



## **LAKE MARY CITY COMMISSION**

**Lake Mary City Hall  
100 N. Country Club Road**

**Regular Meeting  
AGENDA**

**THURSDAY, FEBRUARY 05, 2015 7:00 PM**

- 1. Call to Order**
- 2. Moment of Silence**
- 3. Pledge of Allegiance**
- 4. Roll Call**
- 5. Approval of Minutes: January 15, 2015**
- 6. Special Presentations**
- 7. Citizen Participation**
- 8. Unfinished Business**
- 9. New Business**
  - A. Variance from §160.07, Resource Protection Standards/City Code of Ordinances, 112 Channel Drive; Chris Van Buskirk, applicant (Public Hearing) (Gary Schindler, City Planner)**

- B. Ordinance No. 1523 - Amending, moving and repealing portions of Chapter 91: Health and Public Safety, Sections 91.30 through 91.60 Solid Waste Collection - First Reading (Public Hearing) (Dianne Holloway, Finance Director)**

**10. Other Items for Commission Action**

**11. City Manager's Report**

**A. Items for Approval**

- a. Surplus Item - Wallace Court AC Unit**

**B. Items for Information**

- a. None**

**12. Mayor and Commissioners Report - (4)**

**13. City Attorney's Report**

**14. Adjournment**

**THE ORDER OF ITEMS ON THIS AGENDA IS SUBJECT TO CHANGE**

**Per the direction of the City Commission on December 7, 1989, this meeting will not extend beyond 11:00 P. M. unless there is unanimous consent of the Commission to extend the meeting.**

**PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY ADA COORDINATOR AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT (407) 585-1424.**

**If a person decides to appeal any decision made by this Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she 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. Per State Statute 286.0105.**

**NOTE: If the Commission is holding a meeting/work session prior to the regular meeting, they will adjourn immediately following the meeting/work session to have dinner in the Conference Room. The regular meeting will begin at 7:00 P. M. or as soon thereafter as possible.**

**UPCOMING MEETINGS: February 19, 2015**



1 MINUTES OF THE LAKE MARY CITY COMMISSION MEETING held January 15,  
2 2015, 7:00 P.M., Lake Mary City Commission Chambers, 100 North Country Club Road,  
3 Lake Mary, Florida.

4  
5  
6 1. Call to Order  
7

8 The meeting was called to order by Mayor David Mealor at 7:02 P.M.  
9

10 2. Moment of Silence  
11

12 3. Pledge of Allegiance  
13

14 4. Roll Call  
15

16 Mayor David Mealor  
17 Commissioner Gary Brender  
18 Deputy Mayor George Duryea  
19 Commissioner Sidney Miller  
20 Commissioner Jo Ann Lucarelli  
21

Jackie Sova, City Manager  
Carol Foster, City Clerk  
Dianne Holloway, Finance Director  
John Omana, Community Development Dir.  
Steve Noto, Deputy City Planner  
Bruce Paster, Public Works Director  
Bryan Nipe, Parks & Recreation Director  
Tom Tomerlin, Economic Development Mgr.  
Wanda Broadway, Human Resources Mgr.  
Joe Landreville, Deputy Fire Chief  
Colin Morgan, Deputy Police Chief  
Katie Reischmann, City Attorney  
Mary Campbell, Deputy City Clerk  
22  
23  
24  
25  
26  
27  
28  
29

30 5. Approval of Minutes: December 18, 2014  
31

32 **Motion was made by Commissioner Brender to approve the minutes of the**  
33 **December 18, 2014, meeting, seconded by Commissioner Miller and motion**  
34 **carried unanimously.**  
35

36 6. Special Presentations  
37

38 There were no special presentations at this time.  
39

40 7. Citizen Participation  
41

42 No one came forward at this time and citizen participation was closed.  
43

44 8. Unfinished Business  
45

46 There was no unfinished business at this time.

1  
2 9. New Business  
3

4 A. Request for Preliminary 12-lot Subdivision Plan Approval for Twelve Oaks at  
5 Lake Mary with a variance, 330 Washington Avenue; Daly Design Group,  
6 applicant (Public Hearing) (Steve Noto, Deputy City Planner)  
7

8 Mr. Noto said the request is for a preliminary subdivision plan. He showed the plan on  
9 the overhead. The subject property is located east of Longwood-Lake Mary Road on the  
10 north side of Washington Avenue. This piece of property has been before the  
11 Commission for rezonings, A-1 to RCE and RCE to R-1A, and there was also a future  
12 land use amendment of Rural Residential to Low Density Residential. We have gone  
13 from one unit per acre to 2-1/2 units per acre. What is before the Commission this  
14 evening is a subdivision request to subdivide the subject property into 12 single family  
15 home lots.  
16

17 Mr. Noto said the request is for 12 single-family homes. We had a couple of phone  
18 calls. There is a subdivision of the same name in Sanford that is mobile homes. These  
19 are not mobile homes. There are 12 lots roughly a third of an acre in size. There will be  
20 single family style homes much like the MI Homes project that came before the  
21 Commission (Pine Tree Terrace). They will be about 2,000 S.F. in the \$400,000 to  
22 \$500,000 price range. The property is 4.85 acres, under the current land use 2.5  
23 dwelling units per acre, and they are topping out at their density.  
24

25 Mr. Noto said in October we had a workshop to talk about policy regarding pedestrian  
26 infrastructure on Washington Avenue, specifically sidewalks. The policy decision was  
27 made by the Commission that as development occurred on Washington Avenue,  
28 developers would be required to install sidewalks on Washington going to Longwood-  
29 Lake Mary Road and Rolex Point depending on what side of the road they were  
30 developing on. In this case the developer is coming in on the north side of Washington  
31 so as part of the development (it's not shown on these plans but is a condition of  
32 approval) they will be installing sidewalks from their entrance on the north side of  
33 Washington going west to Longwood-Lake Mary Road and east to Rolex Point.  
34

35 Mr. Noto said there was a variance request that took up a couple of pages of the staff  
36 report. Right before the Planning & Zoning Board meeting we were having discussions  
37 with the developer and the variance was from providing internal sidewalks within the  
38 subdivision along the cul-de-sac. The developer decided he would install the sidewalk.  
39 We are going to do it via a developer's agreement as development happens so it's not  
40 put in and torn up and having to go back in and repairing. As we get to the final  
41 subdivision process we will take care of the means and methods of how that will be  
42 done. The variance is no longer requested. This is just a straight subdivision for 12 lots  
43 with no variances.  
44

45 Mr. Noto said there is sewer to the east at Rolex Point (the Washington Estates project).  
46 There is a water line along Washington. There is no reclaimed available so they will be

1 using wells for irrigation. The stormwater pond is located at the front of the  
2 development on the northwest corner and each lot will have swales along the front for  
3 additional stormwater.

4  
5 Mr. Noto said there are a number of trees that will have to be taken out. There won't be  
6 any mass clearings and will be done on a lot by lot basis so they will be required to pull  
7 arbor permits and things of that nature. Any historic trees will have to go to the Arbor  
8 Board for approval. Each lot will have to have roughly five trees per Chapter 157. A lot  
9 of the lots have trees in the back, especially on the west side of the development. They  
10 are basically outside of the building pad. He noted they could see that on Sheet PSP 3  
11 of the plan. A lot of the trees will most likely be saved as development occurs.

12  
13 Mr. Noto said the Planning & Zoning Board heard this item at their December 9, 2014,  
14 meeting and they unanimously recommended approval 5 – 0. They added Condition  
15 No. 7 which was based upon what he spoke about earlier regarding the sidewalks and  
16 the developer's agreement.

17  
18 Mr. Noto said we received a phone call from a citizen in the area regarding traffic on  
19 Washington Avenue. That is something we will be looking at but due to the size of this  
20 development a traffic study was not required, but he was looking for some things to  
21 happen on Washington Avenue as far as slowing down traffic and things of that  
22 nature—things that could be coordinated with the police department.

23  
24 Mr. Noto said staff is recommending approval of the requested preliminary subdivision  
25 plan with the seven conditions. This item will come before the Planning & Zoning Board  
26 as a final subdivision and will not come before the Commission in that form. It will come  
27 back later as final plat several months down the road. He said if the Commission had  
28 any input or things they would like to be changed to let us know now. He noted the  
29 applicant was present and they could take those into account as we go into the design  
30 of the final subdivision.

31  
32 Deputy Mayor Duryea asked of Lot 6 met the flag lot requirements.

33  
34 Mr. Noto answered affirmatively. All the lots meet size requirements and frontage  
35 requirements.

36  
37 Deputy Mayor Duryea asked even Lot 12. It seems to be on the street.

38  
39 Mr. Noto said that is a double frontage lot but it meets the minimum 14,000 S.F. lot size  
40 and they will be required to have a 25-foot front setback off the internal road and then  
41 from Washington as well. They meet all the dimensional requirements.

42  
43 Deputy Mayor Duryea said there is no variance any more and questioned why they  
44 needed Commission approval.

1 Mr. Noto said the preliminary subdivision plans are required to come before the  
2 Commission for approval.

3  
4 Commissioner Brender asked if the comment Mr. Noto made about the trees on the  
5 west side was written somewhere that they would attempt to save trees as much as  
6 possible.

7  
8 Mr. Noto said there is no developer's agreement aside from what we will put together for  
9 the sidewalk. If the Commission would like to see additional language that as many  
10 trees be saved as possible we can add that in there.

11  
12 Patrick Knight, applicant, 1900 East Adams Drive, Maitland, Florida, came forward. He  
13 said trees create value. He believed this was probably a nursery way back when. He  
14 suspected they cleared the center of the property for their operations and now it is  
15 heavily treed on both the east and west sides. Those trees are probably within ten feet  
16 of the property line so it works out fantastic. You can stand inside the middle of the  
17 property and you can't see east or west off the property. It is a good thing and we want  
18 to keep all the trees.

19  
20 Commissioner Brender asked if fire and police were okay. We can get a fire truck up  
21 there.

22  
23 Mr. Noto answered affirmatively.

24  
25 Deputy Mayor Duryea said he was trying to get his head around what this is going to  
26 look like. He asked where in the City do we have this kind of density in a small area.

27  
28 Mr. Noto said the most similar recent is Pine Tree Terrace off Pine Tree Road where  
29 they had nine lots. Those were roughly one-third acre lots and then they had the cul-  
30 de-sac that came in off the side road where they had six lots on the cul-de-sac. Linda  
31 Lane was five lots but they haven't developed any homes yet.

32  
33 Mayor Mealor asked if anyone wanted to speak in reference to this request for a  
34 preliminary 12-lot subdivision. No one came forward and the public hearing was closed.

35  
36 Commissioner Miller said Pastor Paul Hoyer lives across the street from this and spoke  
37 to him about it and he's very satisfied. The only thing he commented about was the  
38 trees and to make sure they replace the trees with substantial trees instead seedlings.  
39 He said he spoke to Steven about that and based on what Steven told me he thought  
40 he would be more than happy with what they replace it with.

41  
42 **Motion was made by Commissioner Lucarelli to approve the Preliminary 12-Lot**  
43 **Subdivision Plan for Twelve Oaks at Lake Mary, including the seven conditions as**  
44 **well as the condition to include in the development agreement language about**  
45 **retaining as many trees as possible. Seconded by Commissioner Brender and**  
46 **motion carried by roll-call vote: Commissioner Brender, Yes; Deputy Mayor**

1 **Duryea, Yes; Commissioner Miller, Yes; Commissioner Lucarelli, Yes; Mayor**  
2 **Mealor, Yes.**

3  
4 B. Resolution No. 957 – Project *Dixon Ticonderoga Company* be approved as a  
5 Qualified Target Industry (QTI) Business (Tom Tomerlin, Economic  
6 Development Manager)

7  
8 The City Attorney read Resolution No. 957 by title only.

9  
10 Tom Tomerlin, Economic Development Manager, came forward. Resolution No. 957 is  
11 consideration of the Dixon Ticonderoga Company as a QTI (Qualified Target Industry)  
12 and also a commitment to fund the local financial support associated with that incentive.

13  
14 Mr. Tomerlin said the program is a QTI (Qualified Target Industry) and is a state  
15 administered incentive program. It requires that the local government in which the  
16 project is going to be located contribute 20% towards local financial support towards the  
17 tax rebate. It is a tax rebate program and is paid after the jobs are created. The tax  
18 rebate can be applied to the corporate income tax, tangible personal property, certain  
19 insurance premiums and some other taxes.

20  
21 Mr. Tomerlin said the company in question is the Dixon Ticonderoga Company. This is  
22 one of the oldest companies that was founded in the United States. Founded in 1795,  
23 they create writing instruments. Those that have been in education probably have seen  
24 the classic yellow pencil with green lettering. They also create a great deal of education  
25 supplies.

26  
27 Mr. Tomerlin said this is concerning the location of their USA headquarters. They are  
28 currently located within the unincorporated part of Seminole County; however, that  
29 space is no longer working for them and the consideration was to move into space  
30 within the City of Lake Mary across Interstate 4 or to Macon, Georgia where they have a  
31 distribution center. They are considering a company museum that would highlight and  
32 show artifacts associated with that company's history.

33  
34 Mr. Tomerlin said the jobs that are attached to this incentive are 20 new jobs and the  
35 retention of those 43 jobs that could have been lost to Georgia. The average wage of  
36 the new jobs is \$46,700 which represents 117% of the average wage within Seminole  
37 County. Those jobs will be created over a three year time span. Forty-three jobs  
38 retained, and 20 new jobs. It is the 20 new jobs that the incentives are addressing.

39  
40 Mr. Tomerlin said the capital expenditure associated with this project is estimated at  
41 \$1.5 million. They are eligible for a \$5,000 per new job tax rebate. That's a \$3,000  
42 base plus a \$2,000 bonus associated with the high impact sector for a total of \$5,000  
43 worth of tax rebate per new job created. The high impact sector that is located in its  
44 corporate headquarters is considered a high impact sector. The total tax rebate  
45 available to this company is \$100,000. That is the \$5,000 per job times the 20 new  
46 jobs. The 20% local financial support is a total of \$20,000. We expect to split this

1 incentive with Seminole County. We hope they will hear this at one of their February  
2 meetings. That leaves a 50% contribution of that 20% match that is required. That is a  
3 total of \$10,000 from the City of Lake Mary. That \$10,000 would be paid out over a six-  
4 year timeframe.

5  
6 Mr. Tomerlin said staff recommends approval of Resolution No. 957 recommending the  
7 Dixon Ticonderoga Company as a Qualified Target Industry and also committing the  
8 City of Lake Mary to its \$10,000 worth of local financial support.

9  
10 Deputy Mayor Duryea asked if Dixon owned the current building they are in.

11  
12 Mr. Tomerlin said he couldn't say with 100% of accuracy but at one time they may have  
13 owned that building. It is no longer in their ownership, circumstances changed, and  
14 they had to move. They are also in a growth spurt, clearly evidenced by the addition of  
15 these 20 new jobs.

16  
17 Commissioner Brender asked where they are moving to.

18  
19 Mr. Tomerlin said we believe they will move to 615 Crescent Executive Court. They are  
20 working to get signage on top of their building on Crescent. That is a great addition  
21 because it is a household name. It's an iconic company name and having that reflected  
22 on Interstate 4 is a positive attribute.

23  
24 Commissioner Miller asked if they still owned Crayola.

25  
26 Mr. Tomerlin said he didn't know about that.

27  
28 Ms. Sova said they are big supporters of our schools in terms of donations of supplies.  
29 Keeping them here close will be helpful to our schools.

30  
31 Deputy Mayor Duryea commended Mr. Tomerlin for his work on this.

32  
33 Mr. Tomerlin said it is an iconic company and anyone that's had those yellow pencils  
34 knows the company name. We are excited about saying we are the corporate  
35 headquarters for this company.

36  
37 **Motion was made by Deputy Mayor Duryea to approve Resolution No. 957,**  
38 **seconded by Commissioner Lucarelli and motion carried unanimously.**

39  
40 C. Request for a \$5,000 Neighborhood Beautification Grant for the Lake Mary  
41 Landings subdivision (Steve Noto, Deputy City Planner)

42  
43 Mr. Noto said this is the first neighborhood beautification grant of the year. We have a  
44 fresh pot of money and Lake Mary Landings is our first community to take advantage of  
45 this year's grant program. It's a crazy story with how Lake Mary Landings came to find  
46 out about the grant and why they need the grant. We received a fence permit and the

1 fence was going to be installed along the edge of the Weldon Boulevard portion of the  
2 development where there is nice landscaping and is a great entrance to the community.  
3 We were reviewing it and wondered what this was all about so we reached out to the  
4 fence contractor and eventually got in touch with Deborah of the Landings HOA and she  
5 starts telling about this laundry list of issues they have been having with their irrigation  
6 system. Ever since it was turned over to them from the original developer in 2011, they  
7 have had to spend thousands of dollars on patchwork repairs on portions of the  
8 irrigation system.

9  
10 Mr. Noto pointed out the area on the exhibit where repairs would occur where they have  
11 a timer and some other infrastructure for the irrigation system that controls the  
12 sprinklers which is part of their entry feature. It was struck by lightning or something  
13 along those lines. Something happened where the sprinklers stopped working, hedges  
14 started dying, and the contractor they had been working with, Sorvello & Son, found a  
15 host of issues that have been improperly repaired over the years. They made some  
16 temporary fixes so the sprinklers could continue to work but what he did would not work  
17 as a long term solution.

18  
19 Mr. Noto let Deborah know about the grant program and this would be the perfect  
20 opportunity for the community to use something like this. Their irrigation budget has  
21 been exceeded by \$22,000. They've spent \$5,000 here, \$6,000 there on improvements  
22 and repairs. They are still going to be able to provide their 5% match which is \$250 for  
23 a \$5,000 grant. By obtaining the grant funds they will be able to repair the irrigation  
24 zone that is highlighted on the exhibit along Weldon. They will be able to provide  
25 irrigation to newly planted landscaping as well as replant landscaping that had to be  
26 taken out due to the issues they had initially with the timer and the other infrastructure.

27  
28 Mr. Noto said the Parks & Recreation Board heard this item at their January 5, 2015,  
29 meeting and recommended 6 – 0 to allow the \$5,000 grant for Lake Mary Landings. If  
30 approved there would still be \$20,000 left in the pot for other communities.

31  
32 Mayor Meador said the President of the homeowners' association is Deborah Turner.  
33 Ms. Turner is a Lake Mary business owner and we are thankful she is with us.

34  
35 **Motion was made by Commissioner Brender to award a \$5,000 Neighborhood**  
36 **Beautification Grant to Lake Mary Landings, seconded by Commissioner Lucarelli**  
37 **and motion carried unanimously.**

38  
39 D. Resolution No. 958 – Amending fees for use of Skateboard/Bike Park at the  
40 Sports Complex (~~Radley Williams, Recreation Chief~~ Bryan Nipe, Parks &  
41 Recreation Director)

42  
43 The City Attorney read Resolution No. 958 by title only.

44  
45 Mr. Nipe said we have had discussions over the last two years about the skate park,  
46 mainly due to the lack of participation. The skateboard user group has declined. Some

1 of that is probably due to Longwood opening their skate park over the last two years. It  
2 is a free skate park that is not fenced in and is not monitored. There may be a turn in  
3 interest in skateboarding and going to skate parks, specifically one that is monitored.  
4 Over the course of time we have upped our marketing. We have done some marketing  
5 through social media and have been at schools handing out posters.  
6

7 Mr. Nipe said we have seen a bit of an uptick but by no means dramatically getting back  
8 to where we were years ago. We feel it is an appropriate time to review our fees at the  
9 skate park. Currently we are charging \$3 per person to come in on a daily basis, or  
10 they can buy a \$75 six-month pass or a pass for \$20 for ten visits. Our splash pad is a  
11 \$2 entry fee and an annual pass can be purchased for residents. We feel getting that in  
12 line with what we are charging for the splash pad and bringing down the cost to make it  
13 more competitive with the Longwood park would be appropriate. The \$20 pass may be  
14 more palatable to a family wanting to give a Christmas, Hanukah or birthday gift and the  
15 kid goes and skates and after a year they may be too old and move on to something  
16 else. We feel that is going to increase participation. We are not going to see the  
17 amount of revenue per annual pass but we think that will bring more kids out to the  
18 skate park and we bring this tonight for approval.  
19

20 Commissioner Brender asked Mr. Nipe if he thought this was a factor of cost rather than  
21 popularity of the sport.  
22

23 Mr. Nipe said he thought it was a factor of cost, the popularity of the sport has changed,  
24 and our competition has increased.  
25

26 Commissioner Brender asked if there was anything else that could be done with the  
27 park.  
28

29 Mr. Nipe said there are new streetscape opportunities and there would be a cost. We  
30 wanted to hold off bringing any kind of opportunities like that to the Commission where  
31 we would have to build more facility out there or expand the facility until we know there  
32 is really a demand. We have seen more than a 50% drop off over the last couple of  
33 years and we are not certain building something new will bring more kids and we don't  
34 want to bring that to you just yet.  
35

36 **Motion was made by Commissioner Miller to approve Resolution No. 958,**  
37 **seconded by Commissioner Lucarelli and motion carried unanimously.**  
38

39 10. Other Items for Commission Action  
40

41 There were no items to discuss at this time.  
42

43 11. City Manager's Report  
44

45 A. Items for Approval

46 a. Zoll Monitors/Defibrillators

1  
2 Ms. Sova said this is a request to replace two Zoll monitors/defibrillators. They are over  
3 nine years old and it is time to replace them. We tried to get a grant but were not  
4 accepted so we need to go ahead with the purchase in the amount of \$65,632.80. If  
5 that is approved we need to surplus the two monitors currently in use.  
6

7 **Motion was made by Commissioner Brender to approve the purchase of two new**  
8 **X Series Zoll Monitors from Zoll Medical Corporation, sole source, in an amount**  
9 **not to exceed \$65,632.80 and declare the two monitors currently in use surplus**  
10 **and authorize the City Manager to dispose of. Seconded by Commissioner Miller**  
11 **and motion carried unanimously.**  
12

13 b. Lake Mary Events Center catering agreement extensions  
14

15 Ms. Sova said this is a request to continue the Lake Mary Events Center catering  
16 agreements. They have been in place since 2009 and they are set to expire on the 31<sup>st</sup>  
17 of this month. All eight caterers would like to continue. We have had good success  
18 with all of them. We have had 659 catered events and we received over \$170,000 in  
19 revenue which is our 10% share from these caterers. The list of caterers is Arthur's, Big  
20 City, John Michael Events, River City, Four Rivers, Levan's, Cuisiniers, and Puff n Stuff  
21 Catering. Those are our exclusive caterers for the Events Center and that does protect  
22 our investment in the Events Center so we know our kitchen is well maintained and that  
23 we can trust these caterers to do their jobs properly.  
24

25 Mr. Sova asked the Commission to approve the agreement to extend all eight of these  
26 caterers for 12 months.  
27

28 **Motion was made by Commissioner Miller to authorize the City Manager to**  
29 **execute the agreement to extend the eight Events Center caterers for 12 months,**  
30 **seconded by Commissioner Lucarelli and motion carried unanimously.**  
31

32 c. Surplus of outdated/non-functioning police radios  
33

34 Ms. Sova said this is a request to surplus outdated/non-functioning police radios. We  
35 have a full list of 66 mobile and portable radios that are outdated and non-functioning.  
36 We would like to surplus those.  
37

38 **Motion was made by Commissioner Brender to declare 66 mobile and portable**  
39 **radios as listed in the staff report surplus and authorize the City Manager to**  
40 **dispose of, seconded by Commissioner Lucarelli.**  
41

42 Commissioner Miller said that seemed like a lot.  
43

44 Ms. Sova explained we had a change in the radio technology over the last couple of  
45 years. We moved to a new P-25 platform.  
46

1 **Motion carried unanimously.**

2  
3 d. Public Works equipment canopy

4  
5 Ms. Sova said this is a request for a Public Works equipment canopy. On one side of  
6 the Public Works building a canopy currently exists. It does protect a lot of our more  
7 expensive equipment. It is time to put one on the other side. It is an outdoor canopy,  
8 50' X 100' to be located on the west side of the Public Works building. We issued Bid  
9 No. 15-01 and on December 23<sup>rd</sup> we received submittals from nine companies. The  
10 most responsive bid was from Heinkel Construction with a base bid of \$143,640. We  
11 had budgeted \$290,000 so we are happy.

12  
13 Ms. Sova requested the Commission authorize her to enter into an agreement with  
14 Heinkel Construction in an amount not to exceed \$143,640 for the canopy project.

15  
16 **Motion was made by Commissioner Lucarelli to authorize the City Manager to**  
17 **enter into an agreement with Heinkel Construction in an amount not to exceed**  
18 **\$143,640 for the Public Works Canopy Project, seconded by Commissioner**  
19 **Brender and motion carried unanimously.**

20  
21 Ms. Sova announced that Girley Mack in the Public Works Department is retiring  
22 tomorrow after 24 years with the City. We wish him well.

23  
24 Mayor Mealor asked Ms. Sova to send him the Commission's best wishes and thank  
25 him for a job well done.

26  
27 Ms. Sova said we had a sendoff for him today and it was very well attended.

28  
29 Ms. Sova said the annual Shred-A-Thon is scheduled for Saturday, January 31<sup>st</sup>, from  
30 9:00 A.M. to 1:00 P.M. at 660 Century Point. This is the same location as last year.  
31 The first two boxes of paper are free and additional boxes or bags are \$5 each. Hard  
32 drives can be destroyed for \$10 each.

33  
34 Ms. Sova said residents should have received a postcard from the City and Waste Pro  
35 to choose cart sizes for their garbage carts and recycling carts. We have received over  
36 600 responses out of about 5,000 accounts.

37  
38 Commissioner Lucarelli said she didn't get one.

39  
40 Ms. Sova said it is a small postcard. It is on the website.

41  
42 Commissioner Brender said he didn't get one either.

43  
44 Ms. Sova said that is because the community association pays the garbage bill so we  
45 are working with the community association of Feather Edge II and Fountain Park  
46 because that bill is paid by the community association as well.

1  
2 Ms. Sova said cart distribution will happen the next to the last and the last week in  
3 February. We are up to about February 1<sup>st</sup> where we can take these cart sizes. We  
4 can change after that but we are hoping for successful delivery and will need the  
5 information around the first of February.  
6

7 12. Mayor and Commissioners' Reports (3)  
8

9 Commissioner Miller said he attended the Municipal Advisory Committee (MAC)  
10 meeting which is a collection of mostly city mayors from 17 cities who don't qualify to sit  
11 on the Metro-Orlando Executive Board. They have negotiated with the executive board  
12 to have one vote from this group of people. In exchange for getting that one vote, the  
13 board of directors has required that we pay dues for the Municipal Advisory Committee  
14 and that would be \$25,000 divided among the 17 cities that belong. There were various  
15 methodologies discussed as to how to collect that \$25,000 from us. It was an  
16 interesting discussion. He voted for the cents per citizen methodology which saved us  
17 \$340 a year. He has discussed this with the City Manager. It is a small amount of  
18 money and will be a while before it's actually done because it has to go back and forth  
19 between MAC and the full board.  
20

21 Mayor Meador said on the MAC, he asked if there was discussion about rotation as to  
22 how that vote would be presented.  
23

24 Commissioner Miller said the vote would be the chair of the committee. The chair of the  
25 committee will take the vote. There was discussion that the chair should always present  
26 the views of the full committee instead of their personal views. That got to be hard to  
27 enforce and hard to understand because at times they will be discussing or voting on  
28 something that we have never discussed in the committee. It is an interesting  
29 discussion and believed Mayor Bradley is moving out and Mayor Clancy is the new  
30 chair.  
31

32 Commissioner Lucarelli asked what was going to be done with the money they collect  
33 from the cities.  
34

35 Commissioner Miller said what was said by the representative of Metroplan Orlando  
36 was that the money would be integrated into the budget and they have a budgeting  
37 process where that would just be part of the budget. Having a vote is important to us  
38 because they discuss the allocation of billions of dollars. To pay \$1,000 a year to have  
39 some input into the discussion of the distribution of billions of dollars is money well  
40 spent.  
41

42 Commissioner Miller said Jodie Barry of Florida Hospital contacted Dr. Tomerlin and  
43 him this week to tell us they had made a decision on how to proceed initially with  
44 Rinehart Place. They have decided to build a 20,000 S.F. emergency department and  
45 are going to demolish the commercial buildings currently on that site. CVS, the bank,  
46 and ABC own their own buildings but there are two large buildings between them and

1 they are going to demolish those and put the emergency room there. Later they will  
2 come back with what they are going to do with the professional office development  
3 behind that. They have said in an earlier discussion that the naked concrete would not  
4 be there anymore. They will probably put one building back there instead of four like  
5 the tilt wall construction that sits there.

6  
7 Commissioner Lucarelli said she attended the RPA meeting. It presented a red flag that  
8 she was concerned about and John Omana is keeping his eye on and that is the CRA  
9 Board has made some changes as to how funds can be spent. They have changed to  
10 where you can't come in anymore for a grant for just landscaping. Our project was  
11 mostly that because it was for the median on 17-92. We had been in previous talks and  
12 she thought there was kind of an agreement that it was going to be a partnership  
13 project. She would not appreciate it if they just tossed that out because they had a  
14 change of heart in the way they are going to spend funding.

15  
16 Mr. Omana said in light of the position that staff and the County took was that no more  
17 grants for landscaping and the minor grants of \$5,000 and less would be eliminated.  
18 That would keep any private property owner from pursuing replacing landscaping along  
19 that front buffer. The specific language didn't apply to any off-site improvements.  
20 Picking up on that language what we did was to approach their staff and reserve our  
21 right to what Commissioner Lucarelli has identified this evening and we requested that  
22 the RPA representatives of the County reconfirm with FDOT that what we have been  
23 planning to do for the last seven or eight years and still within the regulations of FDOT  
24 and the confines of FDOT and the current Seminole County CRA structure. We made it  
25 known to them that we have been dealing with this for seven years so just make sure  
26 we can keep doing it. That's ongoing. As soon as we hear back from them we will  
27 report to you.

28  
29 Mr. Omana said for the old cinema project at Victoria Square we worked closely with  
30 Commissioner Lucarelli as well as the charter school folks and were able to have  
31 \$162,000 of CRA monies approved at the RPA level towards that project. It is now  
32 scheduled to go to the CRA in the February cycle. We are excited to finally see some  
33 big dollars going towards the CRA in our city.

34  
35 Commissioner Brender asked if the CRA was giving that to the school.

36  
37 Mr. Omana answered affirmatively for the project. That money would go towards the  
38 façade work and building improvement.

39  
40 Commissioner Brender asked when the City could get out of that. We have been in it  
41 20 years and we finally got something.

42  
43 Mr. Omana said he was looking at our paperwork for the escape clause date and  
44 believed it was August 20, 2017.

45

1 Ms. Sova said should they decide to extend that CRA, we would need to consider what  
2 our participation would be. We are over \$900,000 in and this is the first significant grant  
3 we have gotten back out of it. We are seriously upside down.  
4

5 Commissioner Lucarelli said her proposal is we want out with reservation to projects we  
6 have already been promised and we still get that back because our contribution is  
7 upside down.  
8

9 Commissioner Lucarelli said she attended the Tri-County League of Cities luncheon and  
10 swore in the new officers. She rotated off the board but is still on the advocacy team  
11 and will continue to send e-mails through Carol (Foster). Session is coming and we  
12 have issues.  
13

14 Mayor Mealor said for three years Commissioner Lucarelli has represented the City on  
15 the Board of Directors for the Tri-County League of Cities and we greatly appreciate  
16 that. She has been a wonderful advocate in a number of different arenas. He thanked  
17 her for a job well done.  
18

19 Commissioner Brender said he would attend the Alliance for Children next week at the  
20 Seminole County Sheriff's Office. It is the quarterly meeting. If there are any concerns  
21 please relay them through the City Manager.  
22

23 Deputy Mayor Duryea had no report at this time.  
24

25 13. City Attorney  
26

27 Ms. Reischmann had no report at this time.  
28

29 14. Adjournment  
30

31 There being no further business, the meeting adjourned at 7:52 P.M.  
32  
33  
34  
35

36 \_\_\_\_\_  
David J. Mealor, Mayor

\_\_\_\_\_ Mary Campbell, Deputy City Clerk

37  
38  
39  
40 ATTEST:  
41  
42  
43

44 \_\_\_\_\_  
45 Carol A. Foster, City Clerk



## MEMORANDUM

DATE: February 5, 2015

TO: Mayor and City Commission

FROM: Gary Schindler, City Planner

THRU: John Omana, Community Development Director

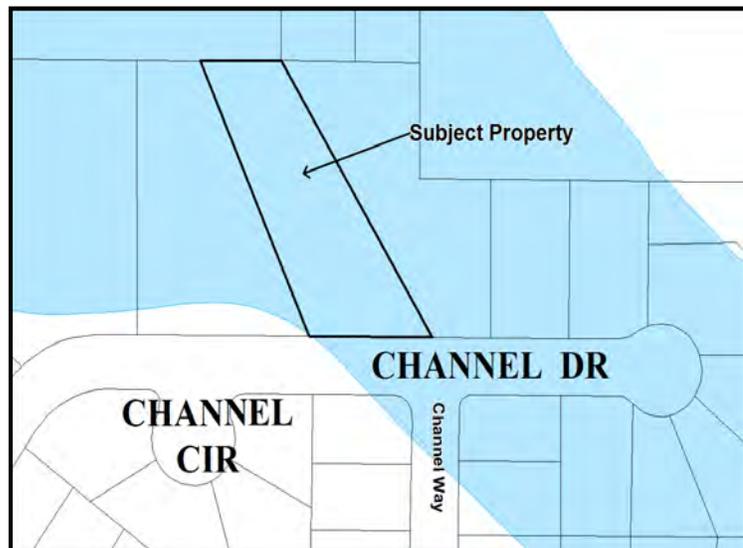
VIA: Jackie Sova, City Manager

SUBJECT: Variance from §160.07, Resource Protection Standards/City Code of Ordinances, 112 Channel Drive; Chris Van Buskirk, applicant (Public Hearing) (Gary Schindler, City Planner)

**APPLICANT:** Chris Van Buskirk

**REFERENCE:** City Code of Ordinances, Section 160.07, Development Standards Adjacent to Wetland Protection Zones.

**REQUEST:** The applicant requests a variance from the minimum 75' setback requirement of Chapter 160, Resource Protection Standards, for the purpose of constructing an 18' x 21' roofed structure with screen sides on an existing slab. The proposed structure will be located at the rear of the existing house. The new construction will be within the 75 foot setback from the environmental buffer. A variance is required for the proposed construction.



## DISCUSSION:

**Site:** The subject site is a single family residential property located at 112 Channel Drive. The subject property is located on the north side of Channel Drive, west of North Country Club Road. The property has a Low Density Residential land use designation and an R-1AA zoning classification.

**History:** The subject property lies within Crystal Ridge Subdivision, which was recorded in 1988. The subject property is lot 28, of Crystal Ridge (PB 38, PG 96-97). Because the subdivision was recorded in 1988, three years prior to the City's adoption of Chapter 160 in February of 1991, the lots within the subdivision do not comply with the provisions of Chapter 160.

Per the attached graphic, the proposed construction cannot be fitted on the lot and still comply with the 75' setback. Currently, the 75' setback line goes through the existing residential structure.

**VARIANCE:** The applicant has applied for a variance from the following sections of the Code described below:

- 1) Section 160.07(B)(2)(b), a variance of 55' from the minimum 75' setback.

### Variance Criteria (Section 154.06):

The Planning and Zoning Board shall make a written recommendation to the City Commission that all of the following criteria have been met:

<b>CRITERIA No. 1:</b>	
<i>That a special condition and circumstance exists which is peculiar to the land, structures, or subdivision improvements involved, and which are not applicable to other lands, structures, or required improvements; and</i>	
<b>FINDINGS OF FACT No. 1:</b>	
Criteria met?	The subject property has a special condition that would support the requested variance. The subdivision was recorded in 1988, three years prior to the City's adoption of Chapter 160 in February of 1991.
1. YES	

**CRITERIA No. 2:**

*That the special conditions and circumstances do not result from the actions of the applicant; and*

**FINDINGS OF FACT No. 2:**

Criteria met?	The need for the requested variance is not the result of any action by the applicant. It is important to note that the house already encroaches into the 75 foot setback.
1. YES	

**CRITERIA No. 3:**

*That granting the variance requested would not confer on the applicant any special privilege that is denied by the provisions of this section to other lands, structures, or required improvements under similar conditions. No pre-existing conditions on neighboring lands which are contrary to the provisions of the section shall be considered grounds for the issuance of variances; and*

**FINDINGS OF FACT No. 3:**

Criteria met?	Granting the requested variance would not confer on the applicant a special privilege that has been denied by the provisions of this section to other lands, structures, or required improvements under similar conditions.
1. YES	

**CRITERIA No. 4:**

*That literal interpretation of the provisions of the section would deprive the applicant of rights commonly enjoyed by other properties with similar conditions; and*

**FINDINGS OF FACT No. 4:**

Criteria met?	The literal interpretation of the provisions would deprive the applicant the right to use their property for the construction of an addition to the existing residential structure.
1. YES	

<b>CRITERIA No. 5:</b>	
<i>That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or other improvements; and</i>	
<b>FINDINGS OF FACT No. 5:</b>	
Criteria met?	The requested variance is the minimum necessary for the subject property to meet the development standards requirement.
1. YES	

<b>CRITERIA No. 6:</b>	
<i>That the grant of the variance will be in harmony with the general intent and purpose of the ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.</i>	
<b>FINDINGS OF FACT No. 6:</b>	
Criteria met?	Granting of the variance will be in harmony with the general intent and purpose of the ordinance, would not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
1. YES	

**FINDINGS OF FACT No. 7:** Staff finds that the applicant has met all of the criteria as stated above to grant a variance of 55' from the minimum 75' setback.

**SIMILAR VARIANCE REQUEST:** The City Commission has granted variances from the Requirements of Chapter 160 to the two adjoining properties to the west, 116 & 120 Channel Drive.

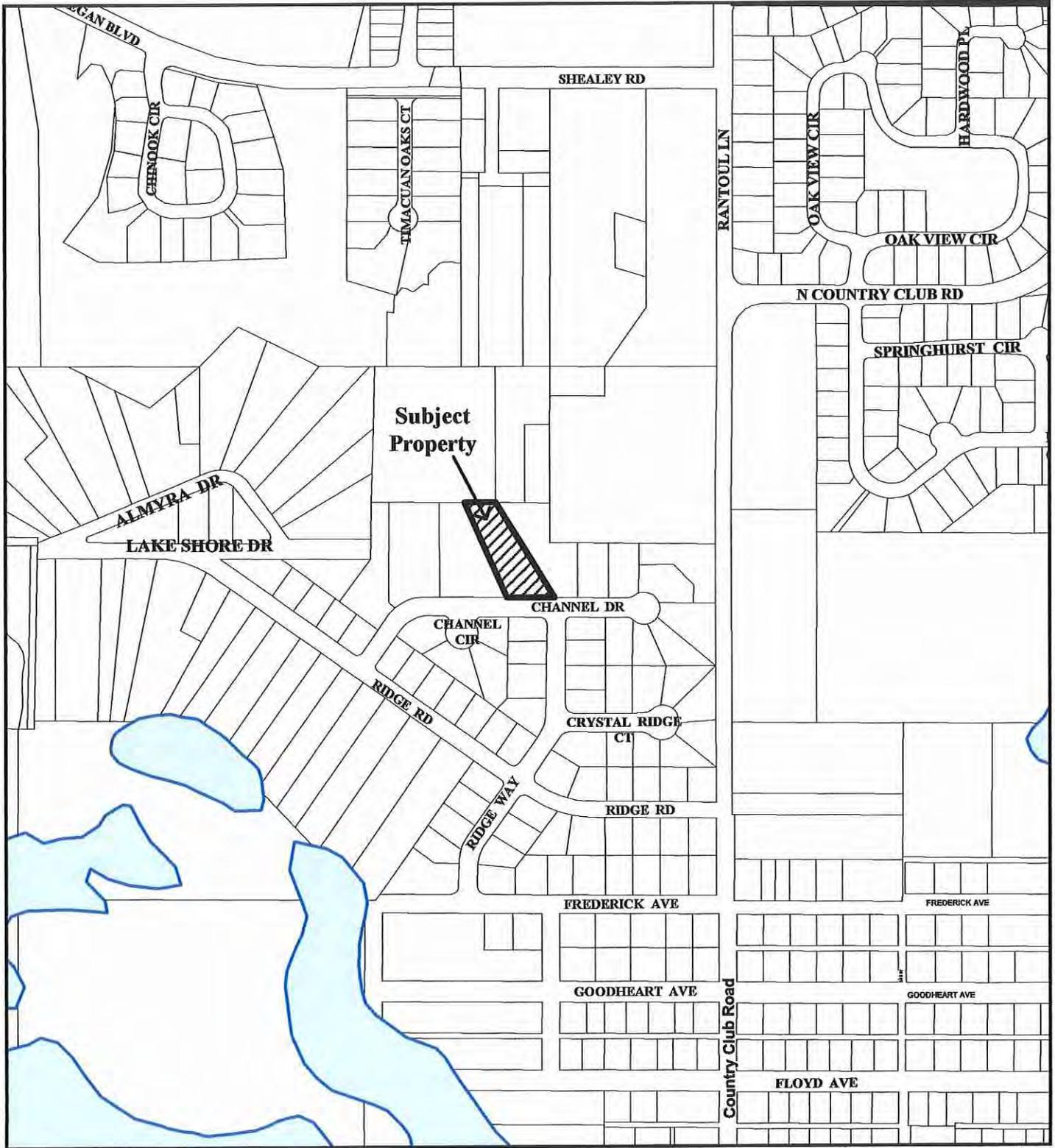
**ADDITIONAL INFORMATION:** Section 154.06C states "Any person aggrieved by the City Commission's decision regarding a preliminary or final subdivision plan or plat, or the City Commission's decision regarding any variance, may file a petition for a writ of certiorari in circuit court to review the final action as provided by the state appellate rules. The petition shall be presented to the court within 30 days after the date of the final action of the City Commission.

**PLANNING & ZONING BOARD:** At their regular February 13, 2015 meeting, the P&Z voted 4 to 0 to recommend approval of the requested variance.

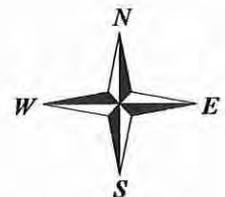
**LEGAL DESCRIPTION:** Lot 28, Crystal Ridge, according to the plat thereof, as recorded in Book 38, pages 96 and 97, of the Public records of Seminole County.

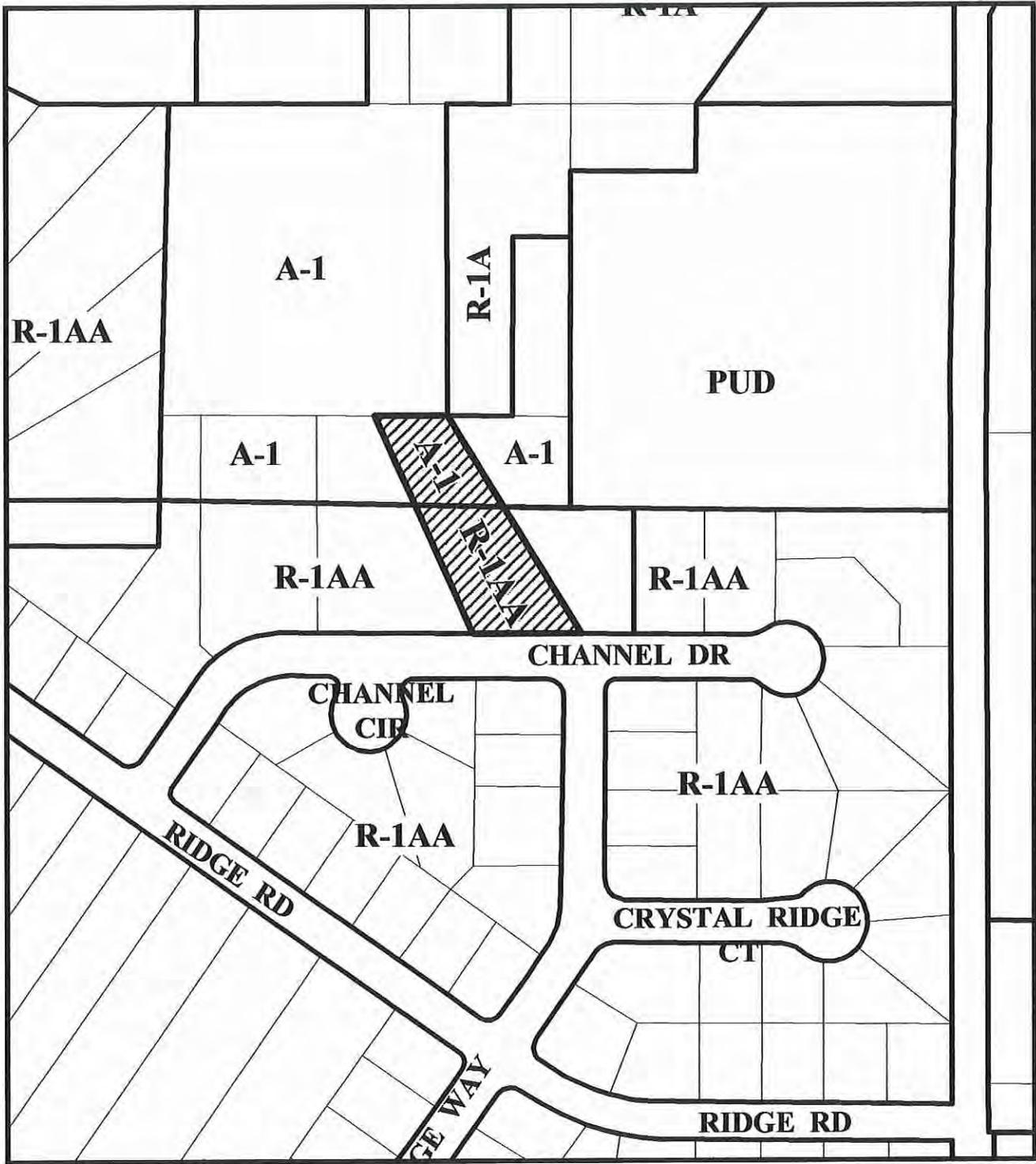
**Attachments:**

- Location Map
- Zoning Map
- Future Land Use Map
- Aerial photo
- Boundary Survey with proposed construction & Chapter 160 requirements
- Minutes



# Location Map 112 Channel Drive

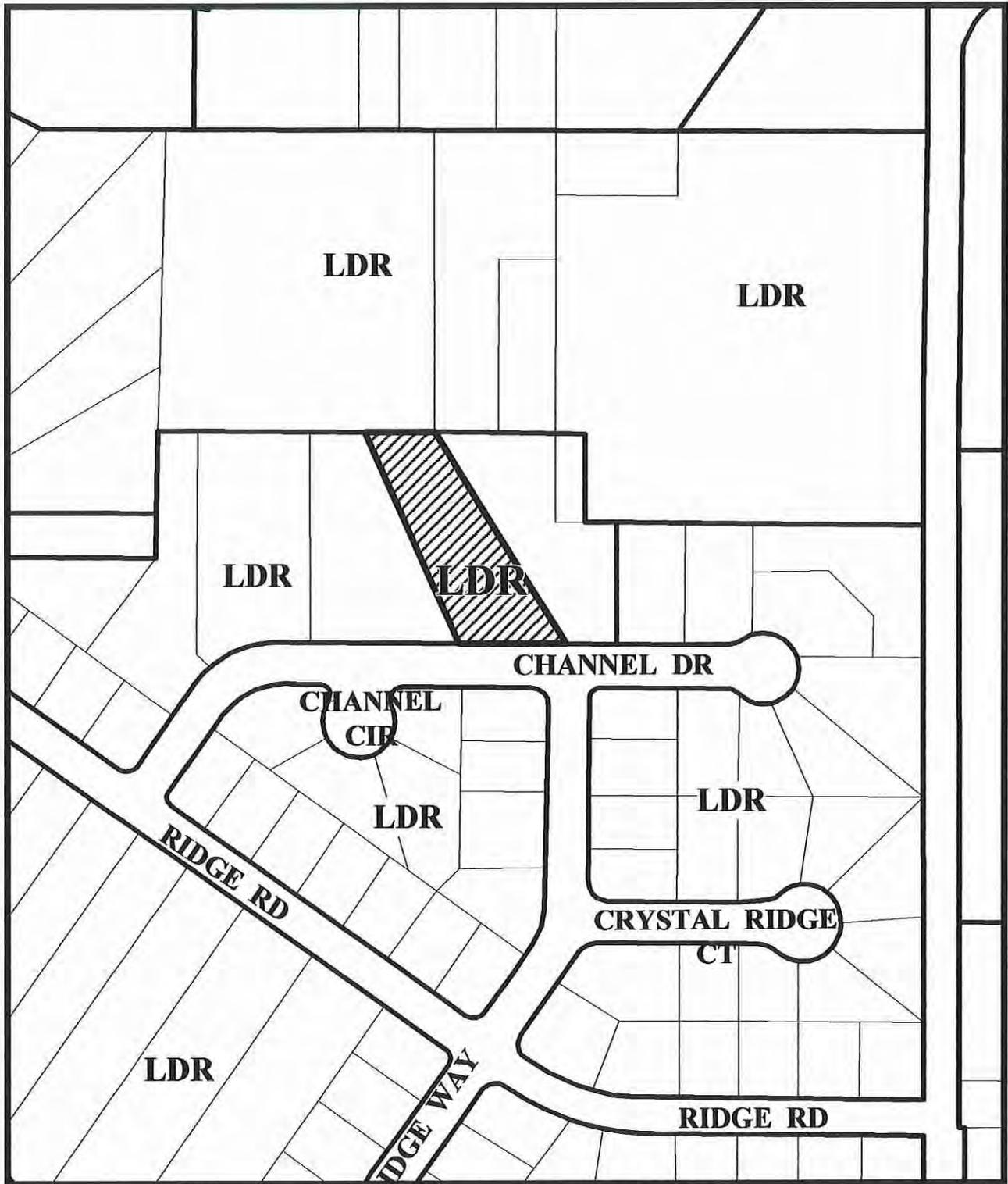




## Zoning Map

LEGEND					
<b>A-1</b>	Agriculture	<b>R-1AAA</b>	Single Family	<b>PUD</b>	Planned Unit Development
<b>RCE</b>	Rural County Estate	<b>R-M</b>	Residential	<b>PO</b>	Professional Office
<b>R-1A</b>	Single Family	<b>R-2</b>	One & Two Family	<b>C-1</b>	General Commercial
<b>R-1AA</b>	Single Family	<b>R-3</b>	Multiple Family	<b>C-2</b>	Commercial
				<b>M-1</b>	Light Industrial
				<b>M-2A</b>	Industrial
				<b>DC</b>	Downtown Center
				<b>GU</b>	Government Use
				<b>SC PUD</b>	Sem. Cnty PUD

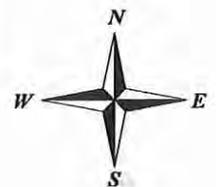


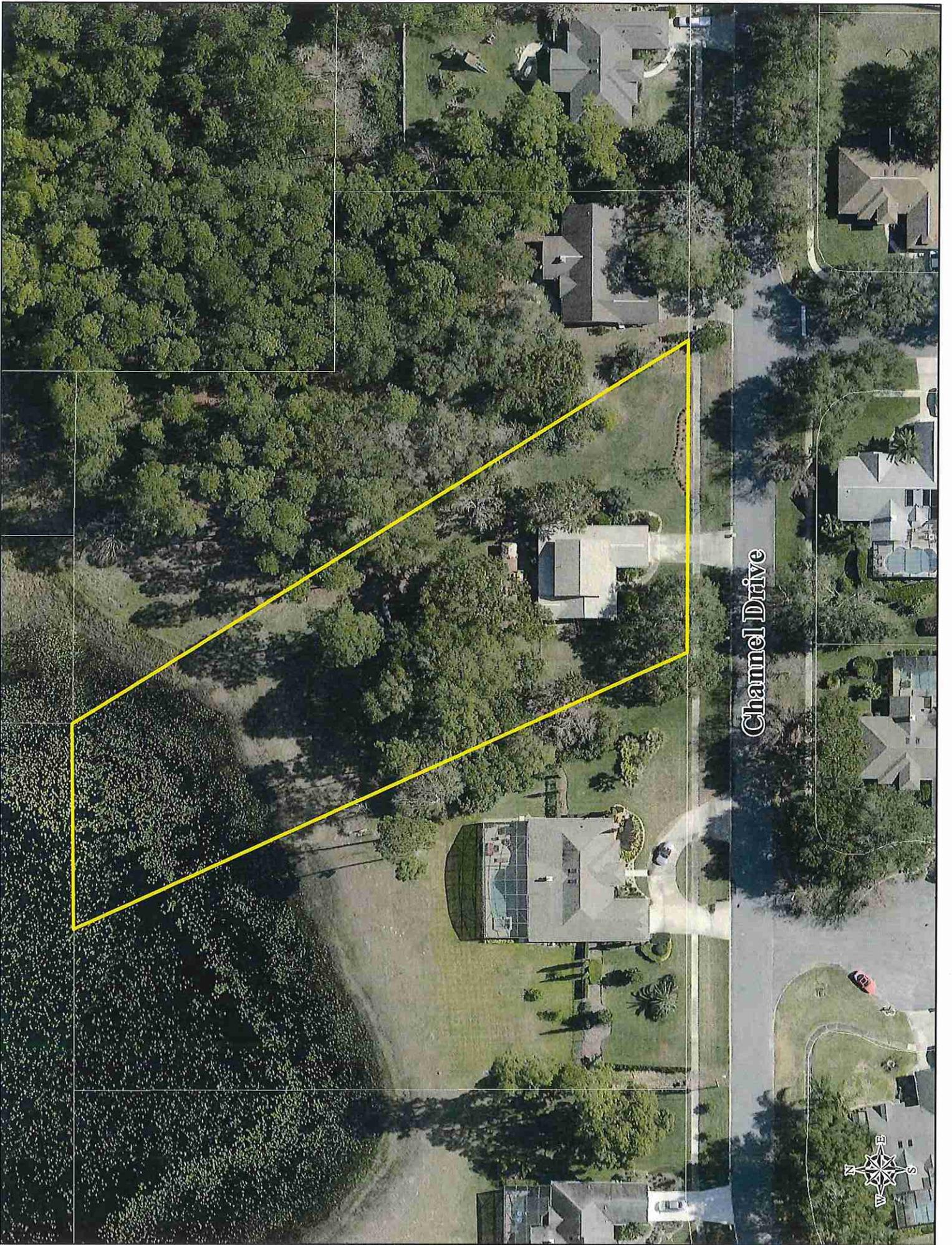


## Future Land Use Map



<b>RR</b> Rural Residential	<b>OFF</b> Office	<b>PUB</b> Public / Semi-Public Lands
<b>LDR</b> Low Density Residential (Max 2.5 DU / Acre)	<b>RCOM</b> Restricted Commercial	<b>DDD</b> Downtown Development District
<b>LMDR</b> Low / Medium Density Residential (Max 4 DU / Acre)	<b>COM</b> Commercial	<b>REC</b> Recreation
<b>MDR</b> Medium Density Residential (Max 6 DU / Acre)	<b>IND</b> Industrial	<b>SC PD</b> Seminole County PD
<b>HDR</b> High Density Residential (Max 9 DU / Acre)	<b>HIPTI</b> High Intensity Planned Development	

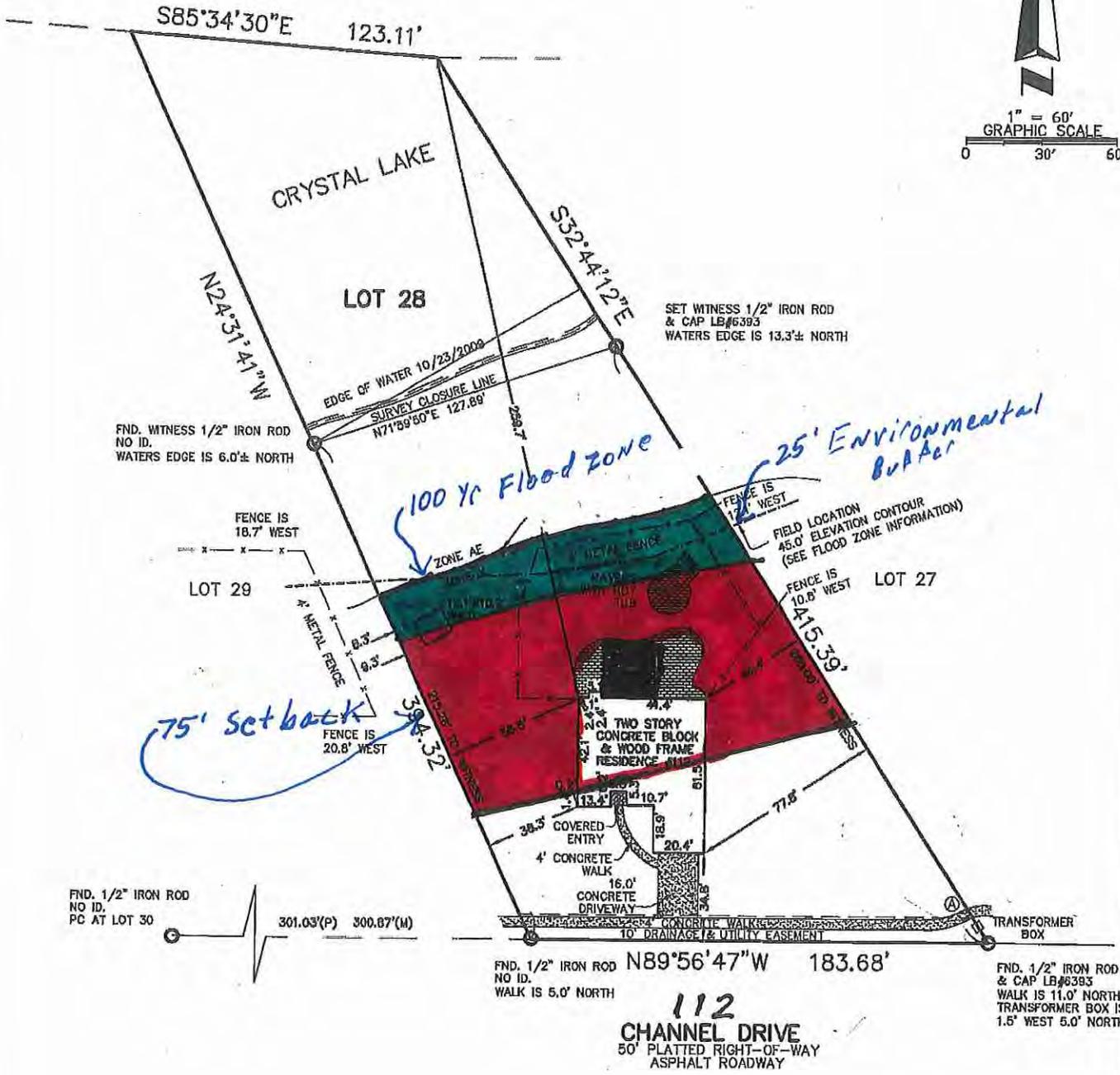
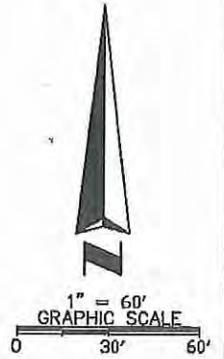




Channel Drive



Boundary Survey



Lot 28 Crystal Ridge Subdivision

DRAFT

1 VIII. New Business  
2

- 3 A. 2014-VA-01: Recommendation to the City Commission regarding a variance  
4 from §160.07, Resource Protection Standards, City Code of Ordinances,  
5 property located at 112 Channel Drive, Lake Mary, Florida; Applicant: Chris  
6 Van Buskirk (Public Hearing)  
7

8 Gary Schindler, City Planner, presented Item A. and the related Memorandum  
9 (Staff Report). He said, we are going to do a few graphics before I get started  
10 with the Report (puts Location Map attached to the Staff Report on the overhead  
11 projector). He stated, this gives you an idea of where the property is located.  
12 Country Club is the main street that runs north and south just to the right of the  
13 subject property. So, it's north of here, 8, 10 blocks, and a little to the west (puts  
14 colored aerial attached to the Staff Report on the overhead projector). He said,  
15 this is an aerial. If you will notice, the two properties to the west have both gone  
16 through Chapter 160 variances; 116 and 120 Channel Drive. So, we have a very  
17 significant precedent of two properties adjacent to Mr. Van Buskirk's property  
18 having been granted variances under Chapter 160 (puts copy of Boundary  
19 Survey attached to the Staff Report on the overhead projector). He stated, and,  
20 finally, this is a graphic showing the 100-year flood line, the 25-foot  
21 environmental buffer, and the 75-foot setback. As you can see, the setback runs  
22 right through the middle of the house, and that was the same situation with the  
23 other two properties. You can see that there is no way that the room could be  
24 constructed on the existing slab without a variance.  
25

26 Mr. Schindler said, having shown you these items, let's get into the Staff Report.  
27 Chairman Hawkins, as you have said, this is 2014-VA-01, a recommendation to  
28 the City Commission for a variance from the requirements of Chapter 160 for  
29 property located at 112 Channel Drive.  
30

31 Mr. Schindler stated, what we have is an existing house with an existing slab in  
32 the rear. The Applicant proposes to convert this slab into a usable screened  
33 room with a roof and screened sides. He is not proposing to build onto anything,  
34 but because he is planning to go vertical, it does require the variance.  
35

36 Mr. Schindler said, when Mr. Van Buskirk provided me with a copy of his survey,  
37 then staff highlighted the 100-year flood line. Because the lot is developed, it's  
38 our experience that the wetlands are very narrow and much closer to the water  
39 source than the 100-year flood line. So, this is the reason we keyed on the 100-  
40 year flood zone as being the line that is most landward. We identified the 25-foot  
41 environmental buffer and the 75-foot setback, and from that, we determined that  
42 Mr. Van Buskirk would need a variance of 55' from the 75-foot setback. That is  
43 what he has asked for.

DRAFT

1 Mr. Schindler stated, staff did the criteria. There are six criteria, and the seventh  
2 Finding of Fact listed in the Staff Report reads as follows: Staff finds that the  
3 Applicant has met all the criteria as stated above to grant a variance of 55' from  
4 the minimum 75-foot setback.

5  
6 Mr. Schindler then digressed and announced this item is quasi-judicial in nature;  
7 that a Quasi-Judicial Sign-In Sheet (see attached) was located at the back of the  
8 chambers for any interested party to sign in order to be kept abreast of this  
9 matter.

10  
11 Mr. Schindler continued with his presentation by saying, one of the items in the  
12 Staff Report says similar variance requests. Well, you see that we have had two  
13 adjacent properties that have both been granted Chapter 160 variances for the  
14 addition of a pool. This is not even an addition, it's simply going vertical on what  
15 is there now.

16  
17 Mr. Schindler concluded his presentation by saying, I'll be happy to address any  
18 questions you may have.

19  
20 There being no questions from the Board, Chairman Hawkins requested the  
21 Applicant to come forward and address the Board.

22  
23 Chris Van Buskirk, 112 Channel Drive, Lake Mary, Florida 32746, came forward  
24 in favor of the proposed variance.

25  
26 Chairman Hawkins asked Mr. Van Buskirk if he had anything further to add to Mr.  
27 Schindler's report?

28  
29 Mr. Van Buskirk answered, I think he summed it up pretty well.

30  
31 Chairman Hawkins opened the hearing to public comment. Hearing none, he  
32 closed that portion and entertained board discussion and/or a motion.

33  
34 Chairman Hawkins commented, I don't have any problem with this; simple and  
35 straightforward.

36  
37 **MOTION:**

38  
39 **Member Schofield moved to recommend approval to the City Commission**  
40 **the request by Chris Van Buskirk regarding a variance from §160.07,**  
41 **Resource Protection Standards, City Code of Ordinances, property located**  
42 **at 112 Channel Drive, Lake Mary, Florida, consistent with staff's seven**

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43

**Findings of Fact listed in the Staff Report. Vice Chairman Taylor seconded the motion, which carried unanimously 4-0.**

Juan (John) A. Omana, Jr., Community Development Director, announced this item will tentatively move forward to the City Commission meeting of February 5, 2015.

**QUASI-JUDICIAL SIGN-IN SHEET**  
1/13, 2015  
**PLANNING AND ZONING BOARD MEETING**  
(please print)

**Name** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

**Address** \_\_\_\_\_

**Item of Interest** \_\_\_\_\_

**Name** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

**Address** \_\_\_\_\_

**Item of Interest** \_\_\_\_\_

**Name** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

**Address** \_\_\_\_\_

**Item of Interest** \_\_\_\_\_

**Name** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

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**Item of Interest** \_\_\_\_\_

**Name** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

**Address** \_\_\_\_\_

**Item of Interest** \_\_\_\_\_

**Name** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

**Address** \_\_\_\_\_

**Item of Interest** \_\_\_\_\_



## MEMORANDUM

DATE: February 5, 2015

TO: Mayor and City Commission

FROM: Dianne Holloway, Finance Director

VIA: Jackie Sova, City Manager

SUBJECT: Ordinance No. 1523 - Amending, moving and repealing portions of Chapter 91: Health and Public Safety, Sections 91.30 through 91.60 Solid Waste Collection - First Reading (Public Hearing) (Dianne Holloway, Finance Director)

---

**Background:** Chapter 91 Health and Public Safety, Sections 91.30 through 91.60 of the Code of Ordinances are the Solid Waste Collection regulations of the City. Collection Services are provided in the form of a Franchise Agreement that was approved and adopted by Ordinance No. 1519 on November 6, 2014.

It is the intent of the City that the collection and hauling of solid waste is to be performed only by those authorized. With the adoption of the Franchise Agreement, it becomes necessary to amend City Code to provide for the terms. Proposed code amendments include repealing sections that no longer apply, addressing changes in nomenclature, eliminating unnecessary sections, clarifying ambiguities and ratifying current practices. With the elimination of certain sections of the code, the Franchise Agreement will become the governing document for the provision of collection and hauling of solid waste, removing the potential for conflicts and harmonizing the Code with the Agreement.

Because garbage fees are billed monthly on a consolidated utility bill, another important change necessary is to tweak the section titled garbage fee collection. On November 6, 2014, the City Commission approved and adopted Ordinance No. 1518 with an effective date of 90 days after passage and adoption. The proposed language now makes reference to the rules and regulations of the City pertaining to the collection of utility fees in Chapter 53 of the City's Code of Ordinances.

Fees charged for the collection and hauling of solid waste are established by the Franchise Agreement which has terms, renewal options and provisions to adjust the collection fee components of the service rates. The proposed language provides for the City Commission to make rate modifications by resolution.

**Recommendation:** The City Commission adopt Ordinance No. 1523, amending, moving and repealing portions of Chapter 91 Health and Public Safety, Sections 91.30 through 91.60 Solid Waste Collection of the Code of Ordinances.

**ORDINANCE NO. 1523**

**AN ORDINANCE OF THE CITY OF LAKE MARY, FLORIDA, AMENDING, MOVING AND REPEALING PORTIONS OF CHAPTER 91: HEALTH AND PUBLIC SAFETY, SECTIONS 91.30 THROUGH 91.60 SOLID WASTE COLLECTION, OF THE LAKE MARY CODE OF ORDINANCES TO CLARIFY AND HARMONIZE WITH THE FRANCHISE AGREEMENT AND STATE LAW; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.**

**WHEREAS**, on November 6, 2014, the City Commission passed and adopted Ordinance No. 1519, approving and adopting a Franchise Agreement with Waste Pro of Florida, Inc.; and

**WHEREAS**, the City Commission has evaluated the City's regulations governing solid waste collection and has concluded that certain provisions of the City's Code, including, but not limited to, definitions and administrative requirements need clarification and some modification to harmonize the City Code with the Franchise Agreement and state law; and

**WHEREAS**, the City Commission, through this Ordinance, is primarily reorganizing existing code into different sections, or repealing obsolete text; and

**WHEREAS**, the City Commission of the City of Lake Mary, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Lake Mary; and

**WHEREAS**, words with single underlined type shall constitute additions and ~~strike through~~ shall constitute deletions to the original text from the language existing prior to adoption of this Ordinance.

**NOW THEREFORE, IT IS HEREBY ENACTED BY THE CITY OF LAKE MARY AS FOLLOWS:**

**SECTION 1.** Chapter 91, Health and Public Safety, Sections 91.30 through 91.60 Solid Waste Collection, are hereby amended as indicated in Exhibit "A" attached hereto and made a part hereof.

**SECTION 2. Codification.** The Code of Ordinances of the City of Lake Mary, Florida, be and the same is hereby amended in accordance with the terms, provisions and conditions of this ordinance. Further, that the sections of this ordinance may be renumbered or re-lettered to accomplish said amendment; "Ordinance" may be changed to "Section", "Article", or other appropriate word.

**SECTION 3. Conflicts.** All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed to the extent of any conflict.

**SECTION 4. Severability.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

**SECTION 5. Effective Date.** This Ordinance shall take effect immediately upon passage and adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

FIRST READING: February 6, 2015

SECOND READING: February 20, 2015

CITY OF LAKE MARY, FLORIDA

\_\_\_\_\_  
MAYOR, DAVID J. MEALOR

ATTEST:

\_\_\_\_\_  
CITY CLERK, CAROL A. FOSTER

For the use and reliance of the City  
of Lake Mary only. Approved as to  
form and legal sufficiency.

---

CATHERINE REISCHMANN, CITY ATTORNEY

G:\docs\Cities\Lake Mary\Ordinances\Solid Waste\Solid Waste Ord 1-27-15 CDR.docx

## EXHIBIT A

### CHAPTER 91: HEALTH AND PUBLIC SAFETY

#### SOLID WASTE COLLECTION

91.30 STATEMENT OF INTENT.

91.31 DEFINITIONS.

~~91.32 EXCLUSIVE FRANCHISE COLLECTOR. [REPEAL]~~

91.~~32~~43 MANDATORY PICK-UP. [MOVED FROM 91.43]

91.~~33~~56 ENTITLEMENT TO SERVICE. [MOVED FROM 91.56]

91.34 PROHIBITED ACTS.

~~91.35 CITY TO PROVIDE FOR SOLID WASTE REMOVAL EXCLUSIVELY. [REPEAL]~~

~~91.36 FRANCHISE AGREEMENT AUTHORIZED. [REPEAL]~~

~~91.37 AWARD OF FRANCHISE AGREEMENT. [REPEAL]~~

~~91.38 DUTIES OF FRANCHISE COLLECTOR. [REPEAL]~~

~~91.39 AUDIT REQUIREMENTS. [REPEAL]~~

~~91.40 TRANSFERABILITY; EXCLUSIVITY. [REPEAL]~~

~~91.41 IDENTIFICATION OF VEHICLES. [REPEAL]~~

91.~~35~~4 CONTAINERS OR REFUSE BINS REQUIRED. [MOVED FROM 91.51]

91.~~36~~52 PLACEMENT, PROPERTY CONTAINING, AND BUNDLING. [MOVED FROM 91.52]

~~91.537 EXTRAORDINARY SPECIAL SERVICES; HAZARDOUS WASTE;  
SCAVENGING. [MOVED FROM 91.53]~~

91.~~38~~42 FRANCHISE AGREEMENT REQUIRED. [MOVED FROM 91.42]

91.~~39~~44 PERMIT TO TRANSPORT SOLID WASTE. [MOVED FROM 91.44]

91.~~40~~5 TERM OF PERMIT. [MOVED FROM 91.45]

- 91.416 REVOCATION OF PERMIT. [MOVED FROM 91.46]
- 91.427 COMMERCIAL RECYCLING NONEXCLUSIVE PERMITS. [MOVED FROM 91.47]
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- 91.545 RATE SCHEDULE. [MOVED FROM 91.55]
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- ~~91.48 APPLICABILITY TO MOBILE HOME PARKS, APARTMENTS, AND CONDOMINIUM APARTMENTS. [REPEAL]~~
- ~~91.49 RESIDENTIAL COLLECTION SERVICE. [REPEAL]~~
- ~~91.50 COMMERCIAL COLLECTION SERVICE. [REPEAL]~~
- ~~91.57 AUTHORITY TO MAKE AMENDMENTS. [REPEAL]~~
- ~~91.58 INSURANCE REQUIREMENTS. [REPEAL]~~

## CHAPTER 91: HEALTH AND PUBLIC SAFETY

### SOLID WASTE COLLECTION

#### §91.30 STATEMENT OF INTENT.

(A) It is the intent of the City to require all persons within the corporate boundaries of the City to have their solid waste and recycling collected and disposed of in a proper, sanitary, and efficient manner; to make available to all persons a sanitary and efficient means of having their solid waste collected and disposed of; to eliminate illegal dumping; to provide an effective method of paying the cost for the services rendered; and to promote the health, safety, and welfare of the citizens of the City.

(B) It is further the intent of the City that the collection and hauling of solid waste is to be ~~done~~ performed only by those authorized by the City in the form of a Franchise Agreement or permit and that disposal shall be done only at a Seminole County-approved solid waste facility.

(C) In the event of a major disaster or emergency declared by the state, the City will have the legal responsibility to remove debris from public or private property when it is determined to be in the best interest of the public. Public interest is defined as being necessary to: 1) eliminate immediate threats to life, public health, and safety; or 2) eliminate immediate threats of significant damage to improved public or private property; or 3) ensure economic recovery of the affected community to the benefit of the community-at-large.

(D) The City also intends that if this ordinance is in conflict with the Franchise Agreement, the Franchise Agreement will prevail.

#### § 91.31 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~“APARTMENT” or “CONDOMINIUM APARTMENT.” A building under one roof, housing multiple living units.~~

~~**BULK SERVICEWASTE.** An extraordinary commercial collection service for residential solid waste which is billed by cubic yard. Solid waste that consists of household refuse such as appliances, other white goods, furniture, or other items too large to be collected as part of regularly scheduled solid waste collections.~~

**CITY CLERK.** The City Clerk of the City of Lake Mary.

**CITY MANAGER.** The City Manager of the City of Lake Mary.

~~**COLLECTION SERVICES.** The provision of service to remove both commercial and residential solid waste from a designated storage point for disposal at a separate location utilizing persons and specially designed equipment for such purpose. The provision of utility service to remove solid waste, recyclables, yard trash, construction debris and bulk waste, as specified in~~

Code and by the Franchise Agreement, for transport to a licensed and certified facility for processing or disposal as designated by the Franchise Agreement.

**COMMERCIAL RECYCLING NON-EXCLUSIVE PERMIT.** A permit issued for the removal of commercial recycling materials as provided in § 91.472.

**COMMISSION.** The City Commission of the City of Lake Mary.

~~**CONTAINER.** Watertight cans not exceeding 96 gallons in capacity made of plastic with well-fitting lids. Garbage or recycling cart, dumpster, compactor, roll-off container, or any container approved by the City intended for collection of solid waste, recyclables, yard trash, or other materials as specified by the Franchise Agreement. Containers must be watertight and designed or intended to be used for automated or semi-automated collection.~~

**CUSTOMER,** Commercial or residential. The owner, occupant, tenant, or other person having control of the improved real property. Schools, apartments, condominium apartments, and mobile home parks receiving commercial-type collection shall be considered commercial.

~~"FINANCE DEPARTMENT." The Finance Department of the City of Lake Mary.~~

**FRANCHISE AGREEMENT.** The contractual agreement between the City and the authorized collector containing, but not limited to, a description of the service area; name of the person to perform commercial and residential collection services in the service area; the term of the agreement; the consideration to be paid for such agreement, if any, and the method of payment; the service to be furnished; performance bond and the conditions thereof; insurance provisions; responsibilities and obligations of the parties thereto; and such reasonable rules and regulations governing performance as are deemed necessary to implement the provisions of this subchapter.

**FRANCHISE COLLECTOR.** The company representative ~~who~~ which has executed a franchise agreement with the City and ~~who~~ which is required to perform Collection Services under the provisions of the franchise agreement.

**FRANCHISE FEE (SERVICE RATES).** The amount of money the Franchise Collector shall be obligated to pay the City for a Franchise Agreement as defined in this Code and the Franchise Agreement. Also, tThe difference between the amount charged by the franchise collector and billed to the customer of the City.

**GARBAGE.** Every refuse accumulation of animal, fruit, or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of edibles, and any other matter of any nature whatsoever, which is subject to decay, putrefaction, and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects, or any container of the material defined herein, but excludes animal carcasses.

~~"GARDEN TRASH." All accumulations of leaves, grass, shrubbery cuttings, logs, tree limbs, brush, palm fronds, and other refuse the care of lawns, shrubbery, vines, and trees.~~

**HAZARDOUS WASTE.** ~~Materials or combinations of materials which require special management techniques and/or removable because of their acute or chronic effects on air and water quality; on fish, wildlife, or other biota; and on the health and welfare of the public. These materials include, but are not limited to, volatile, chemical, biological, explosive, flammable, radioactive, and toxic materials. Solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under Chapter 497, Florida Statutes.~~

**IMPROVED REAL PROPERTY.** All residential, commercial, or other property that generates, or is capable of generating, solid waste.

**INDUSTRIAL WASTES.** The waste products of canneries, fisheries, slaughterhouses, or packing plants, condemned food products, agricultural waste products, waste and debris from brick, concrete block, roofing shingles, or tile plates, debris and wastes accumulated from land clearing, excavating, building, rebuilding, and the altering of buildings, structures, roads, streets, sidewalks, or parkways, and other solid waste products generated from industrial processing or manufacturing.

**JUNK.** Any tangible item such as furniture, appliances, bicycles, or smaller property not having a useful purpose to the owner or abandoned by the owner and not included within the definitions of garbage, ~~garden trash~~ yard trash, industrial wastes, or rubbish.

**OWNER.** The person designated on the real property tax roll maintained by the property appraiser for each parcel of improved real property.

**RECYCLABLE MATERIALS.** ~~Materials separated, at the point of generation, by the generator or his agent, as defined by F.S. § 403.703 et seq., as amended. (RECYCLABLES), shall mean~~ †Those materials that are capable of being recycled and that would otherwise be processed or disposed of as Solid Waste.

~~“REFUSE CONTAINER.” A large metal box for commercial solid waste or recyclable material, usually of the one cubic yard to eight cubic yard size, and roll-off boxes of larger capacities, lifted mechanically by trucks in order to empty.~~

**RESIDENCE and/or RESIDENTIAL.** ~~Means and Refers to s~~Single-family dwellings, duplexes and triplexes, mobile homes, and all other living units not coming within the definitions set out herein, where each such structure is located on a separate lot or parcel of land. ~~Apartments, condominium apartments, and mobile home parks are not included. Each living unit shall be deemed a separate “Residence.”~~

**RESIDENTIAL COLLECTION SERVICE.** The provision of collection services to residential improved real property.

~~—"RESIDENTIAL COLLECTION SERVICE CHARGE." The monthly fee or payment due the City by the customer for the provision of residential collection service to residential improved real property.~~

~~"RESIDENTIAL CONSTRUCTION DEBRIS." Waste generated from interior demolition, fencing, roofing, drywall, screen rooms, windows, carpet, etc.~~

~~—"RESIDENTIAL IMPROVED REAL PROPERTY." Improved real property occupied by a residence.~~

~~—"RESIDENTIAL LARGE ITEM BULK WASTE." Junk that requires additional handling, but which may be lifted by two persons; including white goods (such as refrigerators or stoves), furniture (such as sofas or mattresses), television sets, lawnmowers, and bicycles.~~

**SERVICE CHARGE.** The monthly fee or payment due the City by the customer for the provision of collection services to ~~Commercial or residential~~ customers. collection service charges.

**SOLID WASTE.** A general term that includes the specific terms garbage, garden trash, yard trash, rubbish, industrial wastes, and junk, but excludes all recyclable materials, as herein defined. Hazardous wastes (including fecal wastes, animal carcasses, and pathological wastes) are excluded. Garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recyclable materials and hazardous waste are not solid waste. For the purposes of this Agreement, sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility are not included.

~~—"SOLID WASTE FACILITY." A transfer station, resource recovery facility, processing facility, or sanitary landfill designated or approved by the City and licensed and permitted under all applicable rules and regulations to receive solid waste.~~

**SPECIAL SERVICE.** Any collection or disposal service for which a special charge is applied. Special Services include, but are not limited to, on-call services for residential yard trash or bulk waste not meeting specifications as required by the Franchise Agreement.

**YARD TRASH.** Vegetative matter resulting from landscaping maintenance and land clearing operations and includes associated rocks and soils.

**§91.3243 MANDATORY PICK-UP. [MOVED FROM §91.43]**

It shall be mandatory for all residences and commercial establishments in the City to utilize the services of the franchise collector for solid waste removal services. All residences and commercial establishments within the City shall be billed by the City's Finance Department for solid waste

removal at the rates established. Any person believing that its living unit within the City is not a residence and is therefore not subject to mandatory residential solid waste removal may appeal to the City Commission for a determination. In addition to any other remedies afforded by law or set forth herein the City may record a lien against each unit of residential property for unpaid solid waste ~~collection~~ service fees from the date such fees become due until paid and/or terminate water/sewer service in a like manner as prescribed in § 91.5946, and as provided by rules and regulations governing the collection of utility fees in Chapter 53.

### **§91.3356 ENTITLEMENT TO SERVICE. [MOVED FROM §91.56]**

Upon request for service to the City, and, if required, payment of the deposit and in consideration thereof, the owner, occupant, or tenant of the premises shall be entitled to the collection services upon the terms, conditions, and regulations specified herein.

### **§ 91.34 PROHIBITED ACTS.**

It shall be unlawful for any person to do any of the following:

(A) To place, or cause to be placed, without permission, any solid waste upon the property of another.

(B) To convey or cause to be conveyed over and upon any of the streets and alleys of the City any solid waste without a franchise or license, or both such franchise and license, as may be required by the regulations affecting the collection and disposal of solid wastes.

(C) To deposit or dispose of any solid waste in or upon any public property to include streets, sidewalk, right-of-way or alleyway, or any stream, ditch, river, pond, creek, park, or public place in the City.

(D) To burn any solid waste generated or brought within the City, except certain trees and brush allowed to be burned where all applicable permits have been obtained.

(E) To place solid waste out for collection earlier than 6:00 p.m. of the day prior to a scheduled collection or to leave containers adjacent to the street any later than 8:00 p.m. on the day the containers are emptied.

(F) To place solid waste out for collection in any location not serviced by the franchise collector.

(G) To do any act prohibited or to fail to do any act required by the regulations affecting solid waste within the City.

(H) To remove solid waste or recyclable materials from any refuse bin, container, from a collection location, or from curbside.

(I) To accumulate or cause to be accumulated any garden trash yard trash, industrial waste, junk, rubbish, or other solid waste in or upon any premises or lot owned by him or her or in his or her control.

(J) To maliciously damage, destruction or remove containers from a property is strictly prohibited.

### **§91.351 CONTAINERS. ~~OR REFUSE BINS REQUIRED.~~ [MOVED FROM §91.51]**

(A) Franchisee Collector shall provide adequate containers as described by the Franchise Agreement. ~~Containers must be in good condition, cleaned, repaired, and painted as needed by~~

~~the franchise collector. If requested by the City, the franchise collector shall replace old or damaged containers at the franchisee's cost which shall remain the property of franchisee. The property owner or occupant shall maintain the containers or refuse bins and the area of their location in a clean and sanitary condition. Spillage from over-filled containers or refuse bins may not be picked upon by the franchise collector.~~

(B) No service shall be provided to any residential or commercial improved real property which contains objects, obstructions, or vehicles which in any way hinder the servicing of the container ~~or refuse bin~~ by the franchise collector's vehicles and personnel.

**§91.3652 PLACEMENT, PROPERTY CONTAINING, AND BUNDLING. [MOVED FROM §91.52]**

(A) All residential containers shall be set out for collection in an unobstructed, convenient, and accessible location in the front of the residence adjacent to the travelled way serviced by the franchise collector or such other place as may be designated by the City for removal. No such containers shall be placed in any street or upon any sidewalk.

(B) Residential containers may be placed out for collection after 6:00 p.m. of the day prior to a scheduled collection and shall be removed not later than 8:00 p.m. on the day the containers are emptied.

(C) All logs, tree limbs, brush, palm fronds, and other garden trash yard trash shall not exceed six inches in diameter and shall be cut in four-foot lengths or less and placed in containers or tightly bundled for collection. Each container or bundle shall not exceed 50 pounds in weight. Any garden trash yard trash which by reason of its bulk, weight, or shape cannot be bundled as required herein, shall be collected as ~~extraordinary~~ a special services.

**§91.537 EXTRAORDINARY SPECIAL SERVICES; HAZARDOUS WASTE; SCAVENGING. [MOVED FROM §91.53]**

(A) The rates for ~~extraordinary~~ special services shall be established ~~approved~~ by the City by resolution.

(B) It shall be unlawful to place out for collection any hazardous waste as defined herein.

**§91.3842 FRANCHISE AGREEMENT REQUIRED. [MOVED FROM §91.42]**

No business or company shall collect solid waste, except as provided herein, in the City without having obtained a Franchise Agreement.

**§91.3944 PERMIT TO TRANSPORT SOLID WASTE. [MOVED FROM §91.44]**

(A) Certain persons who own businesses for which the transportation of certain construction, ~~and industrial and organic~~ waste is an integral part of the performance of that occupation may obtain a permit to transport these wastes. Examples of such occupations are roofing, demolition and land clearing contractors or grocery stores and restaurants.

(B) No person shall collect solid waste from any property used as a residence, including any person that in the course of business rents, leases, or sells individual apartments, condominium apartments, or mobile homes.

(C) Each such person shall make application for a permit to the Building Department. The application shall be made on forms provided by the City and shall provide, at a minimum, the following:

- (1) Name and address of person;
- (2) Description of occupation;
- (3) Description of the solid waste the occupation produces;
- (4) Description of equipment to be utilized; and
- (5) Agreement to comply with all conditions of license and provisions of this subchapter.

(D) A permit fee established by resolution and codified in Chapter 163 of this Code of Ordinances shall accompany each application.

**§91.405 TERM OF PERMIT. [MOVED FROM §91.45]**

The length of term for a permit to transport solid waste shall not exceed one year. The City, upon issuance of a permit, may restrict the permit to a specific time period not exceeding one year.

**§91.416 REVOCATION OF PERMIT. [MOVED FROM §91.46]**

The City may revoke a permit at any time if the person holding such permit is in violation of the provisions of this subchapter or the conditions of the permit.

**§91.427 COMMERCIAL RECYCLING NONEXCLUSIVE PERMITS. [MOVED FROM §91.47]**

(A) No person may collect or transport commercial source separated recyclable materials within the City without first obtaining a nonexclusive permit from the City Clerk. This provision applies to all persons except facilities within the City owned or operated by a governmental subdivision or entity of the state, the school district or a special taxing district.

(B) Each person desiring to perform commercial recycling services in the City shall make application for a nonexclusive permit to the City, which application shall be made on forms provided by the City and shall provide, at a minimum, the following:

- (1) Name and address of business;
- (2) Name and address of owner of business;
- (3) Corporate officers and directors and certificate of good standing;
- (4) Permanent place of business;
- (5) Copy of local business tax receipt;
- (6) Evidence of certification from the Florida Department of Environmental Protection;
- (7) Certification that all recovered materials collected will be recycled at a state-certified recycling facility;
- (8) Description of equipment to be utilized;
- (9) Copy of certificate of insurance; and
- (10) Agreement to comply with all conditions of permit and provisions of this subchapter.

(C) *Terms.* The term of a nonexclusive permit to collect, transport and process commercial source separated recyclable materials shall be for one year or a partial year beginning on October 1 of each year. Each permit shall expire on September 30 of each year, but may be renewed from

year to year upon application, payment of permit fees and a demonstration that the permittee is in compliance with the terms of this subchapter.

(D) *Fees.* A holder of a nonexclusive permit shall pay the permit fee of \$250 for each year or fraction thereof, which fee shall be paid on or before October 1, for each year of renewal. The City Commission may modify the permit fee by adoption of a resolution.

(E) *Insurance.*

(1) Each permittee shall, prior to the commencement of service, furnish the City with a certificate or certificates of insurance naming the City as additional insured as may be required by the City upon the advice of its insurance carrier and statutory minimum requirements to include a minimum of \$500,000 in liability.

(2) Throughout the duration of the franchise agreement, the contractor shall supply the City with a renewal or replacement certificate of insurance not less than 30 days before expiration or replacement of the insurance for which a previous certificate has been provided.

(F) *Equipment.* All equipment operated by the permittee shall be in good repair, appearance and in a sanitary condition at all times. All source separated recyclable materials hauled by the permittee shall be so contained that spilling of any nature is prevented. Failure to comply will result in code enforcement actions provided in § 37.08 of this code.

(G) *Charges.* Fees to be charged to those utilizing the services of the permittee are strictly a matter of negotiation between the permittee and the user, and will not be controlled or established by the City.

(H) *Notice of intention to offer service; report of service.* Each permittee shall advise the City, in writing, of each location and business at which the permittee intends to collect commercial source separated recyclable materials in advance of the commencement of collection. Each permittee shall submit to the City, on or before the twentieth day of the month following the month of service, a report indicating, at a minimum, the business names, addresses, telephone numbers, types, sizes, quantities and frequencies of containers being serviced by the permittee.

#### **§91.343 VEHICLE STANDARDS. [MOVED FROM §91.33]**

All trucks, trailers, and other vehicles operated by the franchise collector or other approved haulers to collect and transport solid waste in the City or to transport solid waste over any public roadways in the City during both normal or emergency operations shall:

(A) Be constructed as watertight as possible to limit the escape of water or other fluids from the vehicle.

(B) Be fully enclosed or covered so as to prevent the escape of any solid waste.

(C) Comply with all local, state, and federal roadway weight limits.

(D) Comply with all local, state, and federal rules and regulations applicable to such vehicles.

#### **§91.544 FRANCHISE FEE. [MOVED FROM §91.54]**

The franchise collector shall pay to the City a franchise fee approved by the City Commission. The amount of the franchise fee, and the terms and conditions of payment, shall be established at the time of the award of the Franchise Agreement and as modified from time to time by resolution, pursuant to § 91.36 of this chapter. ~~The books and records of the franchise collector shall be subject to audit by the City upon not less than 15 days demand for the purpose of determining the amount of roll-off franchise fees due to the City. Said book shall not be audited~~

more than two times per year or at a greater frequency than 180 each to the extent that said audits are performed for the purpose of validating roll-off franchise fees dues.

**§91.545 RATE SCHEDULE. [MOVED FROM §91.55]**

(A) The City Commission, by ~~ordinance~~ resolution, may establish and change, from time to time, a rate schedule to include deposits. ~~after holding two required public hearings.~~ The rate schedule shall represent all service charges and fees ~~costs~~ which are to be charged for providing residential and commercial collection service as provided for herein. Such rate schedule shall include:

- (1) Monthly residential collection service charges for providing residential collection service.
- (2) Commercial collection service charge size of container, and frequency of pickup.
- ~~(3) Residential collection service shall not be prorated.~~
- (34) ~~Bulk service~~ Special Service collection rate per cubic yard.
- (45) Franchise fee, including amount and conditions of payment.
- (56) Schedule of license, deposits, and other fees, as applicable.

(B) Such rates and fees in the rate schedule shall be established in accordance with any applicable provisions of the franchise agreement.

(C) These shall be no free services rendered for the collection, transportation, or disposal of solid waste, except as otherwise agreed between the City and the franchise collector.

**§-91.4659 SERVICE CHARGE~~GARBAGE FEE~~ COLLECTION. [MOVED FROM §91.59]**

(A) The service charge ~~garbage fee~~ shall be billed ~~and collected in advance with the monthly utility bill for those lots or parcels of developed property being charged a monthly stormwater fee and/or utilizing City utilities, and billed and collected separately as garbage fees for those lots or parcels of property and owners thereof not utilizing other City utilities.~~ All such ~~bills for garbage fees shall be rendered monthly~~ service charges are billed monthly by the City's Finance Department on a consolidated statement that may include, but is not limited to, wastewater, water, solid waste and stormwater services. Utility services shall be separately listed. ~~and Bills shall become due and payable in accordance with the rules and regulations established in this Chapter and the rules of the City pertaining to the collection of wastewater and water system utility fees, set forth in Chapter 53 of the City's Code of Ordinances. The garbage fee is part of a consolidated statement for utility customers which is generally paid by a single payment. In the event that a partial payment is received, the payment shall first be applied to garbage and trash, next applied to stormwater management, next applied to sewer, and finally applied to the water account.~~

(B) Any charge due hereunder which shall not be paid when due shall bear all approved monthly service charges as permitted by law or by ordinance of the City and may be recovered in an action at law by the City. The delinquent account shall be responsible for all costs of collection to include reasonable attorney's fees whether or not suit is necessary. In addition to any other remedies or penalties provided by this or any other ordinance of the City, failure ~~of any user of City utilities within the City~~ to pay said charges promptly when due shall result in subject such user to discontinuance of any or all collection services or utility services, as set forth in Chapter 53 of the Code, and the City Manager of the City is hereby empowered and directed to enforce this provision as to any and all delinquent accounts ~~users~~.

(C) In the case that a tenant in possession of any premises or building shall pay said service charges ~~garbage fees~~, it shall relieve the land owner from such obligation; but the City shall not be required to look to any person whatsoever other than the owner for the payment of such charges.

(D) The service charge~~garbage fee~~ hereinabove prescribed shall constitute a debt to the City for which the owner, tenant and/or occupant shall be jointly and severally liable. The records of the City shall be kept open for the inspection by the owner, tenant, or occupant and it shall be the responsibility of an owner, tenant or occupant to ascertain that the prescribed fee or fees are being paid.

**§91.4760 DEDUCTION OF UNPAID SOLID WASTE COLLECTION CHARGES FROM WATER/UTILITY DEPOSIT. [MOVED FROM §91.60]**

In addition to, and not in lieu of, any other remedies, any unpaid charges for residential solid waste collection may be deducted from any water/utility deposit for the residence for which the unpaid solid waste collection charges have accrued at such time as any refund of said deposit is requested. In addition, unpaid solid waste collection charges may be deducted from any water/utility deposit for the resident for which the unpaid solid waste collection charges have accrued at such time as the accrued charges are equal to or exceed the amount of the deposit.

**~~§91.57 AUTHORITY TO MAKE AMENDMENTS. [REPEAL]~~**

~~The City reserves the right to amend this subchapter in any manner necessary for the health, safety, or welfare of the public, and the City reserves the right, in the public interest, from time to time to prescribe by resolution, reasonable rules and regulations governing franchise collector's operations hereunder.~~

§91.48 through §91.60 Reserved.



## *CITY MANAGER'S REPORT*

DATE: February 5, 2015  
TO: Mayor and City Commission  
FROM: Jackie Sova, City Manager  
SUBJECT: City Manager's Report

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### **ITEMS FOR COMMISSION ACTION:**

1. Surplus Item – Wallace Court AC Unit.



## CITY MANAGER'S REPORT

DATE: February 5, 2015  
TO: Mayor and City Commission  
FROM: Bryan Nipe, Director of Parks and Recreation  
VIA: Jackie Sova, City Manager  
SUBJECT: Surplus Item - Wallace Court AC Unit

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The Parks and Recreation Department has the following item to be considered for surplus:

**25 ton AC unit at 911 Wallace Court**

The unit was removed and replaced due to end of useful life and high cost to repair. The City HVAC technician has salvaged spare parts and the remainder will be salvaged as scrap metal.

**RECOMMENDATION:**

Request Commission declare AC unit surplus and authorize City Manager to dispose of same.