed and delivered with the express understanding and condition that should the same ever be *discontinued or* **abandoned** as a public highway, title to the same shall thereupon revert to and revest in the parties of the second part, their heirs or assigns." (Emphasis supplied.)

After the acquisition of this deed the State **Road** Department constructed and maintained for use by the public a highway over and upon the **right of way**. In 1949 the State **Road** Department constructed a new highway and after the new highway was completed, the State **Road** Department **abandoned** the old **right of way** and turned the same back to the county. The record shows copies of certificate and letter concerning the abandonment of the old **right of way** sent by the Chairman of the State **Road** Department to the Clerk of the Circuit Court of St. Lucie County as follows:

[*664] "State of Florida

County of Leon

"The State **Road** Department of Florida, by and through its undersigned officers, hereby certifies that the attached copy of letter and map are true copies of a letter and attached map furnished by said Department [**3] to the Clerk of the Circuit Court of St. Lucie County as Clerk of the Board of County Commissioners of St. Lucie County by mail on March 9, 1949, and that the portions of Old State **Road** 5 shown in heavy line on said map were returned to St. Lucie County for maintenance as of said date by and through said letter and map.

"Dated at Tallahassee, Florida this 9 day of July, 1952.

"Attest:

/s/

R. M. Hartsfield Secretary

(Seal)

"State **Road** Department of Florida

/s/ By: Alfred A. McKethan

Chairman"

"State **Road** Department of Florida Tallahassee

March 9, 1952

"Clerk of Circuit Court

St. Lucie County

Fort Pierce, Florida

"Dear Sir:

"Please inform your Board of County Commissioners that the State **Road** Department is **abandoning** and turning back to the County the portions of old State **Road** 5 shown in heavy blue line on the attached map, amounting to a total of 2.893 miles. Rural portions amount to 2.727 miles and 0.166 mile is within the limits of the City of Fort Pierce.

"When the State **Road** Department completes a new **road** paralleling and superseding an old **road** which it has been temporarily maintaining until it could construct the new state **road** on the official [**4] designated route, it is a long established policy of the Department to **abandon** and turn back to the county the old **road**, or portion thereof, it had been maintaining until it could construct the new **road**.

"Very truly yours,

/s/ Alfred A. McKethan Chairman"

The appellants purchased land adjacent to the old highway, but according to the description, encroached upon the **right of way** of the old **road**. Appellants knew this at the time of the purchase but claimed title to and ownership of the entire tract of land described in the deed which included a portion of the **right of way**. The **road** was there and in actual use at the time of the purchase. Appellants contend that the action of the State **Road** Department was an abandonment of the

right of way as a public highway and, therefore, the title reverted to and was revested in them. There is no merit in this contention. It is clearly shown by the record that the **right of way** was not **abandoned** as a public highway but that the same was **abandoned** and turned back to the county for maintenance as a public highway.

The record shows that notwithstanding the construction of a new **road**, the old **road** was used by residents in the neighborhood [**5] and the county took over the old **road** for maintenance after the same was **abandoned** to it for that **purpose**. There is no suggestion in the record that the county had **abandoned** or attempted to **abandon** the **right of way**.

The record shows that the appellants were warned by a representative of the county that the construction of the building in question was a trespass on the **right of way**. This was followed by a letter addressed to appellant, J. W. Dickson, again calling his attention to the encroachment and calling upon him to remove the building. The construction of the building on the **right of way** was not due to accident or mistake but was done deliberately by the appellants under a claim that the **right of way** had been **abandoned** for public highway **purposes** and, therefore, they were the owners of the land. Under these circumstances it was the duty of the county, acting through its Board of County Commissioners, to take the necessary action for the protection of the public. The degree of encroachment is not material. The appellants erected the building in question by asserting title to and ownership of the land in question. Should he be permitted to [*665] maintain the building [**6] on the land under the facts and circumstances disclosed by this record for a sufficient length of time, their title to and ownership of the land may be established by prescription.

The appellants contend that the building was not an encroachment because it did not block the entire highway but was 8 or 10 feet from the paved portion of the highway. This contention is without merit. Because the pavement was only 16 feet or 32 feet in width does not mean that the **right of way** should only be 16 feet or 32 feet. There may have been a time when the necessary **right of way** was only that portion of the land actually used for traveling. Such is not the case with reference to modern highways. The modern **right of way** is much wider than the actual pavement and provides for slopes, ditches, landscaping, beautification, and public utilities which do not interfere with the use of the **right of way** for highway **purposes**. ***HN1*** In acquiring **rights of way** public officials are no longer confined to acquiring only so much land as is necessary for pavement today but they may look to the future and acquire **rights of way** sufficient to take care of the needs of the foreseeable future. It is a matter of common [**7] knowledge that paved portions of highways are constantly being widened all over the state. When public convenience and necessity require the widening of an old **road**, if the public authorities did not secure a **right of way** of sufficient width at the time of the original construction, it is necessary that they acquire such additional **right of way** before the required improvement can be made.

The appellants assign as error the fact that the trial judge viewed the property in question before the entry of his final decree.

It appears from the record, "the Court, accompanied by the Attorneys for the respective parties, personally inspected the premises and the highway involved." It appears that the attorney for the appellants voluntarily went with the attorney for the appellee and the trial Judge for a personal view and inspection. No objection was made by anyone. If the appellants were not satisfied with the viewing and inspecting, some objection should have been made. Having failed to make any objection or to file a petition for rehearing, their objection after the appeal was taken and by assignment of error, is too late.

Affirmed.

Cited
As of: November 13, 2015 2:55 PM EST

Feather v. Donaldson

Court of Appeal of Florida, Fifth District

December 19, 1985

No. 84-1800

Reporter
481 So. 2d 937; 1985 Fla. App. LEXIS 16949; 11 Fla. L. Weekly 33

ROBERT G. FEATHER, etc., et al., Appellants, v. ANDREW CRAIG DONALDSON, et al., Appellees

Subsequent History: [**1] Rehearing Denied January 17, 1986.

Prior History: Appeal from the Circuit Court for Seminole County, Robert B. McGregor, Judge.

LexisNexis® Headnotes

Real Property Law > ... > Limited Use Rights > Easements > General Overview

HN1 See Fla. Stat. ch. 255.22 (1983).

Real Property Law > ... > Limited Use Rights > Easements > General Overview

HN2 See Fla. Stat. ch. 255.23 (1983).

Real Property Law > Encumbrances > Limited Use Rights > General Overview

Real Property Law > ... > Limited Use Rights > Easements > General Overview

Real Property Law > ... > Limited Use Rights > Easements > Termination of Easements

HN3 Where an easement has been granted it becomes, in effect, an encumbrance upon the fee title and if the easement expires or is otherwise cancelled the fee is then unencumbered. The original grantor of the conveyance, absent its subsequent conveyance of the fee interest, remains the owner of the fee subject to the easement. If the purpose of the easement no longer is necessary, it may be extinguished.

Counsel: Nikki Clayton, County Attorney for Seminole County, and Robert A. McMillan, Deputy County Attorney for Seminole County, Sanford, for Appellants.

Marcia K. Lippincott of Marcia K. Lippincott, P.A., Orlando, for Appellees.

Judges: Upchurch, F., J. Cobb, C.J., and Cowart, J., concur.

Opinion by: UPCHURCH

Opinion

[*937] Appellants, the County Commissioners of Seminole County, appeal from a final judgment requiring them to reconvey a parcel of land to appellees, the Donaldsons. At trial, the Donaldsons successfully contended they were entitled, under sections 255.22 and 255.23, Florida Statutes (1983), [1] to reconveyance [*938] of land which had been conveyed to the county by deed in August, 1963. We disagree.

[**2] This case originated on August 13, 1963, when Rana Park Corporation granted a permanent easement to Seminole County of an L-shaped piece of property to

[1] Section 255.22, Florida Statutes (1983), states as follows:

HN1 Reconveyance of lands not used for purpose specified.--In event any party owning adjoining land shall convey real property, without receipt of valuable consideration, to any municipality or county for a specific purpose for use and if such county or municipality shall fail to use such property for such purpose for a period of 60 consecutive months, then in that event upon written demand of the grantor, or grantor's successors in title owning such adjoining land, the municipality or county may execute and deliver a quitclaim deed to the party making such demand provided such party is the owner of land adjoining such property on at least one side. No such quitclaim deed shall be delivered hereunder unless the specific purpose for use to be made of the property was disclosed to the grantee at the time of delivery of the conveyance or appeared in

be used for road purposes. Rana Park Corporation later subdivided the adjacent property for residential construction. The property located at the corner of the "L" was eventually purchased by the Donaldsons. Since 1963, the county has constructed and maintained a road on one side of the "L", but has not made any improvements on the other strip. In 1983, the Donaldsons commenced an action against the county to compel the reconveyance of the unimproved strip. Relying on sections 255.22 and 255.23, the court below concluded that the 1963 deed, while it was a single document, was divisible in regards to the two strips and the unimproved portion was conclusively presumed to have been abandoned.

We conclude that the action was improperly maintained under sections 255.22 and 255.23. The conveyance to the county in 1963 consisted of a permanent easement for public road purposes. There was no conveyance of the fee. While an easement is a property interest subject to transfer by deed, section 255.22 did not contemplate the conveyance [**3] of an easement for "public road purposes" because such a reconveyance would have no effect. When a city, county or other public entity (or, for that matter, a private individual or entity) owns or holds a permanent easement for "*public road purposes*", all members of the public have the right to use the land for road purposes. This would include the Donaldsons in this case. The conveyance from the county to them would create no additional right. If the court had been dealing with an "*exclusive*" easement, the effect would be different. For example, if the grantor had given the county an exclusive easement for private road purposes, then a reconveyance from the county to a private party would give them the exclusive right to use the land for road purposes. However, an easement for a use of land by the "*public*" is necessarily the antithesis of an "exclusive" easement. A reconveyance under section 255.22 could not vest the fee title with the Donaldsons but, at most, would give them an easement for public road purposes.

HN3 Where an easement has been granted it becomes, in effect, an encumbrance upon the fee title and if the easement expires or is otherwise cancelled the [**4] fee is then unencumbered. The original grantor of the conveyance, Rana Park Corporation, absent its subsequent conveyance of the fee interest, remains the owner of the fee subject to the easement. If the purpose of the easement no longer is necessary, it may be extinguished. *Canal Authority of State v. Mainer*, 440 So.2d 1304 (Fla. 4th DCA 1983). However, under the existing circumstances, title to the fee could not devolve to the Donaldsons by operation of law under section 255.22. Having resolved this case on these grounds, we decline to address the other issues raised on appeal.

REVERSED and REMANDED for entry of judgment for appellants.

COBB, CJ., and COWART, J., concur.

---

the conveyance or an official record of the county; provided however, that as to any such conveyance after July 1, 1967, the specific purpose of use must appear of record.

Section 255.23, Florida Statutes (1983), states:

HN2 Conclusive presumption of abandonment of purpose in certain circumstances.--In event the purpose for which the property was conveyed required physical improvement or construction on such property or the maintenance thereof, any such municipality or county, failing to construct, improve or maintain such property for the period above specified shall be conclusively deemed to have abandoned the property for the purpose for which it was conveyed.

AGENDA SUMMARY
TAVARES CITY COUNCIL
DATE OF MEETING: February 3, 2016

AGENDA TAB NO. 3

SUBJECT TITLE: Consider acceptance Loan Proposal from ____BANK for the Purchase of Capital Items.

OBJECTIVE: Consider acceptance of Loan Proposal from ____ Bank for the Purchase of Capital items: a Fire Truck, a Battalion Chief vehicle, a chiller for City Hall, streetscape for Caroline Street, and City Hall improvements.

SUMMARY:

On December 16, 2015, the City Council directed staff to issue an RFP for short-term financing to fund the purchase of capital items included in the FY2016 Adopted Budget identified for debt financing. RFP 2016-0010 for Bank Qualified financing was issued on December 17, 2015.

RFP responses were due on January 18, 2016. The City received five responses on January 18, 2016. As City Staff began preparations for the Public Safety Complex financing, it was determined that bids should be left unopened and all responders given the opportunity to include a "non-bank qualified" quote as well. IRS rules allow issuers to issue no more that $10 million in bank qualified debt in a calendar year. Updated bids were due back on January 28, 2016. Bids are currently in the review and recommendation process.

BUDGETED CAPITAL ITEMS FOR DEBT FINANCING			
Item	**Department**	**Amount**	
Fire Truck	Fire	500,000.00	
Battalion Chief Vehicle	Fire	50,000.00	
City Hall Chiller	Gen Svcs	250,000.00	
Caroline St. Streetscape	Comm Dev	450,000.00	
City Hall Improvements	Gen Svcs	234,000.00	(1)
		1,484,000.00	

Information and recommendations for the City Council will be provided to the City Council late Monday, February 1, 2016 and also provided to Council Members at the City Council meeting.

OPTIONS: To be provided Monday, February 1, 2016.

STAFF RECOMMENDATION:

FISCAL IMPACT:

The loan and debt service payments were included in the FY2016 Adopted Budget.

LEGAL SUFFICIENCY: The Proposal has been reviewed by the City Attorney.

America's Seaplane City™

ADVERTISEMENT

CITY OF TAVARES
REQUEST FOR PROPOSAL

RFP 2016-0010

TO PROVIDE TAX-EXEMPT "BANK QUALIFIED" FINANCING

PURPOSE OF SOLICITATION

The City of Tavares, Florida (the "City") will issue approximately $1,525,000 in an aggregate not-to-exceed principal amount, to finance various capital improvements for the City. The proposed loan will be secured and payable by covenant to annually budget and appropriate non-ad valorem revenues of the City sufficient to pay the principal and interest on the loan. The City shall accept and review proposals from qualified banking institutions. Proposals for a "Bank-Qualified," tax-exempt fixed rate loan should be submitted based upon the proposed financing structure as indicated in the bid documents. The City will select the bank financing that provides the lowest overall borrowing cost to the City and meets the financing requirements of the City. First Southwest Company LLC ("FirstSouthwest"), Orlando, Florida, as the City's Financial Advisor, will be assisting the City in obtaining the "Bank Qualified" Bank Loan.

Sealed bids are invited by the City of Tavares, to be received at the office of the City Clerk, 201 East Main St., Tavares, Florida 32778 so as to be received not later **than 2:00 PM on January 21, 2016.** *Bids received after this specified time and date will not be considered. Please submit one (1) original, three (3) copies and one (1) digital copy, preferably in PDF format.*

Bidders with access to DemandStar.com can obtain the Bid documents by calling 800-711-1712, or on the web at http://www.demandstar.com. Complete bid documents may be reviewed and/or obtained at the City of Tavares, Florida, 32778. For further information contact: John Rumble, Purchasing Manager, at Tavares City Hall, 201 E Main St., Tavares, Florida 32778, jrumble@tavares.org phone: (352) 742-6131; fax (352) 742-6351.

John Rumble, Purchasing Manager
City of Tavares Finance Department
(352) 742-6131
jrumble@tavares.org

CITY OF TAVARES, FLORIDA

REQUEST FOR PROPOSAL

TO PROVIDE TAX-EXEMPT, BANK QUALIFIED FINANCING

Capital Improvement Revenue Note, Series 2016

RFP Issue Date: January 6, 2016

Proposal Due Date: January 21, 2016

TABLE OF CONTENTS

A. REQUEST FOR LOAN 1

B. STRUCTURE OF FINANCING 1

C. SECURITY FOR THE LOAN 2

D. TAX-EXEMPT OBLIGATION 2

E. DOCUMENTATION 2

F. PROPOSAL FORMAT – SELECTION CRITERIA 3

G. MISCELLANEOUS 4

H. TENTATIVE SCHEDULE* 5

I. RFP INSTRUCTIONS 5

Comprehensive Financial Audited Report – FYE 2012-2014

http://www.tavares.org/DocumentCenter/View/3411 - 2014

http://www.tavares.org/DocumentCenter/View/3411 - 2013

http://www.tavares.org/DocumentCenter/View/1987 - 2012

Adopted FYE 2016 Annual Proposed Budget

http://www.tavares.org/DocumentCenter/View/3362

A. REQUEST FOR LOAN

The City of Tavares, Florida (the "City") will issue their Capital Improvement Revenue Note, Series 2016 (the "Series 2016 Note") in an aggregate principal amount not to exceed $1,525,000. The Series 2016 Note will finance various capital improvement for the City as listed below.

Fire Truck	$ 500,000
Battalion Chief Vehicle	50,000
City Hall Chiller	250,000
Caroline St. Streetscape	450,000
City Hall Improvements	234,000

The Series 2016 Note will be secured by a covenant to annually budget and appropriate non-ad valorem revenues of the City sufficient to pay the principal and interest on the loan. The Proposal for a "Bank Qualified", tax-exempt fixed rate loan should be submitted based upon the proposed financing structure below.

The City shall accept and review proposals from qualified banking institutions. The City will select the bank financing that provides the lowest overall borrowing cost to the City and meet the financing requirements of the City. First Southwest Company LLC ("FirstSouthwest"), Orlando, Florida, as the City's Financial Advisor, will be assisting the City in obtaining the bank loan.

B. STRUCTURE OF FINANCING

Amount:	Not to Exceed $1,525,000
Settlement Date:	Expected on or about February 11, 2016
Rate:	Bank Qualified (BQ), fixed rate for entire term of the Note.
Prepayment:	The City requests the ability to prepay the loan without penalty. Other prepayment provisions will be considered.
Final Maturity:	November 1, 2026
Interest Payments Dates:	Semi-annually on, May 1st, and November 1st Commencing May 1, 2016.
Interest Compounding	None
Interest Day Count Method	Please specify in proposal
Annual Principal Payment Date:	Commencing November 1, 2016.

Preliminary Amortization Schedule*:	11/1/2016	$89,000
	11/1/2017	125,000
	11/1/2018	129,000
	11/1/2019	133,000
	11/1/2020	137,000
	11/1/2021	141,000
	11/1/2022	145,000
	11/1/2023	150,000
	11/1/2024	154,000
	11/1/2025	159,000
	11/1/2026	163,000
		$1,525,000

* Preliminary; subject to change.

C. SECURITY FOR THE LOAN

The security for the loan shall be secured by a covenant to budget and appropriate from legally available Non-Ad Valorem Revenues of the City in amounts sufficient to repay the principal and interest of the loan. Such covenant to budget and appropriate shall not prohibit the City from pledging such Non-Ad Valorem Revenues, or any portion thereof, to secure other debt issued in the future. The loan shall not be considered a general obligation of the City. Neither the full faith and credit nor taxing power of the City, State of Florida or any political subdivision thereof will be pledged to the payment of the loan.

D. TAX-EXEMPT OBLIGATION

The City will agree to take such actions as may be required by Treasury regulations in order to maintain the status of the Series 2016 Note as a tax-exempt obligation.

E. DOCUMENTATION

Bond Counsel shall prepare the Series 2016 Note and other documents to close the Loan. The selected bank will be furnished, without charge to the bank, the opinion of Akerman LLP, the City's Bond Counsel, approving the legality of the Loan together with the closing certificates and documents related to the transaction. FirstSouthwest will also assist the City in structuring the loan to meet the financing objectives of the City.

At the closing of the Loan, the financial institution will be required to make certain certifications, including, but not limited to, signing a closing certificate that:

a. It is making the Loan for its own account, does not currently intend to syndicate the Loan, will take no action to cause the Loan to be characterized as a security, and will not treat the Loan as a municipal security for purposes of the securities law;

b. it is not acting as a broker or other intermediary, and is funding the Loan from its own capital for its own account and not with a present view to a resale or other distribution to the public,

c. the Loan will not be used in the future on a securitized transaction and is not a municipal security;

d. it understands that the Loan is evidenced by a note and the note is issued in a single denomination equal to the aggregate principal amount of the Loan and may not be transferred except in whole and will not be transferred to any kind of trust under any circumstances, and confirming that it understands the Loan may not be transferred in denominations less than $100,000 even in whole;

e. the Loan will only be sold to a Permitted Lender in whole, in a denomination of not less than $100,000, with the City's consent. The "Permitted Lender" means any bank, trust company, savings institution or insurance company that is engaged as a regular part of its business in making loan authorized to do business in the State of Florida;

f. the Lender is a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes;

g. it is not funding the Loan for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes;

h. understands that the Loans is not a municipal security and that no filing will be made with respect to the Loan with EMMA, the Municipal Securities Rulemaking Boards continuing disclosure site;

i. there will be no CUSIPs obtained on the Loan; and

j. there will be no credit rating obtained on the Loan

F. PROPOSAL FORMAT – SELECTION CRITERIA

Proposals will be evaluated on the basis of cost and the structure that best meets the financing requirements of the City.

Further, the City will accept proposals that provide for the ability to prepay the Loan in whole or in part at any time without penalty. Prepayment penalties will be considered.

In order to assist the City and FirstSouthwest in reviewing the responses, each proposal should include the following information.

(1) The legal name of the Bank and the primary Bank contact person(s) (include address, telephone number, facsimile number, and e-mail address).

(2) Fixed Interest Rates for the full term of the Loan. The bidder shall give a stated time in which the proposed rate will be held as well as the index in which the rate shall be calculated should the stated time elapse.

(3) Describe in detail <u>all fees and expenses</u> which the City will be responsible to pay to the Bank including its legal counsel. The City has retained the law firm of Akerman LLP to prepare the tax opinion and bond resolution. The amounts stated in the proposal shall represent the <u>maximum</u> amounts payable to the Bank by the City. All fees and expenses, with the exception of those of Bond Counsel and FirstSouthwest, in excess of those stated in the proposal shall be the sole responsibility of the Bank and will not be paid or reimbursed by the City.

(4) A listing of all conditions, covenants, terms or restrictions, other than those specified in this RFP, which would be included in your commitment to provide the Loans.

G. MISCELLANEOUS

(1) The City will not accept proposals with reserve requirements or other restrictions to revenues or requirements to maintain minimum balances in any bank account as a condition for the Loans.

(2) The City reserves the right, in its sole discretion, to accept or reject any and all bids, to waive any irregularities or informalities in any bid or in the bidding, and to accept or reject any items or combination of items. If a bank financing proposal is selected, the award will be to the financial institution whose response best complies with the requirements set forth in this RFP and whose bid, in the opinion of the City and Financial Advisor is best, taking into consideration all aspects of the offeror's response.

(3) Changes to this RFP may be made by and at the sole discretion of the City.

(4) The City will not be liable for any expenses incurred in connection with the preparation of a response to this RFP.

(5) The bidder is required to conduct its own investigation and evaluation of the creditworthiness of the Loan. The Proposal has provided a link to the City's Website (http://www.tavares.org/) which has information regarding the City and its financial statements. Additional financial information will be provided upon request by the bidder and is NOT in any way intended to relieve the bidder of its responsibility to investigate all relevant or material facts in reaching a credit decision with respect to the loan. **All requests for clarification or additional information should be directed to:**

Mr. John Rumble
Purchasing Manager
City of Tavares, FL
(352) 742-6131 Ph
(352) 742-6351 Fax
jrumble@tavares.org

(6) Federal, State, City and local laws, ordinances, rules and regulations that in any manner affect the items covered herein apply. Lack of knowledge by the Bank will in no way be a cause for relief from responsibility.

(7) No successful offeror may assign any portion of the contractual agreement between the parties without prior written authorization by the City.

(8) Warranties – The offeror, in submission of its proposal, warrants to the City that it will comply with all applicable federal, state and local laws, regulations and orders in providing the services under the proposed documents.

H. TENTATIVE SCHEDULE*

The City will attempt to adhere to the following schedule:

January 6, 2016	Issue Request for Proposal (RFP)
January 21, 2016	Bank Proposals Due Prior to 2:00 P.M.
February 3, 2016	City Council meeting - Approval of loan documents
February 11, 2016	Closing of the Loan

*Subject to change.

I. RFP INSTRUCTIONS

Please submit **one (1) original, three (3) copies** and **one (1) digital copy** to the City, preferably in PDF format on or before 2:00 PM on January 21, 2016 and **one (1) electronic copy** to FirstSouthwest as follows:

City of Tavares
Office of the City Clerk
City of Tavares
201 E. Main Street
Tavares, FL 32778
(352) 742-6131 Ph
nbarnett@tavares.org

FirstSouthwest
Mr. Mark P. Galvin
Senior Vice President
First Southwest
450 S. Orange Ave., Suite 460
Orlando, Florida 32801
(407) 426-9611 Ph
mark.galvin@firstsw.com

INSTRUCTIONS TO PROPOSERS

In order to be considered responsive, all Proposals must be made in accordance with these Instructions to Proposers.

1. Examination of RFP Documents: It is the responsibility of each Proposer before submitting a Proposal, to: a) Examine the RFP Documents thoroughly; and b) consider federal, state and local laws and regulations, and local conditions that may affect cost, progress, or performance of the project.

2. Questions: All questions regarding this RFP must be in writing and mailed or faxed to the Purchasing Division, 201 E. Main Street, Tavares, Florida 32778, (352) 742-6351 (fax), or e-mailed to jrumble@tavares.org. Written replies will be issued to all Proposers of record.

3. Definitions: Whenever in these Instructions, the terms defined in the Contract are used (or pronouns used in place of them), the intent and meaning of such terms shall be interpreted as indicated in the Contract.

    a. Proposal means an executed formal document submitted to the City stating the goods, consultant services, and/or services, as applicable, offered by the proposer to satisfy the needs as requested in the request for proposal.

    b. Contract means the Service Agreement between the successful proposer as vendor and the City of Tavares in the form attached to and included in the RFP Documents.

    c. RFP Documents means the Contract and these Instructions to Proposers.

    d. Contractor means any person having a contract with the City of Tavares.

    e. Vendor means an actual or potential supplier of goods, services, and/or consultant services.

4. Proposal Package: Proposals shall be made in the manner set forth herein. The Proposal Package shall consist of: 1) a proposal statement setting forth in detail how the Proposal meets the proposal requirements and evaluation factors and, where applicable, the cost of the goods, consultant services and/or services proposed; 2) identification of any and all proposed subcontractors and project team members, including professional resumes and applicable licensure or registration information: 3) evidence of insurance of the types and in the amounts set forth in the RFP Documents; 4) evidence of required registration and/or licensure as set forth in the RFP Documents.

5. Submittal: Submit entire Proposal Package in an opaque, sealed envelope in accordance with the Request for Proposals/Advertisement. Identify the envelope with: (1) Project Name, (2) Name and address of Proposer, and (3) RFP number. All items in the Proposal Package required for responsive Proposal shall be included. Submittals shall be bound by staple or binder clipped and shall consist of paper only. All other binders, plastic separators, non-recyclable material, etc. are prohibited. Submittals will not be evaluated on the aesthetic of the package. Facsimile proposals will not be accepted. It is the responsibility of the Proposer to ensure that the Proposal Package is complete and received at the proper time.

6. Withdrawal of Proposal: The Proposal may be withdrawn by the Proposer by means of a written request, signed by the Proposer or its duly authorized representative. Such written request must be delivered to the place specified in the Request for Proposals/Advertisement for the receipt of Proposals prior to the scheduled closing time for receipt of Proposals. Modifications will not be accepted or acknowledged.

7. Disqualification: More than one Proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. If the City believes that collusion exists among Proposers, all Proposals will be rejected.

8. Evaluation Factors: The evaluation factors include, but are not limited to, capability; qualifications, experience; past performance with other entities and/or the City of Tavares, cost and structure pursuant to Section E – Selection Criteria.

9. Proposal Evaluation: The City shall award to the responsive and qualified Proposer whose proposal is determined to be the most advantageous to the City.

10. Standard of Qualification: All awards made by the City, whether obtained by invitation to bid/advertisement, or request for information, proposal, or quotation, shall consider whether the prospective contractor/vendor meets the standard of qualification. Factors to be considered in determining whether the standard of qualification has been met shall include whether a prospective contractor/vendor has:

    a. available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;

    b. a satisfactory record of performance;

    c. a satisfactory record of integrity;

    d. the legal ability to contract with the City; and

    e. supplied all necessary information in connection with the inquiry concerning responsibility including but not limited to any licenses, permits, or organization papers required.

11. Vendor Responsibility: The prospective vendor shall supply information requested by the City concerning the qualification of such vendor. If such vendor fails timely to supply the requested information, the City shall base the determination of qualification upon any available information, or may find the prospective vendor non-qualified if such failure in unreasonable.

12. Reservation of Rights: The City of Tavares reserves the right to waive any informality or irregularity in any Proposal received, or reject any and/or all Proposals, or re-advertise. The City reserves the right to cancel the award of any Contract at any time before the execution of such Contract by all parties without any liability to the Owner. For and in consideration of the City considering Proposals submitted, the Proposer, by submitting its Proposal, expressly waives any claim to damages, of any kind whatsoever, in the event the Owner exercises its right to cancel the award in accordance

herewith. In the event only one responsive proposal is received, the City reserves the right to negotiate and award to the sole Proposer; re-advertise the request for proposal, with or without making changes to the evaluation factors; or elect not to proceed. The City of Tavares reserves the right to select, from among the various Proposal alternates, those alternates to be included in the final Contract as well as the right and option to award or re-solicit Proposal alternates in any sequence or at any time deemed to be in the best interest of the City.

13. Award: Notice of the intent to award shall be posted at the location set for proposal submission for a period of (5) business days. The award shall be made in accordance with the provisions of the request for proposal.

14. Execution of Contract: The Contract between Proposer and City shall be in the form of the "Service Agreement". The successful Proposer shall assist and cooperate with the City in executing the Contract, and within fourteen (14) calendar days following its presentation shall execute same and return it to the City along with the Insurance Certificates and any other documentation that may be required by the Contract Documents to be submitted at that time.

15. Registration or License: All Proposers shall provide proof that they are properly licensed, certified or registered by the State of Florida. Failure to comply with this condition shall result in rejection of the Proposal.

16. Proof of Insurance: The successful bidder shall be required to furnish evidence of insurance(s) to the City as set forth below. In the event any Consultant cannot obtain the insurance required herein, he shall submit a letter addressed to the Purchasing Manager setting forth the reason(s) he/she cannot obtain such insurance. That letter shall contain alternative insurance levels to be obtained by the Consultant. That letter and its contents shall be considered to be part of the Consultant's Response to the Request for Qualifications.

    a. The successful firm shall provide Worker's Compensation insurance as required by law.

    b. Worker's Compensation for Employer's Liability Insurance. Statutory requirements for Worker's Compensation and employer's liability of $500,000 each accident, $500,000 disease policy limit, and $500,000 per occurrence.

    c. Business Automobile Insurance. This coverage should include all owned, hired, and non-owned vehicles at a minimum combined single limit of $1,000,000.

    d. General Liability Insurance. Commercial general liability coverage, including coverage for Personal & Advertising Injury, Products & Completed Operations, Contractual Liability and Independent Contractors, with a minimum limits of $1,000,000 per occurrence and $2,000,000 aggregate. **Accord forms marked "Policy" or "Location" shall be considered non-compliant.** Instead, check "Project" (meaning the "Contract") for the aggregate limit. **Add this text** ""No exclusion should apply for Fellow Employees, Cross Liability, or Insured vs. Insured on the policy. Certificate Holder must be listed as Additional Insured including Completed Operations coverage.

    e. Professional Liability. Professional liability insurance at a minimum limit of $1,000,000.

f. Consultant agrees to provide the insurance written by a carrier licensed to do business in the State of Florida. To the extent available, the policy shall be an occurrence form, not a claims-made policy. The insurance company selected shall be rated A or better, per the A. M. Best's Key Rating Guide. Provide the **"City of Tavares Project Name and Contract Number"**, or this Certificate will be rejected since we will be unable to match the Certificate to the work contemplated. Provide **all** text stated in the "Description of Operations . . ." section and on page 2 of our sample Certificate.

g. A certificate of insurance shall be provided to the Purchasing Manager for review and approval, five (5) business days after notice of technical selection. The Certificate shall provide for the City of Tavares to be named as an additional insured for work under this Agreement.

h. Liability Limits should be shown as "Primary". The City shall be given 30 days prior written notification of Consultant's intent to cancel or modify any required insurance. Any notification less than 30 days shall be considered nonresponsive.

17. Public Entity Crimes: Pursuant to Florida Statutes section 287.133(2)(a), all Proposers are hereby notified that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity is excess of the threshold amount provided in Florida Statutes section 287.017 for CATEGORY TWO (currently $25,000) for a period of 36 months from the date of being placed on the convicted vendor list. A "Public entity crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with the State of Florida, any of its departments or agencies, or any political subdivision of the State of Florida, or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

18. Taxes: Cost of all sales and other taxes for which the Proposer is liable under the Contract shall be included in the Proposal.

19. Utilization of Small Business Concerns: It is the Policy of the United States, the State of Florida, or the City that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, hubzone small business concerns, small disadvantaged business concerns, and women-owned small business concerns (hereinafter "small business concerns") shall have the maximum practicable opportunity to participate in performing contracts, including contracts and subcontracts. It is further the policy that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns. The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the appropriate government agency as may be necessary to determine the extent of the contractor's compliance with this clause.

20. Disadvantaged Business Enterprise: Contractors, consultants, sub-contractors and/or subrecipients shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Department of Transportation (DOT) assisted contracts. Failure by the contractor to carry out these requirements is a material breach of the contract which may result in termination of the contract or such other remedy as the recipient deems appropriate.

21. Pre-contractual Expenses: The City shall not, in any event, be liable for any pre-contractual expenses incurred in the preparation of its proposal prior to issuance of the project Notice to Proceed. Pre-contractual expenses are defined as expenses incurred by the Contractor(s) in: Preparing and submitting proposal(s) to the City; Negotiations with the City on any matter related to the contract terms, professional fees, and schedule; Any other expenses incurred by the Contractor(s) prior to reaching agreement in advance of the date of award of the proposed contract.

22. Additional Vendor Requirements: The successful bidder(s) will be required to monitor the performance of his employee on a periodic basis while they are assigned to the City. The successful bidder(s) is required to comply with the Immigration Reform Act of 1986 (IRCA) which requires all individuals hired after November 6, 1986, to provide employers with proof of citizenship or authorization to work in the United States.

END OF INSTRUCTIONS TO PROPOSERS

CITY OF TAVARES, FLORIDA
STATEMENT OF "NO PROPOSAL"

If you do not intend to bid on this requirement, please complete and return this form prior to date shown for receipt of bids to: City of Tavares Purchasing Division, 201 E. Main Street, Tavares, FL 32778.

We have declined to submit a Proposal for **RFP #2016-0010** for the following reasons:

- Specifications too "restrictive", i.e., geared toward one brand or manufacturer (please explain)
- Insufficient time to respond
- We do not offer this product or equivalent
- Our product schedule would not permit us to perform
- Unable to meet specifications
- Unable to meet bond requirements
- Specifications unclear (please explain)
- Other (please specify)

Remarks:

We understand that if the "no proposal" form is not executed and returned, our name may be deleted from the list of qualified bidders for the City of Tavares for future projects.

Company name

Address

Telephone & Fax Number

Typed name and title

Signature Date

THIS PAGE INTENTIONALLY LEFT BLANK

TAVARES

America's Seaplane City™

AGENDA SUMMARY
TAVARES CITY COUNCIL
FEBRUARY 3, 2016

TAB NO. 4 **FIRST READING**

SUBJECT TITLE: ORDINANCE 2016-03
Rezoning to Mixed Use- South of Lake Dora Drive between Disston and Dora Avenues

---

OBJECTIVE:

To consider a city initiated rezoning of properties located south of Lake Dora Drive between Disston and Dora Avenues to Mixed Use.

SUMMARY:

Tavares has energetically revitalized the City's Downtown Commercial/Entertainment District. The construction of the new Pavilion on the Lake, the Children's Splash Park and the many events hosted in the newly redeveloped Wooton Park and Seaplane Base have created an activity hub for tourists and residents in the east end of our downtown.

The City's adopted Downtown Master Plan suggests implementation strategies to promote sustainable economic growth. One of these strategies is the establishment of a transition zoning to buffer downtown commercial land uses from single family land uses. The Alfred/Caroline Street Mixed Use Corridor acts as this transition from our highly active downtown and the residential areas north of Caroline Street.

Although the Master Plan ends at Disston Avenue, the same strategy and need for transition is applicable east of our Downtown. Overtime, much of the land uses on Lake Dora Drive have changed to uses other than residential. The existing zonings on the north side of Lake Dora Drive are Public Facilities, Industrial and Mixed Use Districts. Staff is not recommending any change to these existing zonings. Properties on the south side of Lake Dora Drive are zoned single family residential although several of the parcels, primarily the Duncan House and King Machine and Repair, do not fit well with the residential zoning. Ordinance 2016-03 will rezone these properties from Residential Single Family (RSF-1) to Mixed Use. A single family dwelling is permitted under the Mixed Use designation and the legal status of those existing homes will not be affected by this zoning change.

Rezoning these properties not only supplies a needed buffer and transition to our vibrant Downtown, but it also provides an opportunity to redevelop or repurpose these lands to low intensity commercial uses that compliment and support our growing downtown economy.

OPTIONS

No Council action required at First Reading.

PLANNING & ZONING BOARD RECOMMENDATION:

On January 21st, the Planning & Zoning Board voted unanimously to recommend denial of Ordinance 2016-03.

STAFF RECOMMENDATION:

At Second Reading, staff will recommend that City Council moves to approve Ordinance 2016-03.

FISCAL IMPACT:

N/A

LEGAL SUFFICIENCY:

This ordinance has been reviewed by the City Attorney and approved for legal sufficiency.

LAKE COUNTY SCHOOLS

Leading our Students to Success

201 West Burleigh Boulevard · Tavares · FL 32778-2496
(352) 253-6500 · Fax: (352) 253-6503 · *www.lake.k12.fl.us*

Superintendent:
Susan Moxley, Ed.D.

School Board Members:
District 1
Bill Mathias
District 2
Rosanne Brandeburg
District 3
Marc Dodd
District 4
Debbie Stivender
District 5
Stephanie Luke

January 15, 2016

Mr. Jacques Skutt, A.I.C.P., Director
Community Development Department
City of Tavares
Post Office Box 1068
Tavares, Florida 32778

RE: Dora Lake Drive Property Rezoning (Ordinance 2016-03)

Dear Mr. Skutt:

The City is proposing a future land use map change of approximately 10.95 acres from City of Tavares Residential Low Density (5.6 dwelling units/1 acre) to City of Tavares Mixed Use Neighborhood (12 dwelling units/1 acre), and a rezoning from City of Tavares Residential Single-Family (RSF-A) to City of Tavares Mixed Use. As the School Board of Lake County's authorized representative, I am forwarding the School Board's comments to your attention so they can be included with your planning report.

The School Board of Lake County Florida recognizes that the rezoning will not have an adverse impact on the District's level of service as defined in Section 5.2 of the school concurrency interlocal agreement. The following School Board comments reflect projected enrollment data from the District's Five-Year Plan, FY 2016-2020, and student generation rates from the Impact Fee Study.

The proposed rezoning has the potential to add 131 new residential dwelling units that will contribute 43 new students to the Lake County School system. Based on current school attendance zones, schools that will not be adversely affected by the proposed rezoning and their projected five-year capacity status are as follows:

- **Tavares Elementary School** — **6%** Under Capacity
- **Tavares Middle School** — **24%** Under Capacity
- **Tavares High School** — **16%** Under Capacity

Please see the attached District Growth Impact Report, which indicates the potential impact of the proposed rezoning on the public schools which currently serve the area under consideration. Should you have any questions or need additional information please contact me at (352) 253-6694.

Sincerely,

Dawn M. McDonald

Dawn McDonald, Senior Planner
Growth Planning Department

Enclosure

REVIEWING AUTHORITY	**City of Tavares Community Development Department**
NAME / CASE NUMBER	**Dora Lake Drive Property Rezoning / Ordinance 2016-03**
DEVELOPER/OWNER	Various Owners
ITEM DESCRIPTION	The City of Tavares proposes a future land use map change of approximately 10.95 acres from City of Tavares Residential Low Density (5.6 dwelling units/1 acre) to City of Tavares Mixed Use Neighborhood (12 dwelling units/1 acre), and a rezoning from City of Tavares Residential Single-Family (RSF-A) to City of Tavares Mixed Use.
LOCATION	Section 28, Township 19S, Range 26E Located north of Lake Dora, south of Lake Dora Drive, east of Disston Avenue, and west of Dora Avenue
CURRENT LAND USE	City of Tavares Residential Low Density (5.6 dwelling units/1 acre)
PROPOSED LAND USE	City of Tavares Mixed Use Neighborhood (12 dwelling units/1 acre)
CURRENT ZONING	City of Tavares Residential Single-Family (RSF-A)
PROPOSED ZONING	City of Tavares Mixed Use

	SF-DU	MF-DU	Mobile	SF Impacts	
NEW DU IMPACT				**131**	**DUs**
STUDENT GENERATION	0.328	0.283	0.206	43	
Elementary School	0.152	0.143	0.097	20	
Middle School	0.074	0.063	0.047	10	
High School	0.102	0.077	0.062	13	

SCHOOL NAME	Projected Enrollment 2019-2020*	Permanent Student Capacity*	Projected Five-Year Capacity %	Student Enrollment w/ Impact	% of Perm. Capacity w/ Impact	Planned Capacity On Site
Tavares Elementary	896	976	92%	916	94%	No
Tavares Middle	1,078	1,427	76%	1,088	76%	No
Tavares High	1,213	1,467	83%	1,226	84%	No

Lake County School District Five-Year Plan, Fiscal Year 2016-2020

CSA 6	Student Enrollment 2019-2020*	Permanent Student Capacity*	% of Permanent Capacity
Elementary School	896	976	92%
Middle School	0	0	0%
High School	1,213	1,467	83%

Lake County School District Five-Year Plan, Fiscal Year 2016-2020

COMMENTS:

The School Board of Lake County Florida recognizes that the rezoning will not have an adverse impact on the District's level of service as defined in Section 5.2 of the school concurrency interlocal agreement.

School Concurrency became effective in Lake County on June 1, 2008. Subsequent development orders, including but not limited to, site plans and subdivisions are subject to the school concurrency process. This Growth Impact Report (adequate public facilities analysis) is not intended to be an approval of, or an exemption from, any school concurrency regulations, including the school concurrency requirements in the Lake County School Concurrency Interlocal Agreement.

Prepared By: Dawn McDonald, Senior Planner, Lake County School District **Date:** 1/15/2016

ORDINANCE 2016-03

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, REZONING A COMBINED TOTAL OF APPROXIMATELY 10.95 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF LAKE DORA DRIVE, BETWEEN DISSTON AND DORA AVENUES; FROM RESIDENTIAL SINGLE FAMILY (RSF-A) TO MIXED USE (MU); SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Tavares is initiating a rezoning of the properties identified in Exhibit A from Residential Single Family (RSF-A) to Mixed Use (MU); and

WHEREAS, the city's Downtown Master Plan generally encourages a Mixed Use (MU) Zoning buffer to act as a transition between the highly active Commercial Downtown and neighboring Single Family residential areas of our downtown; and

WHEREAS, low intensity commercial and office uses and single family and multi-family uses are allowed within the Mixed Use (MU) zoning designation; and

WHEREAS, the uses allowable under the Mixed Use (MU) zoning designation would not only permit existing residential uses but would also provide an opportunity to redevelop or repurpose these lands to uses that compliment and support our growing downtown economy; and

WHEREAS, a Mixed Use (MU) zoning of these lands is consistent with the mix of zonings of properties on the north side of Lake Dora Drive specifically Public Facilities (PFD), Industrial (I) and Mixed Use (MU); and

WHEREAS, the City of Tavares has advertised in accordance with Florida State 166.041 for two public hearings, as is its option, prior to adoption of this ordinance; and

WHEREAS, the City of Tavares held these duly noticed public hearings before the Planning and Zoning Board and the City of Tavares City Council, providing opportunity for individuals to hear and to be heard regarding the proposed amended zoning; and

WHEREAS, the City Council has reviewed and considered all relevant evidence and information and testimony presented by witnesses, the public, and City staff; and

WHEREAS, the City is concurrently processing an amendment to the City's Comprehensive Plan to re-designate the property from Low Density Residential to Mixed Use Commercial on the Future Land Use Map 2020; and

WHEREAS, the City Council finds this amendment in compliance with the City of Tavares' Land Development Regulations, the City's adopted Downtown Master Plan and the proposed amended Comprehensive Plan; now therefore

BE IT ORDAINED by the City Council of the City of Tavares, Florida, as follows:

Section 1. Rezoning

The said properties, as legally defined in Exhibit "A", attached hereto and made a part herewith, are hereby rezoned from Residential Single Family (RSF-A) to Mixed Use (MU), under the specific provisions as established by the City of Tavares Land Development Regulations.

Section 2. Severability.

Upon a determination by a court of competent jurisdiction that a portion of this ordinance is void, unconstitutional, or unenforceable, all remaining portions shall remain in full force and effect.

Section 3. Effective Date.

This ordinance shall take effect immediately upon its final adoption by the Tavares City Council.

PASSED AND ORDAINED this _____ of _____, 2016, by the City Council of the City of Tavares, Florida.

_____

Robert Wolfe, Mayor
Tavares City Council

First Reading: _____

Passed Second Reading: _____

ATTEST:

_____

Nancy Barnett, City Clerk

APPROVED AS TO FORM AND LEGALITY:

_____

Robert Q. Williams, City Attorney

EXHIBIT A

TAVARES ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT 16 BLK 27, GOV PLAT 1 PG 28, ORB 556 PG 92 ORB 1603 PG 2254, ALTERNATE KEY 1379555, 111 SOUTH DISSTON AVE

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT 17 BLK 27,GOV PLAT 1 PG 28, ORB 689 PG 1589 ORB 1603 PG 2251, ALTERNATE KEY 1689759, 107 SOUTH DISSTON AVE

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT 15—LESS E 15 FT--BLK 27 GOV PLAT 1 PG 28, ORB 3157 PG 458, ALTERNATE KEY 1379547, 426 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT 14, E 15 FT OF LOT 15 BLK 27 GOV PLAT 1 PG 28, ORB 665 PG 1072, ALTERNATE KEY 1689741, 504 LAKE DORA DR

TAVARES, ST CLAIR ABRAMS EXT SUPPLEMENTAL PLAT W 70 FT OF LOT 13 BLK 27 GOV PLAT 1 PG 28, ORB 2450 PG 1067, ALTERNATE KEY 1755000, 508 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT E 73.6 FT OF W 143.6 FT OF LOT 13 BLK 27 GOV PLAT 1 PG 28,ORB 1751 PG 1396 ORB 1873 PG 1399, ALTERNATE KEY 1799856, 512 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT 12, E 5 FT OF LOT 13 BLK 27 GOV PLAT 1 PG 28, ORB 4056 PG 530, ALTERNATE KEY1379539, 524 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 2.85 FT OF LOT 10, LOT 11 BLK 27 GOV PLAT 1 PG 28, ORB 4132 PG 761, ALTERNATE KEY 3554256, 608 DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT 10 BLK 27--LESS W 2.85 FT--GOV PLAT 1 PG 28, ORB 4477 PG 678, 612 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT J BLK 28, 30 FT UNNAMED ST LYING W OF LOT J BLK 28 & E OF LOT 10 BLK 27 GOV PLAT 1 PG 28, ORB 1068 PG 1263-1265, ORB 1297 PG 2205, ORB 2101 PGS 162 164, ORB 3535 PG 2123, ALTERNATE KEY 1769574, 616 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT, BLK 28, GOV PLAT 1 PG 28, ORB 1977 PG 1677, ALTERNATE KEY 1379628, 700 LAKE DORA DR

TAVARES ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT H BLK 28, GOV PLAT 1 PG 28, ORB 938 PG 200, ORB 1202 PG 398, ALTERNATE KEY 1379610, 720 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 55 FT OF LOT G BLK 28 GOV PLAT 1 PG 28, ORB 4104 PG 424, ALTERNATE KEY 1379601, 722 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 87 FT OF E 90 FT OF LOT G BLK 28 GOV PLAT 1, PG 28, ORB 820 PG 2482, ALTERNATE KEY 1379598, 724 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT LOT F, E 3 FT OF LOT G BLK 28 GOV PLAT 1 PG 28, ORB 541 PG 673, ALTERNATE KEY 1379580, 726 LAKE DORA DR

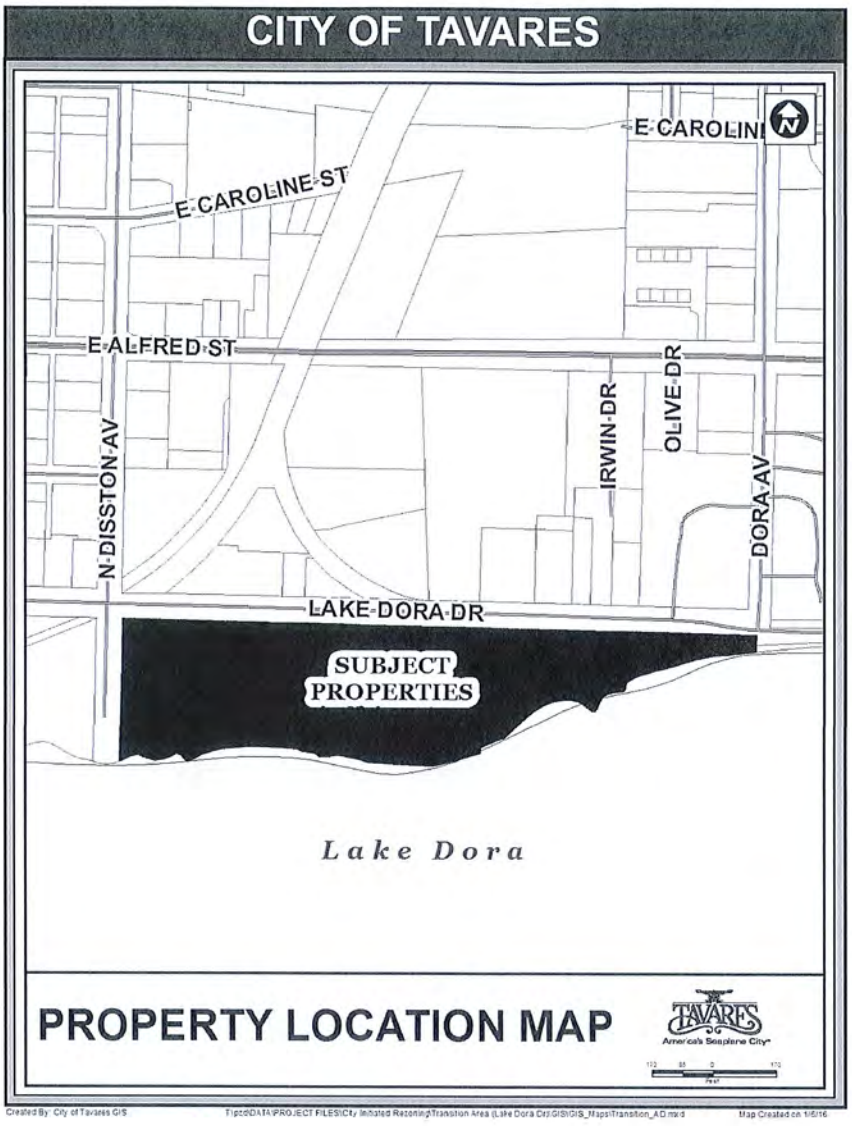
TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 150 FT OF LOT 4 BLK 29 GOV PLAT 1 PG 28, ORB 565 PG 649, ALTERNATE KEY 1379652, 728 LAKE DORA DR

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 50 FT OF E 208 FT OF LOT 4 BLK 29 GOV PLAT 1 PG 28, ORB 4680 PG 2198, ALTERNATE KEY 1379679

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 25 FT OF E 158 FT OF LOT 4 BLK 29 GOV PLAT 1 PG 28, ORB 4680 PG 2198, ALTERNATE KEY 1379661

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT W 25 FT OF E 133 FT OF LOT 4 BLK 29 GOV PLAT 1 PG 28, ORB 3011 PG 1739, ALTERNATE KEY 1379636

TAVARES, ST CLAIR-ABRAMS EXT SUPPLEMENTAL PLAT E 108 FT OF LOT 4 BLK 29 GOV PLAT 1 PG 28, ORB 1598 PG 81, ALTERNATE KEY 1379644


CITY OF TAVARES
E CAROLINE
E CAROLINE ST
E ALFRED ST
N DISSTON AV
IRWIN DR
OLIVE DR
DORA AV
LAKE DORA DR
SUBJECT PROPERTIES
Lake Dora
PROPERTY LOCATION MAP
TAVARES
America's Seaplane City

1

CITY OF TAVARES - PROPERTY LOCATION MAP

PROPERTY LOCATION MAP

TAVARES
America's Seaplane City

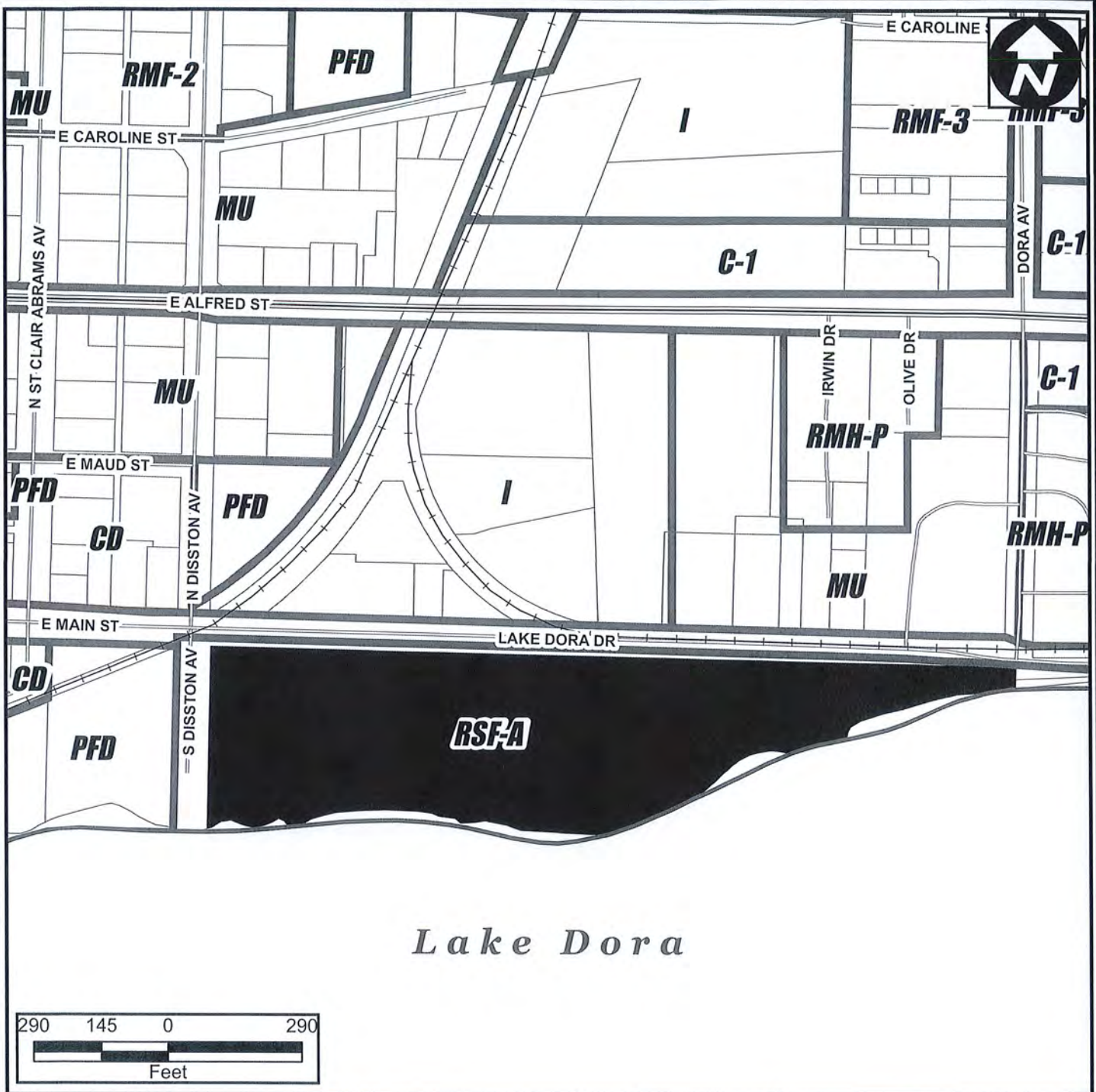
225 112.5 0 225
Feet

AFTED BY: CITY OF TAVARES GIS

T:\pzd\DATA\PROJECT FILES\City Initiated Rezoning\Transition Area (Lake Dora Dr)\GIS\GIS_Maps\Transition_LOCPP.mxd

MAP CREATED ON 1/6/16

CITY OF TAVARES ORDINANCE # 2016-03



RSF-A	Residential Single Family
RSF-1	Residential Single Family
RMF-2	Residential Multi-Family
RMF-3	Residential Multi-Family
RMH-S	Residential Manufactured Home Sub.
RMH-P	Residential Manufactured Home Park
PD	Planned Development District
MU	Mixed Use District
C-1	General Commercial
C-2	Highway Commercial
CD	Commercial Downtown District
I	Industrial District
PFD	Public Facilities District

TAVARES
America's Seaplane City

ZONING MAP

ORDINANCE # 2016-03

Lake Dora Dr.

Current Zoning: RSF-A
Proposed Zoning: MU

10.95 ± Acres

Legend

- CITY BOUNDARY
- ZONING
- SUBJECT PROPERTY
- UNINCORPORATED
- MAJOR ROADS
- STREETS
- PARCELS
- CONS/WETLANDS

Orlando Sentinel
Publication Date: 01/11/2016
Ad Number: 3875443-1
Insertion Number:
Size: 3 x 10.5
Color Type: B&W
Client Name: / PO# Mike Fitzgerald
Advertiser: City of Tavares
Section/Page/Zone: Lake Zone/E003/LAK
Description: ff/ORD. 2016-03 and Ord 2016-04

This E-Sheet(R) is provided as conclusive evidence that the ad appeared in The Orlando Sentinel on the date and page indicated. You may not create derivative works, or in any way exploit or repurpose any content.

LAKE SENTINEL

THING TO DO

Aquatics

MOUNT DORA SWIM TEAM is taking registrations. Fee: $40 per month with practices from 4:30-6 p.m., Monday, Tuesday, Thursday, Friday. No Wednesday practices. Location: heated Mount Dora City Pool. Details: Beth Kornowski at 352-516-2731.

LEESBURG AQUATICS for swimmers from age 5 through masters (19 and older) is inviting recreational swimmers looking to develop their swimming skills. Fees: $35-$55 per month and other fees for meets and USA Swimming registration. Year-round and summer recreational programs are available. Details: leesburgaquaticsclub.com, 407-421-8049, or email leesburgaquaticsclub@hotmail.com.

GOLDEN TRIANGLE YMCA is running a swim-lesson program for students from 6 months old to adults. Fees: $45 for members for eight sessions, $90 for nonmembers for eight sessions. Details: Contact aquatics director Pam Sanders, psanders@cfymca.org, or call 352-343-1144.

SAFE START program by the Central Florida YMCA teaches youngsters to float, rest, breathe and swim to the wall. It is a six-week program taught five days a week for 10 minutes by Heather Worrell, certified Safe Start instructor. Details: 352-343-1144, Ext. 235, or email heathersafestart@gmail.com.

NTC AQUATICS is for children who are competitive swimmers or would like to learn the basic fundamentals of swimming in a team atmosphere. Ages 5-18. This is a year-round program offering seven different categories/teams based on skill level. Details: Ozzie Quevedo at ozzie.quevedo@orlandohealth.com or 352-241-7144, Ext. 4293.

KIDS SPLASH CAMP (ages 5-14) offers six one-week sessions, 9 a.m.-4 p.m. weekdays. The programs provide specific instruction in swimming, springboard diving and field-group activities. Details: 321-282-2558.

GOLDEN TRIANGLE YMCA Sharks team is a fun way to get in shape and develop swimming skills. Ages: 5-18. Details: 352-343-1144.

GOLDEN TRIANGLE YMCA Masters swim team is a competitive team for adults. Meetings are Saturdays at 9:30 a.m. Details: 352-343-1144.

WATER AEROBICS classes are 12:30-1:15 p.m. Mondays, Wednesdays and Fridays at the Leesburg swimming pool in Venetian Gardens on Dozier Circle off Dixie Avenue. Details: Phyllis Rzeminski, 352-343-8305.

Archery

JOSEPH STEED'S ARCHERY offers beginning, intermediate and advanced archery classes Saturdays and Sundays at 8 a.m. in Montverde. Ages: 9-90. All experience levels welcome. Details: Joseph Steed, 407-913-4140 or josephsteedsarchery.com.

Baseball

MOUNT DORA BASEBALL ACADEMY is offering training sessions Mondays from 6-8 p.m. There are 12 hitting stations, a speed and agility workout. Program is for players 7-12. Fee: $15 per session or $50 a month, and special pricing is available for families. Reservations are taken at 352-735-0015 or at mtdorabaseballacademy@gmail.com. Private lessons, camps and clinics also are offered.

COAST TO COAST BASEBALL is seeking skilled players (ages 10-18) to represent the U.S. in competition in Puerto Rico or to work with top college coaches and pro scouts at one of their Florida or Arizona camps and showcase events at a major-league spring-training complex. Details: Visit the tryout section of the website CoastToCoastAthletics.com or call 740-373-4455.

LAKE-SUMTER STATE COLLEGE assistant coach Jarod Mathis will be conducting private baseball lessons throughout the year. All ages, all ability levels. Lessons at LSCC baseball field on Leesburg campus. Details: Contact Mathis at 863-660-4629.

Equestrian

RIDING LESSONS, trail rides, horse leasing, pony rides and barn tours are being offered at 10639 Toad Road, Clermont. Riding lessons ($30), horse leasing ($100 a month), trail riding ($35), pony rides ($10), barn tours ($5). Proceeds are used for horse rescue. Reservations: 352-398-5491 or email dchorses@cfl.rr.com.

Fishing

HARRIS CHAIN BASS-MASTERS INC., a fishing club, meets at 7 p.m. the first Tuesday of every month at the Veterans of Foreign Wars Post 8087, 4065 N. County Road 19A, Mount Dora. Fishing is held once a month on a Sunday. The club is seeking new members. Boaters and nonboaters are welcome. Details: 352-223-1602 or 386-801-5093.

SOUTH LAKE BASS ANGLERS Fishing Club is seeking new members. Boaters and nonboaters welcome. The club meets once a month and fishes the third Saturday of every month. Details: southlakebassanglers.com or call Al Smith, 352-396-6381.

LAKE COUNTY BASS TRACKERS has its monthly tournament on the second Saturday of each month on the waters of Central Florida. We meet and draw on the first Wednesday of the month at Umatilla City Hall. Dues: $20 a year. Details: Go to bit.ly/RVtmPj or call Marty, 305-301-8734.

TRI-COUNTY FLY FISHERS CLUB meets the third Wednesday of the month in Wildwood Community Center, 6500 County Road 139 (Powell Road), 5:30-8 p.m. Fly-tying, fly-casting and rod-building are taught by qualified instructors. Local fishing opportunities are discussed. Saltwater- and freshwater-fishing excursions are planned each month. Details: Tom Green, 321-229-2924, or email capintom@yahoo.com.

Fitness

EUSTIS RECREATION is offering four Jazzercise dance-fitness classes. Classes at the American Legion, 101 S. Bay St., Eustis. Days: Mondays, Tuesdays and Thursdays 5:30-6:30 p.m., Saturdays 8:15-9:15 a.m. Details: Stacy Mathis, 386-624-2033.

EUSTIS RECREATION is offering a Jazzercise Lite class on Saturdays at 9:45 a.m. Fee: $5 per class. This is a less strenuous aerobic dance class. Meets at the American Legion building (101 S. Bay St., Eustis). Instructor: Staci Mathis. Details: Stacy Mathis, 386-624-2033.

CENTRAL FLORIDA DREAMPLEX, 2400 S. U.S. Highway 27, Clermont offers Zumba fitness, Zumba Gold, gentle yoga, chair yoga and boot camps to the general public. Class fee is $5 per class for nonmembers. Low-cost fitness center memberships are available. Details: 352-404-4085 or cgomes@CFLdreamplex.com.

GOLDEN TRIANGLE YMCA is offering a fitness assessment that will include a measure of total body composition, BMI, lean mass, fat weight, strength endurance and stamina. Accurate goal weight is projected, based on lean mass, by a certified personal trainer. YMCA members only; fee-based. Details: 352-343-1144.

McLIN FITNESS CENTER in Mount Dora offers Zumba, Pilates, yoga, boot camp and a full-service, state-of-the-art fitness facility to the public. Please call 352-735-6532 after 5 p.m. Monday-Friday for more information.

GITTER FITTER, an aerobic class, meets 5:30-6:30 p.m. Tuesdays and Thursdays at The Church at Whistling Pines, 16311 Whistling Pines Road, Umatilla. Moderate impact class using light weights, toning, sitting and standing routines to music. Each class is $3. Details: Kim Linn, 352-406-6713.

GITTER FITTER FOR THE SITTER, designed for anyone who is physically challenged, meets at 12:30 p.m. Tuesdays and 10 a.m. Thursdays at The Church at Whistling Pines, 16311 Whistling Pines Road, Umatilla. Light weights and chair routines to music. Each class is $3. Details: Kim Linn, 352-406-6713.

Golf

PLANTATION MEN'S GOLF ASSOCIATION invites men in the area to join them on Tuesday mornings. Annual dues: $15. Fee: $2 each week for game prizes. One-week trial for $2 green fees only. Once a month social after golf. A GHIN handicap is needed (pro shop can help you establish one). Details: 352-365-0526.

MEN'S SENIOR GOLFERS are invited to play with the Green Valley Country Club's men's association on Wednesday mornings. Fee: $7 plus greens fees each week, entire fee is returned to the winners. Handicaps are helpful or you can establish a handicap if necessary. Details Guy Craig 352-394-1570, or Mike O'Bryan 352-241-4247. The club is on State Road 50 between Clermont and Groveland.

SOUTH LAKE MEN'S GOLF LEAGUE is looking for members who enjoy competitive golf, every Thursday morning at 8:30 at various courses within a 20-mile drive of Clermont. Three rounds establish handicap. Annual dues: $25. One-week trial for green fees only. Details: Steve Maples at semaples@gmail.com or call 407-257-6403.

CLERMONT MEN'S SENIOR GOLF LEAGUE is a great way to meet new friends. Year-round golf in league or open play. Handicaps will be established according to USGA rules. All dues go to prize money at the end of the year. Details: Ken Dudash (352-243-2765) or e-mail amdudash@aol.com

Gymnastics

GOLDEN TRIANGLE YMCA tumbling class for ages 2-5. Classes are Wednesday and Friday from 11 a.m.-noon. Members and nonmembers welcome. Class teaches youngsters body control. Details: 352-343-1144.

Karate

MOUNT DORA PARKS AND RECREATION MARTIAL ARTS program in Uechi-ryu karate is Mondays and Wednesdays: (children) 5-11 years old, 5-5:30 p.m.; (juniors) 12-15 years old, 5:30-6 p.m. Teacher is George E. Mattson, 10th-degree black belt; (adults) 6-7:30 p.m. Teacher is David Berndt, renshi. Also classes in traditional Okinawa weapon training for adults, 7:30-10 p.m. Teacher is Tom Bentley, renshi; and traditional Wado-Ryu karate for Adults on Thursdays 7-10 p.m. Teacher is Tom Bentley, renshi. Tuition: single program: $50 per month.

Kayaking

KAYAK lessons, rentals and eco-tours in Lake County with Oak Orchard Canoe and Kayak of Waterport, N.Y. Ages 10 and older. Sit-in and sit-on models for off-premises rentals or on private sandy beach, $55-$70 per boat. Details: wfinley2133@yahoo.com or 352-272-9561.

KAYAK CLERMONT'S wilderness at Crooked River Reserve near U.S. Highway 27 and Lake Louisa Road. Equipment, shuttle included. Fee: $75 per person. For appointments: 352-272-9561 or wfinley2133@yahoo.com.

Kickboxing

GOLDEN TRIANGLE YMCA is sponsoring kickboxing Mondays and Wednesdays from 7:30-8:30 p.m.

Submit information by fax at 352-742-5938 or or by emailing dmanis@tribune.com.

THE CITY OF TAVARES
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Tavares will consider at the public hearings set forth below enactment of proposed Ordinance 2016-03 & Ordinance 2016-04 titled as follows:

ORDINANCE 2016-03

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, REZONING A COMBINED TOTAL OF APPROXIMATELY 10.95 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF LAKE DORA DRIVE, BETWEEN DISSTON AND DORA AVENUES; FROM RESIDENTIAL SINGLE FAMILY (RSF-A) TO MIXED USE (MU); SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2016-04

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, AMENDING THE TAVARES COMPREHENSIVE PLAN FUTURE LAND USE MAP 2020, PROVIDING FOR A CHANGE OF FUTURE LAND USE DESIGNATION ON A COMBINED TOTAL OF APPROXIMATELY 10.95 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF LAKE DORA DRIVE, BETWEEN DISSTON AND DORA AVENUES; FROM RESIDENTIAL LOW DENSITY TO MIXED USE NEIGHBORHOOD; SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR AN EFFECTIVE DATE.

Proposed Ordinance 2016-03 & Ordinance 2016-04 will be considered at the following public meetings:

1. Tavares Planning & Zoning Board meeting on January 21, 2016, at 3 p.m.; and
2. Tavares City Council meeting on February 3, 2016, at 4 p.m. (Introduction and First Reading by Title Only – Ordinance 2016-03); and
3. Tavares City Council meeting on February 17, 2016, at 4 p.m. (Second Reading – Ordinance 2016-03, Transmittal Hearing – Ordinance 2016-04)
4. Tavares City Council Adoption Hearing for Ordinance 2016-04 TBD following completion of State review.

All meetings will be conducted in the Tavares City Council Chambers in City Hall at 201 East Main St., Tavares, Florida.

Proposed Ordinance 2016-03 & Ordinance 2016-04 may be inspected by the public between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday of each week at City Hall.

Interested parties may appear at the meetings and, at the Planning & Zoning Board meeting and City Council Second Reading / Transmittal Hearing, be heard with respect to the proposed ordinances. It is City Council policy to limit public discussion of proposed ordinances to the Planning & Zoning Board meeting and City Council Second Reading. Any persons wishing to appeal a decision of the public body should ensure himself a verbatim record of the proceedings is made.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please

THE CITY OF TAVARES
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Tavares will consider at the public hearings set forth below enactment of proposed Ordinance 2016-05 & Ordinance 2016-06 titled as follows:

ORDINANCE 2016-05

AN ORDINANCE OF THE CITY OF TAVARES AMENDING THE BOUNDARIES OF THE CITY BY ANNEXING APPROXIMATELY 1.77 ACRES LOCATED ON THE EAST SIDE OF S.R. 19, APPROXIMATELY 700 FEET SOUTH OF THE INTERSECTION OF C.R. 561 AND S.R. 19; REZONING SAID PROPERTY FROM LAKE COUNTY URBAN RESIDENTIAL (R-6) TO CITY OF TAVARES HIGHWAY COMMERCIAL (C-2); SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2016-06

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, AMENDING THE TAVARES COMPREHENSIVE PLAN FUTURE LAND USE MAP 2020, PROVIDING FOR A CHANGE OF FUTURE LAND USE DESIGNATION ON APPROXIMATELY 1.77 ACRES OF LAND GENERALLY LOCATED ON THE EAST SIDE OF S.R. 19, APPROXIMATELY 700 FEET SOUTH OF THE INTERSECTION OF C.R. 561 AND S.R. 19; FROM COUNTY URBAN LOW DENSITY TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Proposed Ordinance 2016-05 & Ordinance 2016-06 will be considered at the following public meetings:

1. Tavares Planning & Zoning Board meeting on January 21, 2016, at 3 p.m.; and
2. Tavares City Council meeting on February 3, 2016, at 4 p.m. (Introduction and First Reading by Title Only); and
3. Tavares City Council meeting on February 17, 2016, at 4 p.m. (Second Reading)

All meetings will be conducted in the Tavares City Council Chambers in City Hall at 201 East Main St., Tavares, Florida.

Proposed Ordinance 2016-05 & Ordinance 2016-06 may be inspected by the public between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday of each week at City Hall.

Interested parties may appear at the meetings and, at the Planning & Zoning Board meeting and City Council Second Reading, be heard with respect to the proposed ordinances. It is City Council policy to limit public discussion of proposed ordinances to the Planning & Zoning Board meeting and City Council Second Reading. Any persons wishing to appeal a decision of the public body should ensure himself a verbatim record of the proceedings is made.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the City Planning Department: City of Tavares, 201 East Main Street, Tavares, Florida 32778, Telephone: (352) 742-6408, at least 2 (two) working days prior to the date of the Public Hearing; if you are hearing or voice impaired, call (352) 742-6433.

Please direct any questions on this proposed ordinance to Jacques Shuff, Community Development Director, at 742-6404.

on this property must connect to city utilities. The City's Concurrency Management System will ensure that Levels of Service (LOS) will not be degraded beyond the adopted levels of service for all regulated public facilities. Adverse impacts on Levels of Service are not implicated.

FINDINGS

This amendment request is considered to be in compliance with the Comprehensive Plan Goals, Objectives and Policies with the following findings:

1. *A Commercial Future Land Use designation would serve as the most appropriate land use for the subject property in accordance with Future Land Use policy 1-1.1.6.*

2. *Impacts of the proposed development of the subject property shall be monitored through the City's Concurrency Management System. (Comp Plan, Chapter 8)*

There was no discussion.

MOTION

Mr. Stevenson made a motion to recommend approval of Ordinance 2016-06. Mr. Root seconded the motion. The motion passed 6-0.

3) Ordinance 2016-03 - Lake Dora Dr. Properties - Rezoning

Jacques Skutt, Community Development Director provided the following staff report;

Tavares has energetically revitalized the City's Downtown Commercial/Entertainment District. The construction of the new Pavilion on the Lake, the Children's Splash Park and the many events hosted in the newly redeveloped Wooton Park and Seaplane Base have created an activity hub for tourists and residents in the east end of our downtown.

The City's adopted Downtown Master Plan suggests implementation strategies to promote sustainable economic growth. One of these strategies is the establishment of a transition zoning to buffer downtown commercial land uses from single family land uses. The Alfred/Caroline Street Mixed Use Corridor acts as this transition from our highly active downtown and the residential areas north of Caroline Street.

Although the Master Plan ends at Disston Avenue, the same strategy and need for transition is applicable east of our Downtown. Overtime, much of the land uses on Lake Dora Drive have changed to uses other than residential. The existing zonings on the north side of Lake Dora Drive are Public Facilities, Industrial and Mixed Use Districts. Staff is not recommending any change to these existing zonings. Properties on the south side of Lake Dora Drive are zoned single family residential although several of the parcels, primarily the Duncan House and King Machine and Repair, do not fit well with the residential zoning. Ordinance 2016-03 will rezone these properties from Residential Single Family (RSF-1) to Mixed Use. A single family dwelling is permitted under the Mixed Use designation and the legal status of those existing homes will not be affected by this zoning change.

Rezoning these properties not only supplies a needed buffer and transition to our vibrant Downtown, but it also provides an opportunity to redevelop or repurpose these lands to low intensity commercial uses that compliment and support our growing downtown economy.

The following individuals voiced their opposition to the proposed rezoning because they felt, in summary, that the rezoning would allow too many commercial uses and would be disruptive to the character of the single family neighborhood:

Tim Hoban – 2752 Dora Ave. – Attorney representing Mrs. Jackson (728 Lake Dora Dr.)
Donald Disher – 524 Lake Dora Dr.
Mike Hemlin – Representing owner of 107 & 111 S. Disston Ave.
Tom Heneghan – 512 Lake Dora Dr.
Kaye Hauserman – 504 Lake Dora Dr.
Tom Grizzard – Grizzard Realty
Jim Danbom – 608 Lake Dora Dr.
Don & Ann Wilder – 616 Lake Dora Dr.
Gerald & Bonnie Venn – 700 Lake Dora Dr.
Joe Craig – 1420 South Shore Dr.
Donna Jackson – 728 Lake Dora Dr.

Greg Beliveau, LPG Urban and Regional Planners, Inc., stated opposition to the rezoning and suggested that a new "transitional" zoning classification be defined to expand uses in the area that were compatible with abutting single family homes.

June Dalton, 1020 Michelle Ct., opposed the rezoning, which would allow commercial uses, on the basis that downtown Tavares already has too many empty store fronts, and that any expansion of commercial property use in downtown is unnecessary at this time.

Heather Graham stated that she is an interested party in purchasing the Duncan House, located at 426 Lake Dora Dr., and redeveloping the property into a Bed & Breakfast. She supports the rezoning on the basis that commercial property is already in close proximity to the properties along Lake Dora Dr. She stated that the current City of Tavares Bed & Breakfast regulations are too restrictive and that a rezoning to Mixed Use would allow for an improved business plan for the Duncan House. She suggested that if the rezoning is unsuccessful that the Duncan House would remain in a state of decline and would no longer be an asset to the City of Tavares.

Mark Zinkiewich stated that he is an interested party in purchasing the Duncan House and redeveloping it as a Bed & Breakfast. He supports the rezoning to allow the opening of an upscale Bed & Breakfast at the Duncan House.

Roy Stevenson asked the audience for an assessment of the noise coming from the Duncan House when it operated as a Bed & Breakfast.

Kay Hauserman, 504 Lake Dora Dr., stated that the noise was coming from non-conforming events being held, and that the noise continued late at night and was disruptive to the community.

Morris Osborn stated that he is opposed to the rezoning, but asked staff if the Duncan House could be handled independently as far as zoning and regulations so as to allow an expanded use at that location.

Gary Santoro asked if the rezoning could only apply to the Duncan House.

Jacques Skutt stated that staff could look at alternatives for allowing the Duncan House to operate as a business.

Bill Stomp stated opposition to the rezoning and that the rezoning of the properties along Lake Dora Dr. seemed to be over reaching to accommodate the Duncan House property. He supports the idea of the Duncan House being redeveloped.

Morris Osborn asked if the Duncan House property could be split to allow 2 homes.

Jacques stated that it was a possibility.

Richard Root and Bill Stomp commended the audience for their participation.

Gary Santoro asked the City Attorney if comments and suggestions made by the P&Z Board in support of the Duncan House could be taken into consideration by City Council.

Attorney Williams stated that comments and recommendations may be considered.

Morris Osborn suggested that the owners / representatives of the Duncan House petition the City of Tavares for changes to that property specifically.

MOTION
Mr. Root made a motion to recommend denial of Ordinance 2016-03 with a recommendation that the Duncan House be addressed separately. Mr. Thomas seconded the motion. The motion for denial passed 6-0.

4) Ordinance 2016-04 - Lake Dora Dr. Properties - LSFLUM

City Attorney Williams stated that because the Planning & Zoning Board had recommended denial of Ordinance 2016-03 that a review of the proposed land use change would not be necessary and that the Planning & Zoning Board may proceed with a motion for Oridinance 2016-04.

MOTION
Mr. Root made a motion to recommend denial of Ordinance 2016-04 with a recommendation that the Duncan House be addressed separately. Mr. Thomas seconded the motion. The motion for denial passed 6-0.

There was no further business and the meeting adjourned at approximately 4:19 p.m.

Respectfully submitted,

_____
Michael Fitzgerald, Development Coordinator

THIS PAGE INTENTIONALLY LEFT BLANK

TAVARES

America's Seaplane City™

AGENDA SUMMARY
TAVARES CITY COUNCIL
FEBRUARY 3, 2016

AGENDA TAB NO. 5
SUBJECT TITLE: Ordinance 2016-05 First Reading
Annexation & Rezoning –Cometerra Acquisitions/Tavares Crossroads- S.R. 19

OBJECTIVE:

To consider the annexation and rezoning to Highway Commercial of approximately 1.77 acres of property located on the east side of S.R. 19 approximately 700 feet south of the intersection of C.R. 561 and S.R. 19.

SUMMARY:

The subject property consists of two parcels of property located on the east side of S.R. 19, between S.R. 19 and C.R. 561, at the intersection of Slim Haywood Avenue. There is a single family dwelling located on each parcel. The property is currently zoned Urban Residential R-6 in the County. The owner, Cometerra Acquisitions/Tavares Crossroads, is requesting a City Highway Commercial (C-2) zoning.

The new Publix Shopping Center and main entrance off from Slim Haywood is located directly across the road from this property. The applicant also owns that development. The Kangaroo Express service station is situated 90 feet to the north. S.R. 19 is rapidly becoming a major commercial corridor for Tavares. It is staff's opinion that a Highway Commercial (C-2) zoning is the most compatible designation for this property. At this time, the applicant has no development plans for this property but desires to add to their commercial inventory of land.
The City is concurrently processing a future land use map amendment to re-designate the property from Lake County Urban Low to City of Tavares Commercial on the Future Land Use Map 2020.

OPTIONS:

No Council action required at First Reading.

PLANNING & ZONING BOARD RECOMMENDATION:

At its January 21 meeting, the Planning & Zoning Board voted unanimously to recommend approval of Ordinance 2016-05.

STAFF RECOMMENDATION:

At Final Reading, staff will recommend that City Council moves to approve Ordinance 2016-05.

FISCAL IMPACT:

N/A

LEGAL SUFFICIENCY:

This ordinance has been reviewed by the City Attorney and approved for legal sufficiency.

ORDINANCE 2016-05

AN ORDINANCE OF THE CITY OF TAVARES AMENDING THE BOUNDARIES OF THE CITY BY ANNEXING APPROXIMATELY 1.77 ACRES LOCATED ON THE EAST SIDE OF S.R. 19, APPROXIMATELY 700 FEET SOUTH OF THE INTERSECTION OF C.R. 561 AND S.R. 19; REZONING SAID PROPERTY FROM LAKE COUNTY URBAN RESIDENTIAL (R-6) TO CITY OF TAVARES HIGHWAY COMMERCIAL (C-2); SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of the property described in **Exhibit "A"** has voluntarily petitioned to annex into the City of Tavares, and

WHEREAS, the property legally defined in **Exhibit "A"** is contiguous with the corporate limits of the City of Tavares and the annexation of said property will not result in the creation of any enclave; and

WHEREAS, the City of Tavares, Florida, is in a position to provide municipal services to the property described herein; and,

WHEREAS, the City Council of the City of Tavares, Florida, deems it in the best interest of the City to accept said petition and to annex said property; and,

WHEREAS, the property is currently zoned Lake County Urban Residential (R-6) and the applicant has requested that said property be rezoned to a City designation of Highway Commercial (C-2); and,

WHEREAS, the City is concurrently processing a large scale future land use map amendment to re-designate the property from Lake County Urban Low Density to a City of Tavares Commercial designation on the Future Land Use Map; therefore

BE IT ORDAINED by the City Council of the City of Tavares, Florida, as follows:

Section 1. Annexation

The property legally defined as and depicted in **Exhibit "A"** attached hereto, situated in Lake County, Florida, is hereby incorporated into and made a part of the City of Tavares, Florida, pursuant to the voluntary annexation provisions of Section 171.044, Florida Statutes.

Section 2. Rezoning

The property described in **Exhibit "A"** shall hereby be rezoned from Lake County Urban Residential (R-6) to City of Tavares Highway Commercial (C-2) and shall be subject to the provisions contained within the Land Development Regulations for this zoning designation.

Section 3. Severability.

Upon a determination by a court of competent jurisdiction that a portion of this ordinance is void, unconstitutional, or unenforceable, all remaining portions shall remain in full force and effect.

Section 4. Effective Date.

This Ordinance shall take effect immediately upon its final adoption by the Tavares City Council.

PASSED AND ORDAINED this _____ of _____, 2016, by the City Council of the City of Tavares, Florida.

_____

Robert Wolfe, Mayor
Tavares City Council

First Reading: _____

Passed Second Reading: _____

ATTEST:

_____

Nancy Barnett, City Clerk

APPROVED AS TO FORM AND LEGALITY:

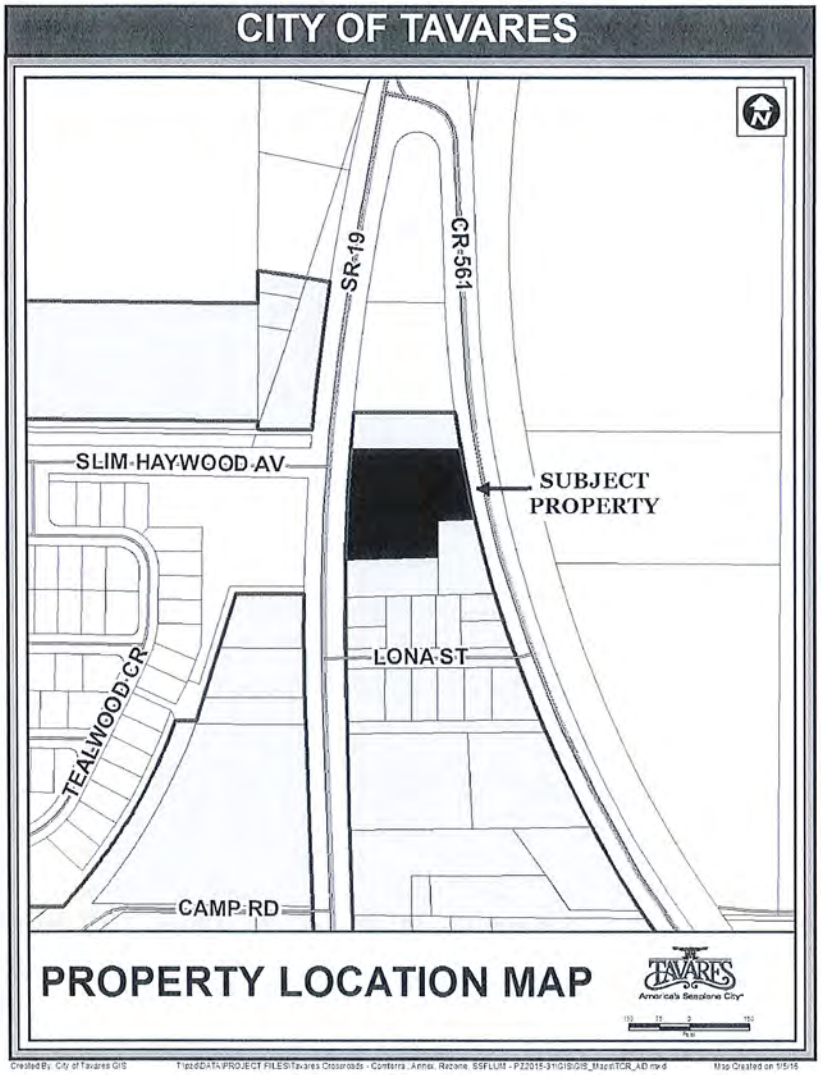
_____

Robert Q. Williams, City Attorney

EXHIBIT A

LANE PARK, LANE & JACKSON PLAT, THAT PART OF LOT 40--LESS N 90 FT & LESS THE S 185 FT, LYING E OF SR 19 & W OF 561 PB 7 PG 52, ORB 4652 PG 530, ALTERNATE KEY 1751179, 29814 STATE ROAD 19

LANE PARK, LANE & JACKSON PLAT, BEG ON S LINE OF LOT 40 & E R/W OF SR 19, RUN N'LY ALONG HWY 92.63 FT TO POB, CONT N'LY ALONG HWY 92.62 FT, N 89DEG 34MIN 40SEC E 240 FT, S 01DEG 54 MIN 40SEC W 92.59 FT, S 89DEG 34MIN 40SEC W 240.74 FT TO POB, PB 7 PG 52, ORB 4700 PG 1884, ALTERNATE KEY 2615851, 29774 STATE ROAD 19



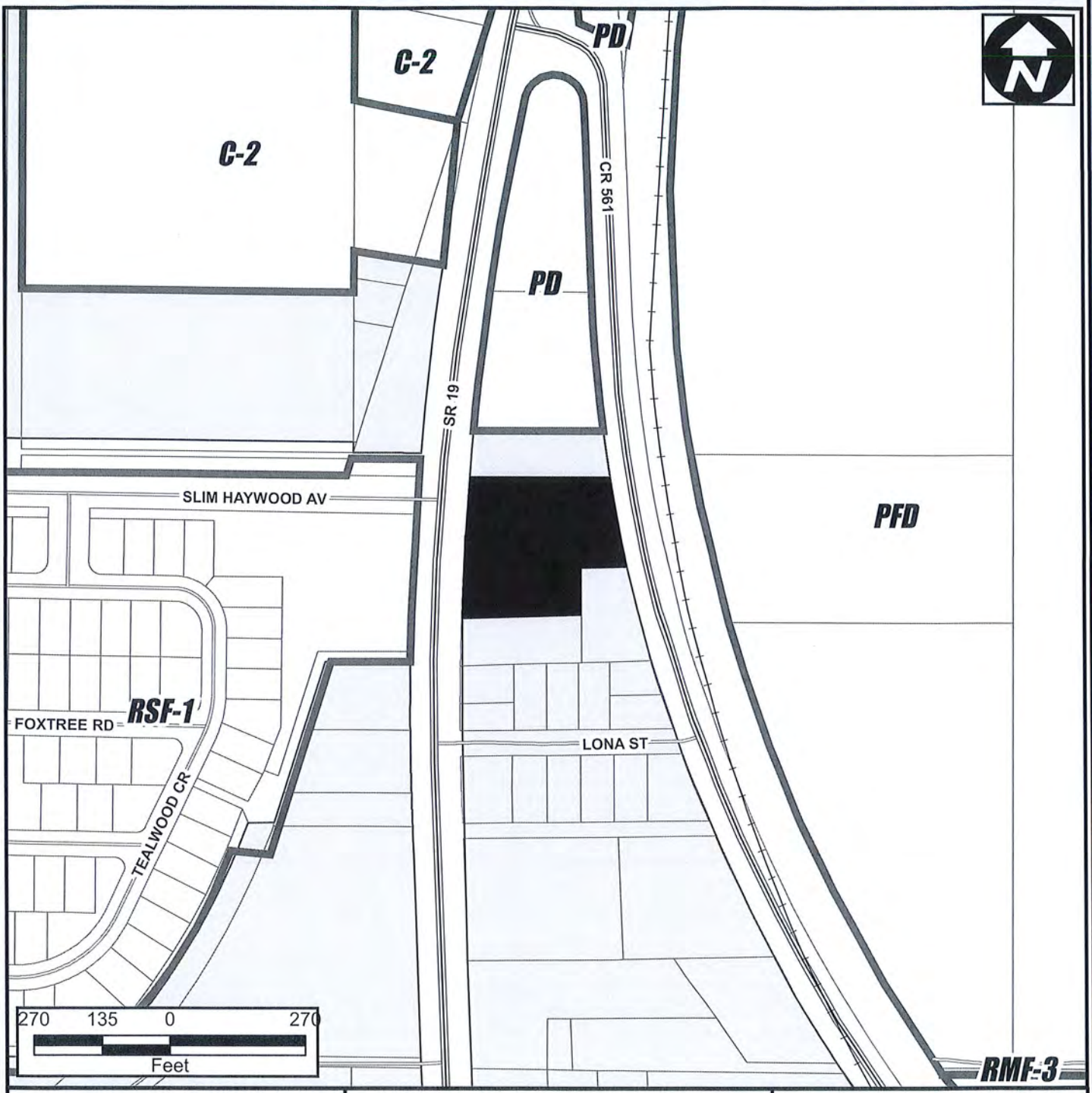
CITY OF TAVARES

PROPERTY LOCATION MAP

TAVARES
America's Seaplane City

90 45 0 90
Feet

CITY OF TAVARES ORDINANCE # 2016-05



RSF-A Residential Single Family
RSF-1 Residential Single Family
RMF-2 Residential Multi-Family
RMF-3 Residential Multi-Family
RMH-S Residential Manufactured Home Sub.
RMH-P Residential Manufactured Home Park
PD Planned Development District
MU Mixed Use District
C-1 General Commercial
C-2 Highway Commercial
CD Commercial Downtown District
I Industrial District
PFD Public Facilities District

ZONING MAP

ORDINANCE # 2016-05

Tavares Crossroads / Comterra

Current Zoning: Lake County R-6 Urban Residential
Proposed Zoning: C-2
01.77 ± Acres

Legend

CITY BOUNDARY
ZONING
SUBJECT PROPERTY
UNINCORPORATED
MAJOR ROADS
STREETS
PARCELS
CONS/WETLANDS

CITY OF TAVARES
PLANNING AND ZONING BOARD MEETING
TAVARES COUNCIL CHAMBERS
January 21, 2016

BOARD MEMBERS PRESENT

Gary Santoro, Chairman
Richard Root , Vice Chairman
Morris Osborn
Norb Thomas
Bill Stomp
Roy Stevenson

LAKE COUNTY SCHOOL BOARD
Dawn McDonald, Senior Planner

STAFF MEMBERS PRESENT
Jacques Skutt, Community Development Director
Mike Fitzgerald, Development Coordinator

CALL TO ORDER

Chairman, Gary Santoro, called the meeting to order at 3:00 p.m. and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES OF December 17, 2015

The minutes were approved.

SWEARING IN OF THOSE GIVING TESTIMONY

The oath was given to staff and members of the audience that expressed an interest in speaking on agenda items.

CASES HEARD

1) Ordinance 2016-05 – Tavares Crossroads/Comterra – Annexation, Rezoning

Jacques Skutt, Community Development Director provided the following staff report;

The subject property consists of two parcels of property located on the east side of S.R. 19, between S.R. 19 and C.R. 561, at the intersection of Slim Haywood Avenue. There is a single family dwelling located on each parcel. The property is currently zoned Urban Residential R-6 in the County. The owner, Cometerra Acquisitions/Tavares Crossroads, is requesting a City Highway Commercial (C-2) zoning.

The new Publix Shopping Center and main entrance off from Slim Haywood is located directly across the road from this property. The applicant also owns that development. The Kangaroo Express service station is situated 90 feet to the north. S.R. 19 is rapidly becoming a major commercial corridor for Tavares. It is staff's opinion that a Highway Commercial (C-2) zoning is the most compatible designation for this property. At this time, the applicant has no development plans for this property but desires to add to their commercial inventory of land.
The City is concurrently processing a future land use map amendment to re-designate the property from Lake County Urban Low to City of Tavares Commercial on the Future Land Use Map 2020.

There was no discussion.

MOTION
Mr. Stevenson made a motion to recommend approval of Ordinance 2016-05. Mr. Thomas seconded the motion. The motion passed 6-0.

2) Ordinance 2016-06 – Tavares Crossroads/Comterra – SSFLUM

Jacques Skutt, Community Development Director provided the following staff report;

Ordinance 2016-06 proposes a small scale amendment to the Future Land Use Map 2020 of the Comprehensive Plan.

The subject property (Parcel Alternate Key Numbers 1751179 & 2615851) is 1.77 acres in size, located on the east side of S.R. 19, between S.R. 19 and C.R. 561, at the intersection of Slim Haywood Avenue. The new Publix Shopping Center and its main entrance off from Slim Haywood is located directly across the road from this property. The applicant also owns that development. The Kangaroo Express service station is situated 90 feet to the north. S.R. 19 is rapidly becoming a major commercial corridor for Tavares. There is a single family dwelling located on each parcel of the subject property. This ordinance would amend the current Future Land Use Designation from Lake County Urban Low Density to City Commercial.

Future Land Use Amendment
The city is required to place a future land use designation on annexed property. The subject property is currently designated County Urban Low Density. A City Commercial designation is most compatible with surrounding property.

Compatibility
Lands across the road and to the north from this property are commercial in nature.

Site Conditions
There are currently two single family dwellings on this property. Prior to any redevelopment, an approved site plan will be required. All applicable environmental assessments and permitting must be in place before the site plan is approved.

Impact on City Services
The subject property is located in the City's Utility Service Area. The City of Tavares has municipal water and sewer services available to the subject parcel and any new development

THIS PAGE INTENTIONALLY LEFT BLANK

TAVARES

America's Seaplane City™